

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 community  
18          hospital education program from the Board of  
19          Regents to the Department of Health;  
20          prescribing membership of a committee reporting  
21          on graduate medical education; amending s.  
22          409.908, F.S.; revising provisions relating to  
23          the reimbursement of Medicaid providers to  
24          conform to the transfer of the Community  
25          Hospital Education Program from the Board of  
26          Regents to the Department of Health; providing  
27          for the certification of local matching funds;  
28          providing requirements for the distribution of  
29          federal funds earned as a result of local  
30          matching funds; requiring an impact statement;  
31          providing rulemaking authority to the

1 Department of Health; amending s. 409.911,  
2 F.S.; redefining the term "charity care" or  
3 "uncompensated charity care" for purposes of  
4 the disproportionate share program; amending s.  
5 409.9117, F.S.; revising eligibility criteria  
6 for payments under the primary care  
7 disproportionate share program; amending s.  
8 409.912, F.S.; extending the duration of  
9 certain demonstration projects to test Medicaid  
10 direct contracting; providing legislative  
11 findings and intent; amending s. 456.057,  
12 395.3025, 400.1415, F.S.; prohibiting the use  
13 of a patient's medical records for purposes of  
14 solicitation and marketing without specific  
15 written release or authorization; providing for  
16 criminal penalties; creating s. 626.9651, F.S.;  
17 requiring the Department of Insurance to adopt  
18 rules governing the use of a consumer's  
19 nonpublic personal financial and health  
20 information; providing standards for the rules;  
21 providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Present subsections (3) and (4) of section  
26 154.306, Florida Statutes, are redesignated as subsections (4)  
27 and (5), respectively, and a new subsection (3) is added to  
28 that section, to read:

29 154.306 Financial responsibility for certified  
30 residents who are qualified indigent patients treated at an  
31 out-of-county participating hospital or regional referral

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

18 (3) For the purpose of computing the maximum amount  
19 that a county having a population of 100,000 or less may be  
20 required to pay, the agency must reduce the official state  
21 population estimates by the number of inmates and patients  
22 residing in the county in institutions operated by the Federal  
23 Government, the Department of Corrections, the Department of  
24 Health, or the Department of Children and Family Services, and  
25 by the number of active-duty military personnel residing in  
26 the county, all of whom shall not be considered residents of  
27 the county. However, a county is entitled to receive the  
28 benefit of such a reduction in estimated population figures  
29 only if the county accepts as valid and true, and does not  
30 require any reverification of, the documentation of financial  
31 eligibility and county residency which is provided to it by

1 the participating hospital or regional referral hospital. The  
2 participating hospital or regional referral hospital must  
3 provide documentation that is complete and in the form  
4 required by s. 154.3105.

5 Section 2. Subsections (3), (4), (5), (6), (7), and  
6 (9) of section 381.0403, Florida Statutes, are amended, and  
7 subsection (10) is added to that section, to read:

8 381.0403 The Community Hospital Education Act.--

9 (3) PROGRAM FOR COMMUNITY HOSPITAL EDUCATION; STATE  
10 AND LOCAL PLANNING.--

11 (a) There is established under the Department of  
12 Health ~~Board of Regents~~ a program for statewide graduate  
13 medical education. It is intended that continuing graduate  
14 medical education programs for interns and residents be  
15 established on a statewide basis. The program shall provide  
16 financial support for primary care specialty interns and  
17 residents based on policies recommended and approved by the  
18 Community Hospital Education Council, herein established, and  
19 the Department of Health ~~Board of Regents~~. Only those programs  
20 with at least three residents or interns in each year of the  
21 training program are qualified to apply for financial support.  
22 Programs with fewer than three residents or interns per  
23 training year are qualified to apply for financial support,  
24 but only if the appropriate accrediting entity for the  
25 particular specialty has approved the program for fewer  
26 positions. Programs added after fiscal year 1997-1998 shall  
27 have 5 years to attain the requisite number of residents or  
28 interns. When feasible and to the extent allowed through the  
29 General Appropriations Act, state funds shall be used to  
30 generate federal matching funds under Medicaid, or other  
31 federal programs, and the resulting combined state and federal

1 funds shall be allocated to participating hospitals for the  
2 support of graduate medical education. The department may  
3 spend up to \$75,000 of the state appropriation,for  
4 administrative costs associated with the production of the  
5 annual report as specified in subsection (9), and for  
6 administration of the program council.

7 (b) For the purposes of this section, primary care  
8 specialties include emergency medicine, family practice,  
9 internal medicine, pediatrics, psychiatry,  
10 obstetrics/gynecology, and combined pediatrics and internal  
11 medicine, and other primary care specialties as may be  
12 included by the council and Department of Health ~~Board of~~  
13 ~~Regents~~.

14 (c) Medical institutions throughout the state may  
15 apply to the Community Hospital Education Council for  
16 grants-in-aid for financial support of their approved  
17 programs. Recommendations for funding of approved programs  
18 shall be forwarded to the Department of Health ~~Board of~~  
19 ~~Regents~~.

