

1 A bill to be entitled
2 An act relating to health care; amending s.
3 154.306, F.S.; providing procedures for
4 computing the maximum amount that specified
5 counties must pay for the treatment of an
6 indigent resident of the county at a hospital
7 located outside the county; providing for the
8 exclusion of active-duty military personnel and
9 certain institutionalized county residents from
10 state population estimates when calculating a
11 county's financial responsibility for such
12 hospital care; requiring the county of
13 residence to accept the hospital's
14 documentation of financial eligibility and
15 county residence; requiring that the
16 documentation meet specified criteria; amending
17 s. 381.0403, F.S.; transferring the programs
18 for community hospital education and graduate
19 medical education under the "Community Hospital
20 Education Act" from the Board of Regents to the
21 Department of Health; authorizing certain
22 expenditure of funds; revising provisions to
23 conform; authorizing participation in the
24 innovations grant program by individual Florida
25 medical schools providing graduate medical
26 education in community-based clinical settings;
27 revising the membership of a committee;
28 providing rulemaking authority to the
29 Department of Health; amending s. 409.908,
30 F.S.; revising provisions relating to the
31 reimbursement of Medicaid providers to conform

1 to the transfer of the Community Hospital
2 Education Program from the Board of Regents to
3 the Department of Health; providing for the
4 certification of local matching funds;
5 providing requirements for the distribution of
6 federal funds earned as a result of local
7 matching funds; requiring an impact statement;
8 amending s. 409.911, F.S.; revising the
9 definition of the term "charity care"; amending
10 s. 409.9117, F.S.; revising criteria for
11 participation in the primary care
12 disproportionate share program; amending s.
13 409.912, F.S.; extending the duration of
14 provider service network demonstration
15 projects; providing legislative intent;
16 amending ss. 395.3025, 400.1415, and 456.057,
17 F.S.; prohibiting the use of a patient's
18 medical records for purposes of solicitation
19 and marketing absent a specific written release
20 or authorization; providing penalties; creating
21 s. 626.9651, F.S.; requiring the Department of
22 Insurance to adopt rules governing the use of a
23 consumer's nonpublic personal financial and
24 health information; providing standards for the
25 rules; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (3) and (4) of section 154.306,
30 Florida Statutes, are redesignated as subsections (4) and (5),
31

1 respectively, and a new subsection (3) is added to said
2 section, to read:

3 154.306 Financial responsibility for certified
4 residents who are qualified indigent patients treated at an
5 out-of-county participating hospital or regional referral
6 hospital.--Ultimate financial responsibility for treatment
7 received at a participating hospital or a regional referral
8 hospital by a qualified indigent patient who is a certified
9 resident of a county in the State of Florida, but is not a
10 resident of the county in which the participating hospital or
11 regional referral hospital is located, is the obligation of
12 the county of which the qualified indigent patient is a
13 resident. Each county shall reimburse participating hospitals
14 or regional referral hospitals as provided for in this part,
15 and shall provide or arrange for indigent eligibility
16 determination procedures and resident certification
17 determination procedures as provided for in rules developed to
18 implement this part. The agency, or any county determining
19 eligibility of a qualified indigent, shall provide to the
20 county of residence, upon request, a copy of any documents,
21 forms, or other information, as determined by rule, which may
22 be used in making an eligibility determination.

23 (3) For the purpose of computing the maximum amount
24 that a county having a population of 100,000 or less may be
25 required to pay, the agency must reduce the official state
26 population estimates by the number of inmates and patients
27 residing in the county in institutions operated by the Federal
28 Government, the Department of Corrections, the Department of
29 Health, or the Department of Children and Family Services, and
30 by the number of active-duty military personnel residing in
31 the county, none of whom shall be considered residents of the

1 county. However, a county is entitled to receive the benefit
2 of such a reduction in estimated population figures only if
3 the county accepts as valid and true, and does not require any
4 reverification of, the documentation of financial eligibility
5 and county residency which is provided to it by the
6 participating hospital or regional referral hospital. The
7 participating hospital or regional referral hospital must
8 provide documentation that is complete and in the form
9 required by s. 154.3105.

