

STORAGE NAME: h0757s1.hcr

DATE: April 3, 1997

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

BILL #: CS/HB 757

RELATING TO: Public Records

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

STATUTE(S) AFFECTED: Section 400.835 and 400.843, F.S.

COMPANION BILL(S): SB 2234 (s), HB 759 (c), SB 2232 (c)

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

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

I. SUMMARY:

The bill exempts patient records of home medical equipment providers from the public records disclosure law.

It exempts criminal records, juvenile records, and central abuse registry information obtained for determining good moral character of home medical equipment personnel from the public records disclosure law.

The bill has no fiscal impact on state or local government, or the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 119.07(1), F.S., and section 24(a), Article I of the State Constitution, provide for public access to any records produced or obtained by a government agency. This includes documents obtained during inspection of a business licensed by the Agency for Health Care Administration (AHCA). Since records obtained during inspection of a health care facility may include confidential patient medical documentation, exemptions from public records disclosure as defined in section 119.07(1), F.S., must be requested for such confidential information must be requested to protect professionals' privacy. Such information obtained during the process of background screening may include findings that if released, could cause damage or jeopardize an individual's safety.

Information contained in patient records, criminal records, juvenile records, and abuse registry information is generally exempt from the provisions of s. 119.07(1), F.S. Since home medical equipment providers are not licensed in Florida, this information is not currently collected by the state.

B. EFFECT OF PROPOSED CHANGES:

Creates language concerning patient records of home medical equipment providers. Such records, when obtained by the Agency for Health Care Administration, are exempt from public records release without the individual's consent.

It adds language concerning criminal records, juvenile records, and central abuse registry information. Such records, when obtained by the Agency for Health Care Administration, are exempt from public records release.

The bill accompanies House Bill 759, which provides for licensure by the Agency for Health Care Administration of home medical equipment providers.

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?

No.

- 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?

Yes. It will exempt information from public disclosure.

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. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 400.835, F.S., concerning patient records of home medical equipment providers. Such records, when obtained by the Agency for Health Care Administration, are exempt from public records release without the individual's consent.

Section 2. Adds subsection (8) to s. 400.843, F.S., concerning criminal records, juvenile records, and central abuse registry information. Such records, when obtained by the Agency for Health Care Administration, are exempt from public records release.

Section 3. Expresses the public necessity of said exemptions.

Section 4. Provides for public necessity justifying the exemption.

Section 5. Provides for an effective date to coincide with House Bill 759, if adopted, or similar legislation creating the Home Medical Equipment Provider Licensure Act.

III. FISCAL ANALYSIS & 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:

Not Applicable.

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

Not Applicable.

D. FISCAL COMMENTS:

The accompanying House Bill 759 necessitates 20 full-time equivalents.

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:

The bill accompanies HB 759, which provides for licensure by the Agency for Health Care Administration of home medical equipment providers. It protects confidential or sensitive information about individuals from unconsented public release.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The difference between the original bill and the committee substitute is that language was added to justify the public necessity for the exemption from the public records provisions provided under section 3 of this bill.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:

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