

CHAPTER 909

H.B. No. 2031

AN ACT

relating to the length of time a hospital, hospital authority, or hospital district is required to retain medical records.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 5A, Hospital Authority Act (Article 4437e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5A. (a) Except as provided in *Subsections (b)-(d)* [~~Subsection (b)~~] of this section, the City Governing Body may authorize the Board of Directors of a Hospital Authority governed by this Act to transfer, destroy, or otherwise dispose of Hospital Authority records that are:

- (1) more than five (5) years old; and
- (2) determined by the Board of Directors to be of no further use to the Hospital Authority as official records.

(b) The City Governing Body may [~~not~~] authorize the disposal of any medical record *on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital.*

(c) *If a patient was less than 18 years of age at the time he was last treated, the hospital may authorize the disposal of medical records relating to the patient on or*

after the date of his 20th birthday or on or after the 10th anniversary of the date on which he was last treated, whichever date is later.

(d) The hospital may not destroy medical records that relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved.

(e) All medical records, and any other records considered by the Board of Directors as necessary to preserve, may be microfilmed and retained by a Hospital Authority as provided by Chapter 158, Acts of the 64th Legislature, Regular Session, 1975 (Article 6574c, Vernon's Texas Civil Statutes).

SECTION 2. The Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes) is amended by adding Section 5A to read as follows:

Sec. 5A. (a) A hospital may authorize the disposal of any medical record on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital.

(b) If a patient was less than 18 years of age at the time he was last treated, the hospital may authorize the disposal of medical records relating to the patient on or after the date of his 20th birthday or on or after the 10th anniversary of the date on which he was last treated, whichever date is later.

(c) The hospital may not destroy medical records that relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved.

SECTION 3. Section 8A, Chapter 266, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4494n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8A. (a) Except as provided in *Subsections (b)-(d)* [~~Subsection (b)~~] of this section, the commissioners court may authorize the board of managers of a hospital district governed by this Act to transfer, destroy, or otherwise dispose of hospital district records that are:

- (1) more than five years old; and
- (2) determined by the board of managers to be of no further use to the hospital district as official records.

(b) The commissioners court may [~~not~~] authorize the disposal of any medical record on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital.

(c) If a patient was less than 18 years of age at the time he was last treated, the hospital may authorize the disposal of medical records relating to the patient on or after the date of his 20th birthday or on or after the 10th anniversary of the date on which he was last treated, whichever date is later.

(d) The hospital may not destroy medical records that relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved.

(e) All medical records, and any other records considered by the board of managers as necessary to preserve, may be microfilmed and retained by a hospital district as provided by Chapter 158, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6574c, Vernon's Texas Civil Statutes).

SECTION 4. Chapter 6, Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 96A to read as follows:

Sec. 96A. **RECORDS OF PRIVATE MENTAL HOSPITALS.** (a) A private mental hospital licensed under this code may authorize the disposal of any medical record on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital.

(b) If a patient was younger than 18 years of age at the time he was last treated, the hospital may authorize the disposal of medical records relating to the patient on or after the date of his 20th birthday or on or after the 10th anniversary of the date on which he was last treated, whichever date is later.

(c) The hospital may not destroy medical records that relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 14, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2031 on May 27, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 23, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.