10 Section 2. Paragraphs (a), (b), and (c) of subsection
11 (3), subsections (4) and (5), paragraph (c) of subsection (6),
12 and subsections (7) and (9) of section 381.0403, Florida
13 Statutes, are amended, and subsection (10) is added to said
14 section, to read:

15 381.0403 The Community Hospital Education Act.--

16 (3) PROGRAM FOR COMMUNITY HOSPITAL EDUCATION; STATE
17 AND LOCAL PLANNING.--

18 (a) There is established under the Department of
19 Health Board of Regents a program for statewide graduate
20 medical education. It is intended that continuing graduate
21 medical education programs for interns and residents be
22 established on a statewide basis. The program shall provide
23 financial support for primary care specialty interns and
24 residents based on policies recommended and approved by the
25 Community Hospital Education Council, herein established, and
26 the department Board of Regents. Only those programs with at
27 least three residents or interns in each year of the training
28 program are qualified to apply for financial support. Programs
29 with fewer than three residents or interns per training year
30 are qualified to apply for financial support, but only if the
31 appropriate accrediting entity for the particular specialty

1 has approved the program for fewer positions. Programs added
2 after fiscal year 1997-1998 shall have 5 years to attain the
3 requisite number of residents or interns. When feasible and to
4 the extent allowed through the General Appropriations Act,
5 state funds shall be used to generate federal matching funds
6 under Medicaid, or other federal programs, and the resulting
7 combined state and federal funds shall be allocated to
8 participating hospitals for the support of graduate medical
9 education. The department is authorized to spend up to \$75,000
10 of funds provided specifically for purposes of this section,
11 for administrative costs associated with the production of the
12 annual report as specified in subsection (9),and for
13 administration of the program and the council.

14 (b) For the purposes of this section, primary care
15 specialties include emergency medicine, family practice,
16 internal medicine, pediatrics, psychiatry,
17 obstetrics/gynecology, and combined pediatrics and internal
18 medicine, and other primary care specialties as may be
19 included by the council and the department ~~Board of Regents~~.

20 (c) Medical institutions throughout the state may
21 apply to the Community Hospital Education Council for
22 grants-in-aid for financial support of their approved
23 programs. Recommendations for funding of approved programs
24 shall be forwarded to the department ~~Board of Regents~~.

25 (4) PROGRAM FOR GRADUATE MEDICAL EDUCATION
26 INNOVATIONS.--

27 (a) There is established under the department ~~Board of~~
28 ~~Regents~~ a program for fostering graduate medical education
29 innovations. Funds appropriated annually by the Legislature
30 for this purpose shall be distributed to participating
31 hospitals, a consortium ~~or consortia~~ of participating

1 hospitals and Florida medical schools, or a Florida medical
2 school for the direct costs of providing graduate medical
3 education in community-based clinical settings, on a
4 competitive grant or formula basis to achieve state health
5 care workforce policy objectives, including, but not limited
6 to:

7 1. Increasing the number of residents in primary care
8 and other high demand specialties or fellowships;

9 2. Enhancing retention of primary care physicians in
10 Florida practice;

11 3. Promoting practice in medically underserved areas
12 of the state;

13 4. Encouraging racial and ethnic diversity within the
14 state's physician workforce; and

15 5. Encouraging increased production of geriatricians.

16 (b) Participating hospitals, or consortia of
17 participating hospitals and Florida medical schools, or
18 Florida medical schools providing graduate medical education
19 in community-based clinical settings may apply to the
20 Community Hospital Education Council for funding under this
21 innovations program, except when such innovations directly
22 compete with services or programs provided by participating
23 hospitals or consortia of participating hospitals. Innovations
24 program funding shall provide funding based on policies
25 recommended and approved by the Community Hospital Education
26 Council and the department ~~Board of Regents~~.

27 (c) Participating hospitals, or consortia of
28 participating hospitals and Florida medical schools, or
29 Florida medical schools providing graduate medical education
30 in community-based clinical settings awarded an innovations
31 grant shall provide the Community Hospital Education Council

1 and the department ~~Board of Regents~~ with an annual report on
2 their project.

3 (5) FAMILY PRACTICE RESIDENCIES.--In addition to the
4 programs established in subsection (3), the Community Hospital
5 Education Council and the department ~~Board of Regents~~ shall
6 establish an ongoing statewide program of family practice
7 residencies. The administration of this program shall be in
8 the manner described in this section.

