

Bill No. CS for CS for SB 2242

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Brown-Waite moved the following amendment:

**Senate Amendment (with title amendment)**

On page 20, between lines 22 and 23,

insert:

Section 18. Present subsections (6) through (10) of section 394.4615, Florida Statutes, are redesignated as subsections (7) through (11), respectively, and a new subsection (6) is added to that section to read:

394.4615 Clinical records; confidentiality.--

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

Section 19. Paragraph (k) is added to subsection (4) of section 395.3025, Florida Statutes, to read:

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

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

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1 consent to:

2 (k) The Medicaid Fraud Control Unit in the Department  
3 of Legal Affairs pursuant to s. 409.920.

4 Section 20. Subsection (6) is added to section  
5 400.0077, Florida Statutes, to read:

6 400.0077 Confidentiality.--

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

9 Section 21. Section 400.494, Florida Statutes, is  
10 amended to read:

11 400.494 Information about patients confidential.--

12 (1) Information about patients received by persons  
13 employed by, or providing services to, a home health agency or  
14 received by the licensing agency through reports or inspection  
15 shall be confidential and exempt from the provisions of s.  
16 119.07(1) and shall not be disclosed to any person other than  
17 the patient without the written consent of that patient or the  
18 patient's guardian.

19 (2) This section does not apply to information  
20 lawfully requested by the Medicaid Fraud Control Unit of the  
21 Department of Legal Affairs.

22 Section 22. Subsection (7) is added to section  
23 409.9071, Florida Statutes, to read:

24 409.9071 Medicaid provider agreements for school  
25 districts certifying state match.--

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

31 Section 23. Paragraph (b) of subsection (8) of section

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1 409.920, Florida Statutes, is amended to read:

2 409.920 Medicaid provider fraud.--

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

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

10 Section 24. Section 409.9205, Florida Statutes, is  
11 amended to read:

12 409.9205 Medicaid Fraud Control Unit; law enforcement  
13 officers.--All investigators employed by the Medicaid Fraud  
14 Control Unit who have been certified under s. 943.1395 are law  
15 enforcement officers of the state. Such investigators have  
16 the authority to conduct criminal investigations, bear arms,  
17 make arrests, and apply for, serve, and execute search  
18 warrants, arrest warrants, ~~and~~ capias, and other process  
19 throughout the state pertaining to Medicaid fraud as described  
20 in this chapter. The Attorney General shall provide  
21 reasonable notice of criminal investigations conducted by the  
22 Medicaid Fraud Control Unit to, and coordinate those  
23 investigations with, the sheriffs of the respective counties.  
24 Investigators employed by the Medicaid Fraud Control Unit are  
25 not eligible for membership in the Special Risk Class of the  
26 Florida Retirement System under s. 121.0515.

27 Section 25. Section 430.608, Florida Statutes, is  
28 amended to read:

29 430.608 Confidentiality of information.--Identifying  
30 information about elderly persons who receive services under  
31 ss. 430.601-430.606, which is received through files, reports,

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1 inspection, or otherwise by the department or by authorized  
2 departmental employees, by persons who volunteer services, or  
3 by persons who provide services to elderly persons under ss.  
4 430.601-430.606 through contracts with the department, is  
5 confidential and exempt from the provisions of s. 119.07(1)  
6 and s. 24(a), Art. I of the State Constitution. Such  
7 information may not be disclosed publicly in such a manner as  
8 to identify an elderly person, unless that person or the  
9 person's legal guardian provides written consent.

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

13 Section 26. Subsection (8) of subsection 455.667,  
14 Florida Statutes, is amended to read:

15 455.667 Ownership and control of patient records;  
16 report or copies of records to be furnished.--

17 (8)(a) All patient records obtained by the department  
18 and any other documents maintained by the department which  
19 identify the patient by name are confidential and exempt from  
20 s. 119.07(1) and shall be used solely for the purpose of the  
21 department and the appropriate regulatory board in its  
22 investigation, prosecution, and appeal of disciplinary  
23 proceedings. The records shall not be available to the public  
24 as part of the record of investigation for and prosecution in  
25 disciplinary proceedings made available to the public by the  
26 department or the appropriate board.

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

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(Redesignate subsequent sections.)

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 3, line 1, after the semicolon,

insert:

amending s. 394.4615, F.S.; requiring that  
clinical records be furnished to the unit upon  
request; amending s. 395.3025, F.S.; allowing  
patient records to be furnished to the unit;  
amending s. 400.0077, F.S.; providing that  
certain confidentiality provisions do not limit  
the subpoena power of the Attorney General;  
amending s. 400.494, F.S.; providing that  
certain confidentiality provisions relating to  
home health agencies do not apply to  
information requested by the unit; amending s.  
409.9071, F.S.; waiving confidentiality and  
requiring that certain information regarding  
Medicaid provider agreements with school  
districts be provided to the unit; amending s.  
409.920, F.S.; clarifying the Attorney  
General's power to subpoena medical records  
relating to Medicaid recipients; amending s.  
409.9205, F.S.; authorizing investigators  
employed by the unit to serve process; amending  
s. 430.608, F.S.; providing that certain  
confidentiality provisions pertaining to the

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1 Department of Elderly Affairs do not limit the  
2 subpoena authority of the unit; amending s.  
3 455.667, F.S.; providing that certain  
4 confidential records held by the Department of  
5 Business and Professional Regulation must be  
6 provided to the unit;  
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