20 (d) The program shall provide a plan for community  
21 clinical teaching and training with the cooperation of the  
22 medical profession, hospitals, and clinics. The plan shall  
23 also include formal teaching opportunities for intern and  
24 resident training. In addition, the plan shall establish an  
25 off-campus medical faculty with university faculty review to  
26 be located throughout the state in local communities.

27 (4) PROGRAM FOR GRADUATE MEDICAL EDUCATION  
28 INNOVATIONS.--

29 (a) There is established under the Department of  
30 Health ~~Board of Regents~~ a program for fostering graduate  
31 medical education innovations. Funds appropriated annually by

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

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

11 2. Enhancing retention of primary care physicians in  
12 Florida practice;

13 3. Promoting practice in medically underserved areas  
14 of the state;

15 4. Encouraging racial and ethnic diversity within the  
16 state's physician workforce; and

17 5. Encouraging increased production of geriatricians.

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

30 (c) Participating hospitals or consortia of  
31 participating hospitals and Florida medical schools or Florida

1 medical schools awarded an innovations grant shall provide the  
2 Community Hospital Education Council and Department of Health  
3 ~~Board of Regents~~ with an annual report on their project.

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

10 (6) COUNCIL AND DIRECTOR.--

11 (a) There is established the Community Hospital  
12 Education Council, hereinafter referred to as the council,  
13 which shall consist of 11 members, as follows:

14 1. Seven members must be program directors of  
15 accredited graduate medical education programs or practicing  
16 physicians who have faculty appointments in accredited  
17 graduate medical education programs. Six of these members  
18 must be board certified or board eligible in family practice,  
19 internal medicine, pediatrics, emergency medicine,  
20 obstetrics-gynecology, and psychiatry, respectively, and  
21 licensed pursuant to chapter 458. No more than one of these  
22 members may be appointed from any one specialty. One member  
23 must be licensed pursuant to chapter 459.

24 2. One member must be a representative of the  
25 administration of a hospital with an approved community  
26 hospital medical education program;

27 3. One member must be the dean of a medical school in  
28 this state; and

29 4. Two members must be consumer representatives.  
30  
31

1 All of the members shall be appointed by the Governor for  
2 terms of 4 years each.

3 (b) Council membership shall cease when a member's  
4 representative status no longer exists. Members of similar  
5 representative status shall be appointed to replace retiring  
6 or resigning members of the council.

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

13 (7) DEPARTMENT OF HEALTH ~~BOARD OF REGENTS~~;  
14 STANDARDS.--

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

23 1. Submission of an educational plan and a training  
24 schedule.

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

31

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

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

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

16           (9) ANNUAL REPORT ON GRADUATE MEDICAL EDUCATION;  
17 COMMITTEE.--The ~~Board of Regents, the~~ Executive Office of the  
18 Governor, the Department of Health, and the Agency for Health  
19 Care Administration shall collaborate to establish a committee  
20 that shall produce an annual report on graduate medical  
21 education. The committee shall be comprised of 11 members:  
22 five members shall be deans of the medical schools or their  
23 designees; the Governor shall appoint two members, one of whom  
24 must be a representative of the Florida Medical Association  
25 who has supervised or currently supervises residents or  
26 interns and one of whom must be a representative of the  
27 Florida Hospital Association; the Secretary of Health Care  
28 Administration shall appoint two members, one of whom must be  
29 a representative of a statutory teaching hospital and one of  
30 whom must be a physician who has supervised or is currently  
31 supervising residents or interns; and the Secretary of Health

1 shall appoint two members, one of whom must be a  
2 representative of a statutory family practice teaching  
3 hospital and one of whom must be a physician who has  
4 supervised or is currently supervising residents or interns.  
5 With the exception of the deans, members shall serve 4-year  
6 terms. In order to stagger the terms, the Governor's  
7 appointees shall serve initial terms of 4 years, the Secretary  
8 of Health's appointees shall serve initial terms of 3 years,  
9 and the Secretary of Health Care Administration's appointees  
10 shall serve initial terms of 2 years. A member's term shall be  
11 deemed terminated when the member's representative status no  
12 longer exists. Once the committee is appointed, it shall elect  
13 a chair to serve for a 1-year term.~~To the maximum extent~~  
14 ~~feasible, the committee shall have the same membership as the~~  
15 ~~Graduate Medical Education Study Committee, established by~~  
16 ~~proviso accompanying Specific Appropriation 191 of the~~  
17 ~~1999-2000 General Appropriations Act.~~The report shall be  
18 provided to the Governor, the President of Senate, and the  
19 Speaker of the House of Representatives by January 15  
20 annually. Committee members shall serve without compensation.  
21 ~~From the funds provided pursuant to subsection (3), the~~  
22 ~~committee is authorized to expend a maximum of \$75,000 per~~  
23 ~~year to provide for administrative costs and contractual~~  
24 ~~services.~~The report shall address the following:  
25       (a) The role of residents and medical faculty in the  
26 provision of health care.  
27       (b) The relationship of graduate medical education to  
28 the state's physician workforce.  
29       (c) The costs of training medical residents for  
30 hospitals, medical schools, teaching hospitals, including all  
31

1 hospital-medical affiliations, practice plans at all of the  
2 medical schools, and municipalities.