9 (6) COUNCIL AND DIRECTOR.--

10 (c) The Secretary of Health ~~Chancellor of the State~~
11 ~~University System~~ shall designate an administrator to serve as
12 staff director. The council shall elect a chair from among
13 its membership. Such other personnel as may be necessary to
14 carry out the program shall be employed as authorized by the
15 department ~~Board of Regents~~.

16 (7) ~~BOARD OF REGENTS~~ STANDARDS AND POLICIES.--

17 (a) The department ~~Board of Regents~~, with
18 recommendations from the council, shall establish standards
19 and policies for the use and expenditure of graduate medical
20 education funds appropriated pursuant to subsection (8) for a
21 program of community hospital education. The department ~~board~~
22 shall establish requirements for hospitals to be qualified for
23 participation in the program which shall include, but not be
24 limited to:

25 1. Submission of an educational plan and a training
26 schedule.

27 2. A determination by the council to ascertain that
28 each portion of the program of the hospital provides a high
29 degree of academic excellence and is accredited by the
30 Accreditation Council for Graduate Medical Education of the
31

1 American Medical Association or is accredited by the American
2 Osteopathic Association.

3 3. Supervision of the educational program of the
4 hospital by a physician who is not the hospital administrator.

5 (b) The department ~~Board of Regents~~ shall periodically
6 review the educational program provided by a participating
7 hospital to assure that the program includes a reasonable
8 amount of both formal and practical training and that the
9 formal sessions are presented as scheduled in the plan
10 submitted by each hospital.

11 (c) In years that funds are transferred to the Agency
12 for Health Care Administration, the department ~~Board of~~
13 ~~Regents~~ shall certify to the Agency for Health Care
14 Administration on a quarterly basis the number of primary care
15 specialty residents and interns at each of the participating
16 hospitals for which the Community Hospital Education Council
17 and the department ~~board~~ recommends funding.

18 (9) ANNUAL REPORT ON GRADUATE MEDICAL EDUCATION;
19 COMMITTEE.--

20 (a) ~~The Board of Regents, the~~ Executive Office of the
21 Governor, the Department of Health, and the Agency for Health
22 Care Administration shall collaborate to establish a committee
23 that shall produce an annual report on graduate medical
24 education.

25 1. The committee shall consist of 11 members as
26 follows: the five deans of the five Florida medical schools or
27 their designees; two persons appointed by the Governor, one of
28 whom shall be a representative of the Florida Medical
29 Association who has supervised or is currently supervising
30 residents or interns and one of whom shall be a representative
31 of the Florida Hospital Association; two persons appointed by

1 the Secretary of Health Care Administration, one of whom shall
 2 be a representative of a statutory teaching hospital and one
 3 of whom shall be a physician who has supervised or is
 4 currently supervising residents or interns; and two persons
 5 appointed by the Secretary of Health, one of whom shall be a
 6 representative of a family practice teaching hospital and one
 7 of whom shall be a physician who has supervised or is
 8 currently supervising residents or interns. With the exception
 9 of the deans, members of the committee shall serve staggered
 10 terms of 4 years; however, for the purpose of providing
 11 staggered terms, the initial appointees of the Governor shall
 12 serve a term of 4 years, the initial appointees of the
 13 Secretary of Health shall serve a term of 3 years, and the
 14 initial appointees of the Secretary of Health Care
 15 Administration shall serve a term of 2 years.

16 2. An appointment to fill an unexpired term shall be
 17 for the remainder of the unexpired term only. A member shall
 18 no longer be eligible to serve on the committee if, at any
 19 point during his or her term, the member no longer possesses
 20 his or her representative status. The committee shall elect a
 21 chair from among its members, who shall serve a 1-year term.
 22 ~~To the maximum extent feasible, the committee shall have the~~
 23 ~~same membership as the Graduate Medical Education Study~~
 24 ~~Committee, established by proviso accompanying Specific~~
 25 ~~Appropriation 191 of the 1999-2000 General Appropriations Act.~~
 26 ~~The report shall be provided to the Governor, the President of~~
 27 ~~Senate, and the Speaker of the House of Representatives by~~
 28 ~~January 15 annually. Committee members shall serve without~~
 29 ~~compensation. From the funds provided pursuant to subsection~~
 30 ~~(3), the committee is authorized to expend a maximum of~~

31

1 ~~\$75,000 per year to provide for administrative costs and~~
2 ~~contractual services.~~

3 (b) The report shall be provided to the Governor, the
4 President of the Senate, and the Speaker of the House of
5 Representatives by January 15, annually, and shall address the
6 following:

7 1.(a) The role of residents and medical faculty in the
8 provision of health care.

