

27 guardian advocate or, if the patient is deceased, by the
28 patient's personal representative or the family member who
29 stands next in line of intestate succession, the confidential
30 status of the clinical record shall not be lost by either
31 authorized or unauthorized disclosure to any person,
32 organization, or agency.

33 (b)~~(2)~~ The clinical record shall be released when:

34 1.~~(a)~~ The patient or the patient's guardian authorizes the
35 release. The guardian or guardian advocate shall be provided
36 access to the appropriate clinical records of the patient. The
37 patient or the patient's guardian or guardian advocate may
38 authorize the release of information and clinical records to
39 appropriate persons to ensure the continuity of the patient's
40 health care or mental health care.

41 2.~~(b)~~ The patient is represented by counsel and the
42 records are needed by the patient's counsel for adequate
43 representation.

44 3.~~(e)~~ The court orders such release. In determining
45 whether there is good cause for disclosure, the court shall
46 weigh the need for the information to be disclosed against the
47 possible harm of disclosure to the person to whom such
48 information pertains.

49 4.~~(d)~~ The patient is committed to, or is to be returned
50 to, the Department of Corrections from the Department of
51 Children and Families, and the Department of Corrections
52 requests such records. These records shall be furnished without

53 charge to the Department of Corrections.

54 (c)~~(3)~~ Information from the clinical record may be
55 released in the following circumstances:

56 1.~~(a)~~ When a patient has declared an intention to harm
57 other persons. When such declaration has been made, the
58 administrator may authorize the release of sufficient
59 information to provide adequate warning to the person threatened
60 with harm by the patient.

61 2.~~(b)~~ When the administrator of the facility or secretary
62 of the department deems release to a qualified researcher as
63 defined in administrative rule, an aftercare treatment provider,
64 or an employee or agent of the department is necessary for
65 treatment of the patient, maintenance of adequate records,
66 compilation of treatment data, aftercare planning, or evaluation
67 of programs.

68
69 For the purpose of determining whether a person meets the
70 criteria for involuntary outpatient placement or for preparing
71 the proposed treatment plan pursuant to s. 394.4655, the
72 clinical record may be released to the state attorney, the
73 public defender or the patient's private legal counsel, the
74 court, and to the appropriate mental health professionals,
75 including the service provider identified in s.

76 394.4655(6)(b)2., in accordance with state and federal law.

77 (d)~~(4)~~ Information from clinical records may be used for
78 statistical and research purposes if the information is

79 abstracted in such a way as to protect the identity of
80 individuals.

81 (e)~~(5)~~ Information from clinical records may be used by
82 the Agency for Health Care Administration, the department, and
83 the Florida advocacy councils for the purpose of monitoring
84 facility activity and complaints concerning facilities.

85 (f)~~(6)~~ Clinical records relating to a Medicaid recipient
86 shall be furnished to the Medicaid Fraud Control Unit in the
87 Department of Legal Affairs, upon request.

88 ~~(7) Any person, agency, or entity receiving information~~
89 ~~pursuant to this section shall maintain such information as~~
90 ~~confidential and exempt from the provisions of s. 119.07(1).~~

91 (g)~~(8)~~ Any facility or private mental health practitioner
92 who acts in good faith in releasing information pursuant to this
93 section is not subject to civil or criminal liability for such
94 release.

95 (h)~~(9)~~ ~~Nothing in~~ This section does not ~~is intended to~~
96 prohibit a ~~the~~ parent or next of kin of a person who is held in
97 or treated under a mental health facility or program from
98 requesting and receiving information limited to a summary of
99 that person's treatment plan and current physical and mental
100 condition. Release of such information shall be in accordance
101 with the code of ethics of the profession involved.

102 (i)~~(10)~~ Patients shall have reasonable access to their
103 clinical records, unless such access is determined by the
104 patient's physician to be harmful to the patient. If the

105 patient's right to inspect his or her clinical record is
 106 restricted by the facility, written notice of such restriction
 107 shall be given to the patient and the patient's guardian,
 108 guardian advocate, attorney, and representative. In addition,
 109 the restriction shall be recorded in the clinical record,
 110 together with the reasons for it. The restriction of a patient's
 111 right to inspect his or her clinical record shall expire after 7
 112 days but may be renewed, after review, for subsequent 7-day
 113 periods.

114 (j) ~~(11)~~ A ~~Any~~ person who fraudulently alters, defaces, or
 115 falsifies the clinical record of a ~~any~~ person receiving mental
 116 health services in a facility subject to this part, or causes or
 117 procures any of these offenses to be committed, commits a
 118 misdemeanor of the second degree, punishable as provided in s.
 119 775.082 or s. 775.083.

120 (2) COURT RECORDS.—

121 (a) All pleadings and other documents, and the images of
 122 all pleadings and other documents, filed with a court pursuant
 123 to this part are confidential and exempt from s. 119.07(1) and
 124 s. 24(a), Art. I of the State Constitution. Pleadings and other
 125 documents made confidential and exempt by this subsection may be
 126 disclosed by the clerk of the court, upon request, to:

- 127 1. The petitioner.
- 128 2. The petitioner's attorney.
- 129 3. The respondent.
- 130 4. The respondent's attorney.

131 5. The respondent's guardian or guardian advocate, if
132 applicable.

133 6. In the case of a minor respondent, the respondent's
134 parent, guardian, legal custodian, or guardian advocate.

135 7. The respondent's treating health care practitioner.

136 8. The respondent's health care surrogate or proxy.

137 9. The respondent's patient representative.

138 10. A person or entity authorized to view records upon a
139 court order for good cause. In determining whether there is good
140 cause for disclosure, the court shall weigh the need for the
141 information to be disclosed against the possible harm of
142 disclosure to the respondent.

143 (b) The clerk of the court may not post any personal
144 identifying information on the docket or in publicly accessible
145 files.

146 (c) The exemption under this subsection applies to all
147 documents filed with a court before, on, or after July 1, 2016.

148 (d) This subsection is subject to the Open Government
149 Sunset Review Act in accordance with s. 119.15 and shall stand
150 repealed on October 2, 2021, unless reviewed and saved from
151 repeal through reenactment by the Legislature.

152 (3) MAINTAINING CONFIDENTIALITY.—A person, agency, or entity
153 receiving information pursuant to this section shall maintain
154 such information as confidential and exempt from s. 119.07(1).

155 Section 2. The Legislature finds that it is a public
156 necessity to exempt from s. 119.07(1), Florida Statutes, and s.

157 24(a), Article I of the State Constitution, all pleadings and
158 other documents, and identifying information in the
159 corresponding dockets, for an involuntary examination or
160 treatment pursuant to part I of chapter 394, Florida Statutes,
161 that is contained in such pleadings and other documents, in
162 order to preserve the privacy of the individual alleged to be
163 suffering from mental illness. The personal health of an
164 individual and his or her alleged mental illness are intensely
165 private matters. Making pleadings and other documents filed for
166 involuntary examination or treatment pursuant to part I of
167 chapter 394, Florida Statutes, confidential and exempt from
168 disclosure will protect information of a sensitive personal
169 nature, the release of which could cause unwarranted damage to
170 the reputation of an individual. The Legislature finds that the
171 public disclosure of such information in the pleadings and other
172 documents, or dockets concerning them, would produce undue harm
173 to an individual alleged to have a mental illness. Further, the
174 knowledge that sensitive personal information is subject to
175 disclosure could have a chilling effect on the willingness of
176 individuals to seek mental health treatment.

177 Section 3. This act shall take effect July 1, 2016.