

By Representative Edwards

1 A bill to be entitled
2 An act relating to the Medicaid Fraud Control
3 Unit of the Department of Legal Affairs;
4 amending s. 394.4615, F.S.; requiring that
5 clinical records be furnished to the unit upon
6 request; amending s. 395.3025, F.S.; allowing
7 patient records to be furnished to the unit;
8 amending s. 400.0077, F.S.; providing that
9 certain confidentiality provisions do not limit
10 the subpoena power of the Attorney General;
11 amending s. 400.494, F.S.; providing that
12 certain confidentiality provisions relating to
13 home health agencies do not apply to
14 information requested by the unit; amending s.
15 409.9071, F.S.; waiving confidentiality and
16 requiring that certain information regarding
17 Medicaid provider agreements with school
18 districts be provided to the unit; amending s.
19 409.920, F.S.; clarifying the Attorney
20 General's power to subpoena medical records
21 relating to Medicaid recipients; amending s.
22 409.9205, F.S.; authorizing investigators
23 employed by the unit to serve process; amending
24 s. 430.608, F.S.; providing that certain
25 confidentiality provisions pertaining to the
26 Department of Elderly Affairs do not limit the
27 subpoena authority of the unit; amending s.
28 455.667, F.S.; providing that certain
29 confidential records held by the Department of
30 Business and Professional Regulation must be
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1 provided to the unit, providing an effective
2 date.

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

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6 Section 1. Present subsections (6) through (10) of
7 section 394.4615, Florida Statutes, are redesignated as
8 subsections (7) through (11), respectively, and a new
9 subsection (6) is added to that section to read:

10 394.4615 Clinical records; confidentiality.--

11 (6) Clinical records relating to a Medicaid recipient
12 shall be furnished to the Medicaid Fraud Control Unit in the
13 Department of Legal Affairs, upon request.

14 Section 2. Paragraph (k) is added to subsection (5) of
15 section 395.3025, Florida Statutes, 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 (k) The Medicaid Fraud Control Unit in the Department
23 of Legal Affairs pursuant to s. 409.920.

24 Section 3. Subsection (6) is added to section
25 400.0077, Florida Statutes, to read:

26 400.0077 Confidentiality.--

27 (6) This section does not limit the subpoena power of
28 the Attorney General pursuant to s. 409.920(8)(b).

29 Section 4. Section 400.494, Florida Statutes, is
30 amended to read:

31 400.494 Information about patients confidential.--

1 (1) Information about patients received by persons
2 employed by, or providing services to, a home health agency or
3 received by the licensing agency through reports or inspection
4 shall be confidential and exempt from the provisions of s.
5 119.07(1) and shall not be disclosed to any person other than
6 the patient without the written consent of that patient or the
7 patient's guardian.

8 (2) This section does not apply to information
9 lawfully requested by the Medicaid Fraud Control Unit of the
10 Department of Legal Affairs.

11 Section 5. Subsection (7) is added to section
12 409.9071, Florida Statutes, to read:

13 409.9071 Medicaid provider agreements for school
14 districts certifying state match.--

15 (7) The agency's and school districts' confidentiality
16 is waived. They shall provide any information or documents
17 relating to this section to the Medicaid Fraud Control Unit in
18 the Department of Legal Affairs, upon request pursuant to its
19 authority under s. 409.920.

20 Section 6. Paragraph (b) of subsection (8) of section
21 409.920, Florida Statutes, is amended to read:

22 409.920 Medicaid provider fraud.--

23 (8) In carrying out the duties and responsibilities
24 under this subsection, the Attorney General may:

25 (b) Subpoena witnesses or materials, including medical
26 records relating to Medicaid recipients, within or outside the
27 state and, through any duly designated employee, administer
28 oaths and affirmations and collect evidence for possible use
29 in either civil or criminal judicial proceedings.

30 Section 7. Section 409.9205, Florida Statutes, is
31 amended to read:

1 409.9205 Medicaid Fraud Control Unit; law enforcement
2 officers.--All investigators employed by the Medicaid Fraud
3 Control Unit who have been certified under s. 943.1395 are law
4 enforcement officers of the state. Such investigators have
5 the authority to conduct criminal investigations, bear arms,
6 make arrests, and apply for, serve, and execute search
7 warrants, arrest warrants, ~~and~~ capias, and other process
8 throughout the state pertaining to Medicaid fraud as described
9 in this chapter. The Attorney General shall provide
10 reasonable notice of criminal investigations conducted by the
11 Medicaid Fraud Control Unit to, and coordinate those
12 investigations with, the sheriffs of the respective counties.
13 Investigators employed by the Medicaid Fraud Control Unit are
14 not eligible for membership in the Special Risk Class of the
15 Florida Retirement System under s. 121.0515.

16 Section 8. Section 430.608, Florida Statutes, is
17 amended to read:

18 430.608 Confidentiality of information.--Identifying
19 information about elderly persons who receive services under
20 ss. 430.601-430.606, which is received through files, reports,
21 inspection, or otherwise by the department or by authorized
22 departmental employees, by persons who volunteer services, or
23 by persons who provide services to elderly persons under ss.
24 430.601-430.606 through contracts with the department, is
25 confidential and exempt from the provisions of s. 119.07(1)
26 and s. 24(a), Art. I of the State Constitution. Such
27 information may not be disclosed publicly in such a manner as
28 to identify an elderly person, unless that person or the
29 person's legal guardian provides written consent.

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1 (2) This section does not, however, limit the subpoena
2 authority of the Medicaid Fraud Control Unit of the Department
3 of Legal Affairs pursuant to s. 409.920(8)(b).

4 Section 9. Subsection (8) of subsection 455.667,
5 Florida Statutes, is amended to read:

6 455.667 Ownership and control of patient records;
7 report or copies of records to be furnished.--

8 (8)(a) All patient records obtained by the department
9 and any other documents maintained by the department which
10 identify the patient by name are confidential and exempt from
11 s. 119.07(1) and shall be used solely for the purpose of the
12 department and the appropriate regulatory board in its
13 investigation, prosecution, and appeal of disciplinary
14 proceedings. The records shall not be available to the public
15 as part of the record of investigation for and prosecution in
16 disciplinary proceedings made available to the public by the
17 department or the appropriate board.

18 (b) Notwithstanding paragraph (a), all patient records
19 obtained by the department and any other documents maintained
20 by the department which relate to a current or former Medicaid
21 recipient shall be provided to the Medicaid Fraud Control Unit
22 in the Department of Legal Affairs, upon request.

23 Section 10. This act shall take effect July 1, 2000.

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26 SENATE SUMMARY

27 Amends provisions to clarify that the Medicaid Fraud
28 Control Unit of the Department of Legal Affairs may
29 obtain records relating to Medicaid recipients that may
30 otherwise be confidential. Also authorizes investigators
31 employed by the unit to serve process. (See bill for
 details.)