9 2.(b) The relationship of graduate medical education
10 to the state's physician workforce.

11 3.(c) The costs of training medical residents for
12 hospitals, medical schools, teaching hospitals, including all
13 hospital-medical affiliations, practice plans at all of the
14 medical schools, and municipalities.

15 4.(d) The availability and adequacy of all sources of
16 revenue to support graduate medical education and recommend
17 alternative sources of funding for graduate medical education.

18 5.(e) The use of state and federal appropriated funds
19 for graduate medical education by hospitals receiving such
20 funds.

21 (10) RULEMAKING.--The department has authority to
22 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
23 the provisions of this section.

24 Section 3. Paragraphs (a) and (b) of subsection (1) of
25 section 409.908, Florida Statutes, are amended to read:

26 409.908 Reimbursement of Medicaid providers.--Subject
27 to specific appropriations, the agency shall reimburse
28 Medicaid providers, in accordance with state and federal law,
29 according to methodologies set forth in the rules of the
30 agency and in policy manuals and handbooks incorporated by
31 reference therein. These methodologies may include fee

1 schedules, reimbursement methods based on cost reporting,
2 negotiated fees, competitive bidding pursuant to s. 287.057,
3 and other mechanisms the agency considers efficient and
4 effective for purchasing services or goods on behalf of
5 recipients. Payment for Medicaid compensable services made on
6 behalf of Medicaid eligible persons is subject to the
7 availability of moneys and any limitations or directions
8 provided for in the General Appropriations Act or chapter 216.
9 Further, nothing in this section shall be construed to prevent
10 or limit the agency from adjusting fees, reimbursement rates,
11 lengths of stay, number of visits, or number of services, or
12 making any other adjustments necessary to comply with the
13 availability of moneys and any limitations or directions
14 provided for in the General Appropriations Act, provided the
15 adjustment is consistent with legislative intent.

16 (1) Reimbursement to hospitals licensed under part I
17 of chapter 395 must be made prospectively or on the basis of
18 negotiation.

19 (a) Reimbursement for inpatient care is limited as
20 provided for in s. 409.905(5), except for:

21 1. The raising of rate reimbursement caps, excluding
22 rural hospitals.

23 2. Recognition of the costs of graduate medical
24 education.

25 3. Other methodologies recognized in the General
26 Appropriations Act.

27

28 During the years funds are transferred from the Department of
29 Health Board of Regents, any reimbursement supported by such
30 funds shall be subject to certification by the Department of
31 Health Board of Regents that the hospital has complied with s.

1 381.0403. The agency is authorized to receive funds from state
 2 entities, including, but not limited to, the Department of
 3 Health, the Board of Regents, local governments, and other
 4 local political subdivisions, for the purpose of making
 5 special exception payments, including federal matching funds,
 6 through the Medicaid inpatient reimbursement methodologies.
 7 Funds received from state entities or local governments for
 8 this purpose shall be separately accounted for and shall not
 9 be commingled with other state or local funds in any manner.
 10 The agency may certify all local governmental funds used as
 11 state match under Title XIX of the Social Security Act, to the
 12 extent that the identified local health care provider that is
 13 otherwise entitled to and is contracted to receive such local
 14 funds is the benefactor under the state's Medicaid program as
 15 determined under the General Appropriations Act and pursuant
 16 to an agreement between the Agency for Health Care
 17 Administration and the local governmental entity. The local
 18 governmental entity shall use a certification form prescribed
 19 by the agency. At a minimum, the certification form shall
 20 identify the amount being certified and describe the
 21 relationship between the certifying local government entity
 22 and local health care provider. The agency shall prepare an
 23 annual statement of impact that documents the specific
 24 activities undertaken during the previous fiscal year pursuant
 25 to this paragraph, to be submitted to the Legislature no later
 26 than January 1, annually. Notwithstanding this section and s.
 27 409.915, counties are exempt from contributing toward the cost
 28 of the special exception reimbursement for hospitals serving a
 29 disproportionate share of low-income persons and providing
 30 graduate medical education.
 31

1 (b) Reimbursement for hospital outpatient care is
2 limited to \$1,500 per state fiscal year per recipient, except
3 for:

4 1. Such care provided to a Medicaid recipient under
5 age 21, in which case the only limitation is medical
6 necessity.

