

STORAGE NAME: h1437s1a.hcr

DATE: April 6, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS & REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 1437

RELATING TO: Public Records and Meetings

SPONSOR(S): Committee on Health Care Standards & Regulatory Reform and Representative Saunders

COMPANION BILL(S): SB 166(s), HB 1005(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM YEAS 6 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS (W/D)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill exempts from the public records law identifying information of a subscriber, or the spouse, relative or guardian of a subscriber, contained in documents reviewed or prepared by the Statewide Provider and Subscriber Assistance Panel (panel), and documents obtained by AHCA. Also, information which constitutes a trade secret as defined by s. 812.081, F.S., or information relating to internal risk management programs as defined in ss. 641.55(5)(c), (6), and (8), F.S., is exempt from the public records law when provided to the panel.

In addition, the bill provides that meetings of the panel are open to the public unless AHCA or the Department of Insurance determine that information of a sensitive nature will be revealed at such meeting and the subscriber or provider filing the grievance requests the meeting be closed. All closed meetings shall be recorded by a certified court reporter.

This bill is tied to a major revision to the provisions of the law relating to the panel and the grievance process contained in CS/HB 1005. The changes to expand the use of the panel and grievance process assumes that confidential information will be exempt from public disclosure. The bill takes effect upon becoming law.

This exemption is subject to the Open Government Sunset Review Act of 1995, and shall be repealed on October 2, 2002, unless reviewed and reenacted by the Legislature.

There will be no fiscal impact on the state, local government, or the private sector.

This bill was carried over to the 1998 Session pursuant to House Rule 96, and placed on the House Consent Calendar.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Under current s. 408.7056, F.S, identifying information contained in reports obtained by the Department of Insurance relating to the Subscriber and Provider Assistance Panel (panel) are exempt from public disclosure.

However, s.408.7056, F.S., is silent as to the Sunshine Law for the Agency for Health Care Administration (AHCA) and the Subscriber and Provider Assistance Panel. Therefore, documents and reports obtained by AHCA and documents reviewed and prepared by the panel are not exempt from public disclosure.

Grievances brought before the panel may involve confidential information concerning a subscriber's health care and medical history. As a result, the willingness of subscribers and providers to bring grievances before the panel is reduced because all panel information and meetings are open to the public. Without confidentiality, the panel is not able to function as originally intended.

B. EFFECT OF PROPOSED CHANGES:

The bill exempts from the public records law identifying information of a subscriber, or the spouse, relative or guardian of a subscriber, contained in documents reviewed or prepared by the Statewide Provider and Subscriber Assistance Panel (panel), and documents obtained by AHCA. Also, information which constitutes a trade secret as defined by s. 812.081, F.S., or information relating to internal risk management programs as defined in ss. 641.55(5)(c), (6), and (8), F.S., is exempt from the public records law when provided to the panel.

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C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not Applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not Applicable.

(3) how is the new agency accountable to the people governed?

Not Applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not Applicable.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not Applicable.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not Applicable.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not Applicable.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not Applicable.

(2) Who makes the decisions?

Not Applicable.

(3) Are private alternatives permitted?

Not Applicable.

(4) Are families required to participate in a program?

Not Applicable.

(5) Are families penalized for not participating in a program?

Not Applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

Not Applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. STATUTE(S) AFFECTED:

Section 408.7056, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 408.7056, F.S., relating to the statewide provider and subscriber assistance program by adding a subsection (6)(a) to provide confidentiality of certain information received by AHCA; and information contained in a document or report prepared or reviewed by the panel.

In addition, the bill provides that meetings of the panel are open to the public unless AHCA or the Department of Insurance determine that information of a sensitive nature will be revealed at such meeting and the subscriber or provider filing the grievance requests the meeting be closed. All closed meetings shall be recorded by a certified court reporter.

Also, this subsection is subject to the Open Government Sunset Review Act of 1995, and shall be repealed on October 2, 2002, unless reviewed and reenacted by the Legislature.

Section 2. The Legislature finds that it is a public necessity that certain information of a sensitive personal nature concerning individuals be protected from release to the general public. Further, the willingness of a subscriber or provider to bring an unresolved grievance before the panel may be impeded, unless when requested, panel meetings may be closed to the public. Also, the unwillingness of a subscriber or provider to bring unresolved grievances before the panel would interfere with the administration of the program by AHCA and reduce the effectiveness of the panels.

Section 3. Provides an effective date of upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

This bill passed the 1997 House and was carried over to the 1998 Session and placed on the House Consent Calendar, pursuant to House Rule 96.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There were two amendments adopted and a committee substitute was made. They amendments provided the following changes:

1. Information which constitutes a trade secret as defined by s. 812.081, F.S., or information relating to internal risk management programs as defined in ss. 641.55(5)(c), (6), and (8), F.S., is exempt from the public records and meeting laws

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when provided to the panel. In addition, meetings of the panel are open to the public unless AHCA or the Department of Insurance determine that information of a sensitive nature will be revealed at such meeting and the subscriber or provider filing the grievance requests the meeting be closed. All closed meetings shall be recorded by a certified court reporter.

2. Technical. Provides an effective date of upon becoming law.

An amendment adopted by the House provides that all closed meetings shall be recorded by a certified court reporter.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:
Prepared by: Legislative Research Director:

Robert W. Coggins

Robert W. Coggins