

By Senator Brown-Waite

10-1081-00

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.)