7 2. Renal dialysis services.

8 3. Other exceptions made by the agency.
9

10 The agency is authorized to receive funds from state entities,
11 including, but not limited to, the Department of Health, the
12 Board of Regents, local governments, and other local political
13 subdivisions, for the purpose of making payments, including
14 federal matching funds, through the Medicaid outpatient
15 reimbursement methodologies. Funds received from state
16 entities and local governments for this purpose shall be
17 separately accounted for and shall not be commingled with
18 other state or local funds in any manner.

19 Section 4. Paragraph (d) of subsection (1) of section
20 409.911, Florida Statutes, is amended to read:

21 409.911 Disproportionate share program.--Subject to
22 specific allocations established within the General
23 Appropriations Act and any limitations established pursuant to
24 chapter 216, the agency shall distribute, pursuant to this
25 section, moneys to hospitals providing a disproportionate
26 share of Medicaid or charity care services by making quarterly
27 Medicaid payments as required. Notwithstanding the provisions
28 of s. 409.915, counties are exempt from contributing toward
29 the cost of this special reimbursement for hospitals serving a
30 disproportionate share of low-income patients.
31

1 (1) Definitions.--As used in this section and s.
2 409.9112:

3 (d) "Charity care" or "uncompensated charity care"
4 means that portion of hospital charges reported to the Agency
5 for Health Care Administration for which there is no
6 compensation, other than restricted and unrestricted revenues
7 provided to a hospital by local governments or tax districts
8 regardless of the method of payment,for care provided to a
9 patient whose family income for the 12 months preceding the
10 determination is less than or equal to 200 ~~150~~ percent of the
11 federal poverty level, unless the amount of hospital charges
12 due from the patient exceeds 25 percent of the annual family
13 income. However, in no case shall the hospital charges for a
14 patient whose family income exceeds four times the federal
15 poverty level for a family of four be considered charity.

16 Section 5. Subsection (2) of section 409.9117, Florida
17 Statutes, is amended to read:

18 409.9117 Primary care disproportionate share
19 program.--

20 (2) In the establishment and funding of this program,
21 the agency shall use the following criteria in addition to
22 those specified in s. 409.911~~7~~. Payments may not be made to a
23 hospital unless the hospital agrees to:

24 (a) Cooperate with a Medicaid prepaid health plan, if
25 one exists in the community.

26 (b) Ensure the availability of primary and specialty
27 care physicians to Medicaid recipients who are not enrolled in
28 a prepaid capitated arrangement and who are in need of access
29 to such physicians.

30 (c) Coordinate and provide primary care services free
31 of charge, except copayments, to all persons with incomes up

1 to 100 percent of the federal poverty level who are not
2 otherwise covered by Medicaid or another program that provides
3 similar benefits administered by a governmental entity, and to
4 provide such services based on a sliding fee scale to all
5 persons with incomes up to 200 percent of the federal poverty
6 level who are not otherwise covered by Medicaid or another
7 program that provides similar benefits administered by a
8 governmental entity, except that eligibility may be limited to
9 persons who reside within a more limited area, as agreed to by
10 the agency and the hospital.

11 (d) Contract with any federally qualified health
12 center, if one exists within the agreed geopolitical
13 boundaries, concerning the provision of primary care services,
14 in order to guarantee delivery of services in a nonduplicative
15 fashion, and to provide for referral arrangements, privileges,
16 and admissions, as appropriate. The hospital shall agree to
17 provide at an onsite or offsite facility primary care services
18 within 24 hours to which all Medicaid recipients and persons
19 eligible under this paragraph who do not require emergency
20 room services are referred during normal daylight hours.

21 (e) Cooperate with the agency, the county, and other
22 entities to ensure the provision of certain public health
23 services, case management, referral and acceptance of
24 patients, and sharing of epidemiological data, as the agency
25 and the hospital find mutually necessary and desirable to
26 promote and protect the public health within the agreed
27 geopolitical boundaries.

28 (f) In cooperation with the county in which the
29 hospital resides, develop a low-cost, outpatient, prepaid
30 health care program to persons who are not eligible for the
31 Medicaid program, and who reside within the area.

