

By Senator Gutman

34-761-98

1 A bill to be entitled
2 An act relating to patient records; amending s.
3 395.3025, F.S.; deleting a requirement that
4 patient records be disclosed upon court
5 subpoena in a criminal action unless otherwise
6 prohibited; requiring that patient records be
7 disclosed to a state attorney's office upon
8 certain conditions; authorizing charges for
9 providing such disclosure; providing an
10 effective date.

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

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14 Section 1. Subsection (4) of section 395.3025, Florida
15 Statutes, is amended to read:

16 395.3025 Patient and personnel records; copies;
17 examination.--

18 (4) Patient records are confidential and must not be
19 disclosed without the consent of the person to whom they
20 pertain, but appropriate disclosure may be made without such
21 consent to:

22 (a) Licensed facility personnel and attending
23 physicians for use in connection with the treatment of the
24 patient.

25 (b) Licensed facility personnel only for
26 administrative purposes or risk management and quality
27 assurance functions.

28 (c) The agency, for purposes of health care cost
29 containment.

30 (d) In any civil ~~or criminal~~ action, unless otherwise
31 prohibited by law, upon the issuance of a subpoena from a

1 court of competent jurisdiction and proper notice by the party
2 seeking such records to the patient or his or her legal
3 representative.

4 (e) A state attorney's office, pursuant to a criminal
5 investigation upon the issuance of a subpoena by the state
6 attorney's office. The charges for producing records in this
7 section, pursuant to a state attorney's subpoena, may not
8 exceed 15 cents per page and \$10 per hour for research and
9 copying.

10 (f)~~(e)~~ The agency upon subpoena issued pursuant to s.
11 455.223, but the records obtained thereby must be used solely
12 for the purpose of the agency and the appropriate professional
13 board in its investigation, prosecution, and appeal of
14 disciplinary proceedings. If the agency requests copies of the
15 records, the facility shall charge no more than its actual
16 copying costs, including reasonable staff time. The records
17 must be sealed and must not be available to the public
18 pursuant to s. 119.07(1) or any other statute providing access
19 to records, nor may they be available to the public as part of
20 the record of investigation for and prosecution in
21 disciplinary proceedings made available to the public by the
22 agency or the appropriate regulatory board. However, the
23 agency must make available, upon written request by a
24 practitioner against whom probable cause has been found, any
25 such records that form the basis of the determination of
26 probable cause.

27 (g)~~(f)~~ The Department of Health or its agent, for the
28 purpose of establishing and maintaining a trauma registry and
29 for the purpose of ensuring that hospitals and trauma centers
30 are in compliance with the standards and rules established
31 under ss. 395.401, 395.4015, 395.4025, 395.404, 395.4045, and

1 395.405, and for the purpose of monitoring patient outcome at
2 hospitals and trauma centers that provide trauma care
3 services.

4 (h)~~(g)~~ The Department of Children and Family Services
5 or its agent, for the purpose of investigations of cases of
6 abuse, neglect, or exploitation of children or disabled adults
7 or elderly persons.

8 (i)~~(h)~~ The State Long-Term Care Ombudsman Council and
9 the district long-term care ombudsman councils, with respect
10 to the records of a patient who has been admitted from a
11 nursing home or long-term care facility, when the councils are
12 conducting an investigation involving the patient as
13 authorized under part II of chapter 400, upon presentation of
14 identification as a council member by the person making the
15 request. Disclosure under this paragraph shall only be made
16 after a competent patient or the patient's representative has
17 been advised that disclosure may be made and the patient has
18 not objected.

19 (j)~~(i)~~ A local trauma agency or a regional trauma
20 agency that performs quality assurance activities, or a panel
21 or committee assembled to assist a local trauma agency or a
22 regional trauma agency in performing quality assurance
23 activities. Patient records obtained under this paragraph are
24 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
25 of the State Constitution.

26 (k)~~(j)~~ Organ procurement organizations, tissue banks,
27 and eye banks required to conduct death records reviews
28 pursuant to s. 395.2050.

29 Section 2. This act shall take effect July 1, 1998.
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SENATE SUMMARY

Deletes the requirement that a patient's records be disclosed without the patient's consent upon court subpoena in criminal actions. Provides for disclosure of such records to a state attorney's office, pursuant to a criminal investigation, if subpoenaed by the state attorney's office. Authorizes charges for producing such records.