

Bill No. CS for CS for SB 2092

Amendment No. ____ Barcode 205378

1 protect confidential information and the individual's
2 expectations of and right to privacy in all matters regarding
3 her or his personal health, and to not have such information
4 exploited for purposes of solicitation or marketing the sale
5 of goods and services.

6 Section 8. Subsection (5) of section 456.057, Florida
7 Statutes, is amended to read:

8 456.057 Ownership and control of patient records;
9 report or copies of records to be furnished.--

10 (5)(a) Except as otherwise provided in this section
11 and in s. 440.13(4)(c), such records may not be furnished to,
12 and the medical condition of a patient may not be discussed
13 with, any person other than the patient or the patient's legal
14 representative or other health care practitioners and
15 providers involved in the care or treatment of the patient,
16 except upon written authorization of the patient. However,
17 such records may be furnished without written authorization
18 under the following circumstances:

19 1.(a) To any person, firm, or corporation that has
20 procured or furnished such examination or treatment with the
21 patient's consent.

22 2.(b) When compulsory physical examination is made
23 pursuant to Rule 1.360, Florida Rules of Civil Procedure, in
24 which case copies of the medical records shall be furnished to
25 both the defendant and the plaintiff.

26 3.(c) In any civil or criminal action, unless
27 otherwise prohibited by law, upon the issuance of a subpoena
28 from a court of competent jurisdiction and proper notice to
29 the patient or the patient's legal representative by the party
30 seeking such records.

31 4.(d) For statistical and scientific research,

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1 provided the information is abstracted in such a way as to
2 protect the identity of the patient or provided written
3 permission is received from the patient or the patient's legal
4 representative.

5 (b) Absent a specific written release or authorization
6 permitting utilization of patient information for solicitation
7 or marketing the sale of goods or services, any use of that
8 information for those purposes is prohibited.

9 Section 9. Subsection (7) of section 395.3025, Florida
10 Statutes, is amended to read:

11 395.3025 Patient and personnel records; copies;
12 examination.--

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

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 Section 10. Subsection (1) of section 400.1415,
29 Florida Statutes, is amended to read:

30 400.1415 Patient records; penalties for alteration.--

31 (1) Any person who fraudulently alters, defaces, or

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1 falsifies any medical record or releases medical records for
2 the purposes of solicitation or marketing the sale of goods or
3 services absent a specific written release or authorization
4 permitting utilization of patient information; or other
5 nursing home record, or causes or procures any of these
6 offenses to be committed, commits a misdemeanor of the second
7 degree, punishable as provided in s. 775.082 or s. 775.083.

8 Section 11. Section 626.9651, Florida Statutes, is
9 created to read:

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

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1 (Redesignate subsequent sections.)

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

5 And the title is amended as follows:

6 On page 2, line 7, following the semicolon

7

8 insert:

9 providing legislative findings and intent;

10 amending s. 456.057, 395.3025, 400.1415, F.S.;

11 prohibiting the use of a patient's medical

12 records for purposes of solicitation and

13 marketing without specific written release or

14 authorization; providing for criminal

15 penalties; creating s. 626.9651, F.S.;

16 requiring the Department of Insurance to adopt

17 rules governing the use of a consumer's

18 nonpublic personal financial and health

19 information; providing standards for the rules;

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