

By the Committee on Health Care

317-407-98

1                   A bill to be entitled  
2           An act relating to confidentiality; providing  
3           definitions; providing for the confidentiality  
4           of health, medical, patient, and insurance  
5           records and for identifying information  
6           pertaining to natural persons contained in such  
7           records; providing exceptions; amending s.  
8           455.677, F.S., relating to disposition of  
9           certain medical, records held by practitioners;  
10          requiring rules to provide for specific methods  
11          of disposal following expiration of the  
12          mandatory retention period; providing an  
13          effective date.

15 Be It Enacted by the Legislature of the State of Florida:

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17           Section 1. (1) As used in this section, the term:  
18           (a) "Health record" means data or information,  
19 regardless of the physical form, characteristics, or means of  
20 transmission, about the condition of a natural person's mind  
21 or body obtained by a health care practitioner or health care  
22 provider as a result of a professional relationship,  
23 professional association, or commercial exchange with such a  
24 person and which record is maintained as required by law or  
25 accepted professional or industry standards and practices.

26           (b) "Insurance record" means data or information,  
27 regardless of the physical form, characteristics, or means of  
28 transmission, about a natural person relating to health or  
29 medical services covered, provided, excluded, or paid on  
30 behalf of an insured of an insurance company or a subscriber  
31 or an enrollee of a managed care organization which record is

1 maintained as required by law or accepted professional or  
2 industry standards and practices.

3 (c) "Medical record" means data or information,  
4 regardless of the physical form, characteristics, or means of  
5 transmission, about a natural person who is a patient, client,  
6 or customer of a health care practitioner or health care  
7 provider that is maintained as required by law or accepted  
8 professional or industry standards and practices.

9 (d) "Patient record" means data or information,  
10 regardless of the physical form, characteristics, or means of  
11 transmission, about a natural person who participates in a  
12 professional relation for the receipt of curative,  
13 rehabilitative, therapeutic, cosmetic, or palliative attention  
14 to a condition of his or her mind or body that is maintained  
15 as required by law or accepted professional or industry  
16 standards and practices.

17 (2)(a) Except as otherwise provided, health, medical,  
18 patient, and insurance records are confidential and protected  
19 as provided under section 23, Art. I of the State  
20 Constitution. Access to such records must be granted upon the  
21 written consent of the natural person to whom the record  
22 pertains or the person's legal representative; the written  
23 consent of the person who has provided information contained  
24 in the record, for that portion of the record provided, or  
25 that person's legal representative; or by order of a court of  
26 competent jurisdiction.

27 (b) Except as otherwise provided, any identifying  
28 information about a natural person in a health, medical,  
29 patient, or insurance record about medical, psychiatric, or  
30 surgical care; consultation; counseling; evaluation; testing;  
31 or treatment provided to the person is confidential. Such

1 information, except as provided in paragraph (c), may be  
2 disclosed to a third party only after written consent has been  
3 given by the person to whom the information pertains or the  
4 legal representative of the person, or by order of a court of  
5 competent jurisdiction.

6 (c) Except as otherwise provided, all information in a  
7 health, medical, patient, or insurance record that, singularly  
8 or in combination with other details relating to a natural  
9 person, may be used to associate a person's identity with a  
10 specific symptom, illness, diagnosis, or disease is  
11 confidential. Such information may be disclosed to a third  
12 party only after written consent has been given by the person  
13 to whom the information pertains or the legal representative  
14 of such person, or by order of a court of competent  
15 jurisdiction.

16 Section 2. Section 455.677, Florida Statutes, is  
17 amended to read:

18 455.677 Disposition of records of deceased  
19 practitioners or practitioners relocating or terminating  
20 practice.--Each board created under the provisions of chapter  
21 457, chapter 458, chapter 459, chapter 460, chapter 461,  
22 chapter 463, chapter 464, chapter 465, chapter 466, part I of  
23 chapter 484, chapter 486, chapter 490, or chapter 491, and the  
24 department under the provisions of chapter 462, shall provide  
25 by rule for the disposition, under that chapter, of the  
26 medical records or records of a psychological nature of  
27 practitioners which are in existence at the time the  
28 practitioner dies, terminates practice, or relocates and is no  
29 longer available to patients and which records pertain to the  
30 practitioner's patients. The rules shall provide that the  
31 records be retained for at least 2 years after the

1 practitioner's death, termination of practice, or relocation.  
2 In the case of the death of the practitioner, the rules shall  
3 provide for the disposition of such records by the estate of  
4 the practitioner. The rules must provide that such records may  
5 be disposed of after the mandatory retention period only by  
6 delivery to the patient or by shredding or burning in  
7 accordance with standards adopted by the department.

8 Section 3. This act shall take effect upon becoming a  
9 law.

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11 SENATE SUMMARY

12 Provides for confidentiality of health, medical, patient,  
13 and insurance records and identifying information in such  
14 records that pertain to natural persons. Provides  
15 conditions under which such information must be made  
16 available. Provides that rules of the Department of  
17 Business and Professional Regulation must specify that  
18 certain medical records or records of a psychological  
19 nature of health care practitioners may be disposed of  
20 after the mandatory retention period only by delivery to  
21 the patient, or by shredding or burning in accordance  
22 with standards adopted by the department.  
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