

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Kerner offered the following:

Amendment

Remove lines 230-248 and insert:

5. Informal interviews of treating health care providers.-A
prospective defendant or his or her legal representative may
interview the claimant's treating health care providers in an
informal setting and without the presence of the claimant or the
claimant's legal representative, but only with the explicit
consent of the claimant or the claimant's legal representative;
however, this subparagraph does not require a claimant's
treating health care provider to submit to a request for an
interview by a prospective defendant or his or her legal
representative. Before conducting an interview of a claimant's
treating health care provider, the prospective defendant or his
or her legal representative, at least 15 days before an

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17 interview, shall provide written notice of intent to conduct an
18 interview to claimant's legal representative or to claimant if
19 no legal representative is known of. Such notice shall include
20 the date, time, location, the individuals performing the
21 interview, and the individuals being interviewed. A claimant has
22 the right to have a court reporter present for, and transcribing
23 the entirety of, an interview as provided for in this
24 subparagraph. The claimant or his or her legal representative is
25 responsible for providing a court reporter, and this
26 subparagraph does not obligate a prospective defendant or his or
27 her legal representative to pay for or arrange for the services
28 of a court reporter. Notwithstanding the provisions of this
29 subparagraph and any authorization for release of protected
30 health information:

31 a. If the injured claimant is a minor, a prospective
32 defendant or his or her legal representative may not interview
33 any of the child's treating health care providers without
34 providing notice to and an opportunity for the claimant, the
35 claimant's parent or legal guardian, or the claimant's legal
36 representative to be present.

37 b. Unless notice to and an opportunity for the claimant or
38 the claimant's legal representative to be present has been
39 provided, a treating health care provider being interviewed ex
40 parte shall not disclose any information relating to the
41 claimant pertaining to:

42 (I) The lawful ownership, possession, purchase or storage
43 of a firearm or ammunition by the claimant or a member of the
44 claimant's family; the presence of a firearm in a private home,

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45 other domicile, vehicle, or business of the claimant or a member
46 of the claimant's family; or any application for or possession
47 of a concealed weapons or firearms license by the claimant or a
48 member of the claimant's family;

49 (II) Any history of or treatment resulting from the
50 claimant having been a victim of sexual abuse, including rape or
51 incest;

52 (III) Any history of or treatment resulting from the
53 claimant having been a victim of child abuse;

54 (IV) Any history of or treatment resulting from the
55 claimant having been a victim of domestic abuse;

56 (V) The claimant's reproductive history and health,
57 including any treatment for reproductive issues;

58 (VI) Any history of substance abuse intervention or
59 treatment received by the claimant; or

60 (VII) The claimant's mental health, including any history
61 of treatment for mental health issues.

62
63 Before conducting an interview of a claimant's treating health
64 care provider pursuant to this subparagraph, the prospective
65 defendant or his or her legal representative shall provide to
66 the health care provider written notice of the provisions of
67 this subparagraph and shall provide to the claimant or the
68 claimant's legal representative written documentation of the
69 defendant's compliance with the notice provisions of this
70 subparagraph. Any information obtained by the defendant in
71 violation of this subparagraph shall be inadmissible by the
72 defendant. A violation of the provisions of this subparagraph

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73 committed by a facility licensed under chapter 395 shall
74 constitute a violation of part I of chapter 395. A violation
75 committed by a health care practitioner shall constitute grounds
76 for discipline under s. 456.072(2).