1 (g) Provide inpatient services to residents within the
2 area who are not eligible for Medicaid or Medicare, and who do
3 not have private health insurance, regardless of ability to
4 pay, on the basis of available space, except that nothing
5 shall prevent the hospital from establishing bill collection
6 programs based on ability to pay.

7 (h) Work with the Florida Healthy Kids Corporation,
8 the Florida Health Care Purchasing Cooperative, and business
9 health coalitions, as appropriate, to develop a feasibility
10 study and plan to provide a low-cost comprehensive health
11 insurance plan to persons who reside within the area and who
12 do not have access to such a plan.

13 (i) Work with public health officials and other
14 experts to provide community health education and prevention
15 activities designed to promote healthy lifestyles and
16 appropriate use of health services.

17 (j) Work with the local health council to develop a
18 plan for promoting access to affordable health care services
19 for all persons who reside within the area, including, but not
20 limited to, public health services, primary care services,
21 inpatient services, and affordable health insurance generally.

22
23 Any hospital that fails to comply with any of the provisions
24 of this subsection, or any other contractual condition, may
25 not receive payments under this section until full compliance
26 is achieved.

27 Section 6. Paragraph (d) of subsection (3) of section
28 409.912, Florida Statutes, is amended to read:

29 409.912 Cost-effective purchasing of health care.--The
30 agency shall purchase goods and services for Medicaid
31 recipients in the most cost-effective manner consistent with

1 the delivery of quality medical care. The agency shall
 2 maximize the use of prepaid per capita and prepaid aggregate
 3 fixed-sum basis services when appropriate and other
 4 alternative service delivery and reimbursement methodologies,
 5 including competitive bidding pursuant to s. 287.057, designed
 6 to facilitate the cost-effective purchase of a case-managed
 7 continuum of care. The agency shall also require providers to
 8 minimize the exposure of recipients to the need for acute
 9 inpatient, custodial, and other institutional care and the
 10 inappropriate or unnecessary use of high-cost services.

11 (3) The agency may contract with:

12 (d) No more than four provider service networks for
 13 demonstration projects to test Medicaid direct contracting.
 14 The demonstration projects may be reimbursed on a
 15 fee-for-service or prepaid basis. A provider service network
 16 which is reimbursed by the agency on a prepaid basis shall be
 17 exempt from parts I and III of chapter 641, but must meet
 18 appropriate financial reserve, quality assurance, and patient
 19 rights requirements as established by the agency. The agency
 20 shall award contracts on a competitive bid basis and shall
 21 select bidders based upon price and quality of care. Medicaid
 22 recipients assigned to a demonstration project shall be chosen
 23 equally from those who would otherwise have been assigned to
 24 prepaid plans and MediPass. The agency is authorized to seek
 25 federal Medicaid waivers as necessary to implement the
 26 provisions of this section. A demonstration project awarded
 27 pursuant to this paragraph shall be for 4 ~~2~~ years from the
 28 date of implementation.

29 Section 7. All the statutory powers, duties, and
 30 functions and the records, personnel, property, and unexpended
 31 balances of appropriations, allocations, or other funds of the

1 programs under the Community Hospital Education Act are
 2 transferred from the Board of Regents to the Department of
 3 Health by a type two transfer as defined in s. 20.06, Florida
 4 Statutes.

5 Section 8. The Legislature finds that personal
 6 identifying information, name, age, diagnosis, address, bank
 7 account numbers, and debit and credit card numbers contained
 8 in the records relating to an individual's personal health or
 9 eligibility for health-related services made or received by
 10 the individual's physician, and public or private health
 11 facility should be held confidential. Furthermore, the
 12 Legislature finds that every person has an expectation of and
 13 a right to privacy in all matters concerning her or his
 14 personal health when medical services are provided. Matters of
 15 personal health are traditionally private and confidential
 16 concerns between the patient and the health care provider. The
 17 private and confidential nature of personal health matters
 18 pervades both the public and private sectors. For these
 19 reasons, it is the express intent of the Legislature to
 20 protect confidential information and the individual's
 21 expectations of the right to privacy in all matters regarding
 22 her or his personal health and not to have such information
 23 exploited for purposes of solicitation or marketing the sale
 24 of goods and services.

