

HCS HB 181 -- MEDICAL RECORDS OF DECEASED PATIENTS

SPONSOR: Haahr

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Health and Mental Health Policy by a vote of 12 to 0. Voted "Do Pass with HCS" by the Select Committee on Social Services by a vote of 10 to 0.

This bill allows a health care provider to disclose a deceased patient's medical records, payment records, or information contained within the records to the patient's health care decision maker or a personal representative or administrator of the estate of a deceased patient upon the death of the patient. If a personal representative or administrator has not been appointed, a provider may disclose the information to the following persons in the following order of priority unless the deceased patient during his or her lifetime or a person in a higher order of priority has notified the provider in writing that the deceased patient opposed the release of the medical or payment records:

- (1) The deceased patient's spouse, unless the patient and the patient's spouse were legally separated at the time of the patient's death;
- (2) The acting trustee of a trust created by the deceased patient either alone or with the deceased patient's spouse if the trust was a revocable inter vivos trust during the deceased patient's lifetime and the deceased patient was a beneficiary of the trust during the deceased patient's lifetime;
- (3) An adult child of the deceased patient;
- (4) A parent of the deceased patient;
- (5) An adult brother or sister of the deceased patient; and
- (6) A guardian or conservator of the deceased patient at the time of the patient's death.

The bill allows a patient to file a notarized affidavit with the patient's health care provider to prohibit the disclosure of records under the provisions of the bill and requires the affidavit to be filed in the patient's records. If a patient filed an affidavit with a health care provider, an individual eligible to obtain records under the provisions of the bill may petition the court to establish just cause to obtain the deceased patient's records.

PROPONENTS: Supporters say that under current law there is no statutory authority to seek the medical or payment records of a deceased patient. There is also no statutory method of obtaining medical or payment records. If an individual seeking medical or payment records cannot work something out with a health care provider in possession of the records then the individual must initiate judicial proceedings that are both time consuming and costly. The bill allows for certain individuals to obtain medical records without the mess of going through the court system.

Testifying for the bill was Representative Haahr.

OPPONENTS: There was no opposition voiced to the committee.