25 Section 9. Subsection (5) of section 456.057, Florida
 26 Statutes, is amended to read:

27 456.057 Ownership and control of patient records;
 28 report or copies of records to be furnished.--

29 (5)(a) Except as otherwise provided in this section
 30 and in s. 440.13(4)(c), such records may not be furnished to,
 31 and the medical condition of a patient may not be discussed

1 with, any person other than the patient or the patient's legal
2 representative or other health care practitioners and
3 providers involved in the care or treatment of the patient,
4 except upon written authorization of the patient. However,
5 such records may be furnished without written authorization
6 under the following circumstances:

7 ~~1.(a)~~ To any person, firm, or corporation that has
8 procured or furnished such examination or treatment with the
9 patient's consent.

10 ~~2.(b)~~ When compulsory physical examination is made
11 pursuant to Rule 1.360, Florida Rules of Civil Procedure, in
12 which case copies of the medical records shall be furnished to
13 both the defendant and the plaintiff.

14 ~~3.(c)~~ In any civil or criminal action, unless
15 otherwise prohibited by law, upon the issuance of a subpoena
16 from a court of competent jurisdiction and proper notice to
17 the patient or the patient's legal representative by the party
18 seeking such records.

19 ~~4.(d)~~ For statistical and scientific research,
20 provided the information is abstracted in such a way as to
21 protect the identity of the patient or provided written
22 permission is received from the patient or the patient's legal
23 representative.

24 (b) Absent a specific written release or authorization
25 permitting utilization of patient information for solicitation
26 or marketing the sale of goods or services, any use of that
27 information for those purposes is prohibited.

28 (14) Licensees in violation of the provisions of this
29 section shall be disciplined by the appropriate licensing
30 authority.

31

1 (15) The Attorney General is authorized to enforce the
2 provisions of this section for records owners not otherwise
3 licensed by the state, through injunctive relief and fines not
4 to exceed \$5,000 per violation.

5 Section 10. Subsection (7) of section 395.3025,
6 Florida Statutes is amended to read:

7 395.3025 Patient and personnel records; copies;
8 examination.--

9 (7)(a) If the content of any record of patient
10 treatment is provided under this section, the recipient, if
11 other than the patient or the patient's representative, may
12 use such information only for the purpose provided and may not
13 further disclose any information to any other person or
14 entity, unless expressly permitted by the written consent of
15 the patient. A general authorization for the release of
16 medical information is not sufficient for this purpose. The
17 content of such patient treatment record is confidential and
18 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
19 I of the State Constitution.

20 (b) Absent a specific written release or authorization
21 permitting utilization of patient information for solicitation
22 or marketing the sale of goods or services, any use of that
23 information for those purposes is prohibited.

24 Section 11. Subsection (1) of section 400.1415,
25 Florida Statutes, is amended to read:

26 400.1415 Patient records; penalties for alteration.--

27 (1) Any person who fraudulently alters, defaces, or
28 falsifies any medical record or releases medical records for
29 the purposes of solicitation or marketing the sale of goods or
30 services absent a specific written release or authorization
31 permitting utilization of patient information, or other

1 nursing home record, or causes or procures any of these
2 offenses to be committed, commits a misdemeanor of the second
3 degree, punishable as provided in s. 775.082 or s. 775.083.

4 Section 12. Section 626.9651, Florida Statutes, is
5 created to read:

6 626.9651 Privacy.--The department shall adopt rules
7 consistent with other provisions of the Florida Insurance Code
8 to govern the use of a consumer's nonpublic personal financial
9 and health information. These rules must be based on,
10 consistent with, and not more restrictive than the Privacy of
11 Consumer Financial and Health Information Regulation, adopted
12 September 26, 2000, by the National Association of Insurance
13 Commissioners; however, the rules must permit the use and
14 disclosure of nonpublic personal health information for
15 scientific, medical, or public policy research, in accordance
16 with federal law. In addition, these rules must be consistent
17 with, and not more restrictive than, the standards contained
18 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.
19 106-102. If the department determines that a health insurer or
20 health maintenance organization is in compliance with, or is
21 actively undertaking compliance with, the consumer privacy
22 protection rules adopted by the United States Department of
23 Health and Human Services, in conformance with the Health
24 Insurance Portability and Affordability Act, that health
25 insurer or health maintenance organization is in compliance
26 with this section.

27 Section 13. This act shall take effect July 1, 2001.
28
29
30
31