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

6 (e) The use of state and federal appropriated funds  
7 for graduate medical education by hospitals receiving such  
8 funds.

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

12 Section 3. All statutory powers, duties, and functions  
13 and the records, personnel, property, and unexpended balances  
14 of appropriations, allocations, or other funds of the  
15 Community Hospital Education Program are transferred from the  
16 Board of Regents to the Department of Health by a type two  
17 transfer as defined in section 20.06, Florida Statutes.

18 Section 4. Paragraph (a) of subsection (1) of section  
19 409.908, Florida Statutes, is amended to read:

20 409.908 Reimbursement of Medicaid providers.--Subject  
21 to specific appropriations, the agency shall reimburse  
22 Medicaid providers, in accordance with state and federal law,  
23 according to methodologies set forth in the rules of the  
24 agency and in policy manuals and handbooks incorporated by  
25 reference therein. These methodologies may include fee  
26 schedules, reimbursement methods based on cost reporting,  
27 negotiated fees, competitive bidding pursuant to s. 287.057,  
28 and other mechanisms the agency considers efficient and  
29 effective for purchasing services or goods on behalf of  
30 recipients. Payment for Medicaid compensable services made on  
31 behalf of Medicaid eligible persons is subject to the

1 availability of moneys and any limitations or directions  
2 provided for in the General Appropriations Act or chapter 216.  
3 Further, nothing in this section shall be construed to prevent  
4 or limit the agency from adjusting fees, reimbursement rates,  
5 lengths of stay, number of visits, or number of services, or  
6 making any other adjustments necessary to comply with the  
7 availability of moneys and any limitations or directions  
8 provided for in the General Appropriations Act, provided the  
9 adjustment is consistent with legislative intent.

10 (1) Reimbursement to hospitals licensed under part I  
11 of chapter 395 must be made prospectively or on the basis of  
12 negotiation.

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

15 1. The raising of rate reimbursement caps, excluding  
16 rural hospitals.

17 2. Recognition of the costs of graduate medical  
18 education.

19 3. Other methodologies recognized in the General  
20 Appropriations Act.

21

22 During the years funds are transferred from the Department of  
23 Health ~~Board of Regents~~, any reimbursement supported by such  
24 funds shall be subject to certification by the Department of  
25 Health ~~Board of Regents~~ that the hospital has complied with s.  
26 381.0403. The agency is authorized to receive funds from state  
27 entities, including, but not limited to, the Department of  
28 Health, ~~the Board of Regents~~, local governments, and other  
29 local political subdivisions, for the purpose of making  
30 special exception payments, including federal matching funds,  
31 through the Medicaid inpatient reimbursement methodologies.

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

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

- 28 1. Such care provided to a Medicaid recipient under  
29 age 21, in which case the only limitation is medical  
30 necessity.
- 31 2. Renal dialysis services.

1           3. Other exceptions made by the agency.

2  
3 The agency is authorized to receive funds from state entities,  
4 including, but not limited to, the Department of Health, the  
5 Board of Regents, local governments, and other local political  
6 subdivisions, for the purpose of making payments, including  
7 federal matching funds, through the Medicaid outpatient  
8 reimbursement methodologies. Funds received from state  
9 entities and local governments for this purpose shall be  
10 separately accounted for and shall not be commingled with  
11 other state or local funds in any manner.

12           (c) Hospitals that provide services to a  
13 disproportionate share of low-income Medicaid recipients, or  
14 that participate in the regional perinatal intensive care  
15 center program under chapter 383, or that participate in the  
16 statutory teaching hospital disproportionate share program may  
17 receive additional reimbursement. The total amount of payment  
18 for disproportionate share hospitals shall be fixed by the  
19 General Appropriations Act. The computation of these payments  
20 must be made in compliance with all federal regulations and  
21 the methodologies described in ss. 409.911, 409.9112, and  
22 409.9113.

23           (d) The agency is authorized to limit inflationary  
24 increases for outpatient hospital services as directed by the  
25 General Appropriations Act.

26           Section 5. Paragraph (d) of subsection (1) of section  
27 409.911, Florida Statutes, is amended to read:

28           409.911 Disproportionate share program.--Subject to  
29 specific allocations established within the General  
30 Appropriations Act and any limitations established pursuant to  
31 chapter 216, the agency shall distribute, pursuant to this

1 section, moneys to hospitals providing a disproportionate  
2 share of Medicaid or charity care services by making quarterly  
3 Medicaid payments as required. Notwithstanding the provisions  
4 of s. 409.915, counties are exempt from contributing toward  
5 the cost of this special reimbursement for hospitals serving a  
6 disproportionate share of low-income patients.

7 (1) Definitions.--As used in this section and s.  
8 409.9112:

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

22 Section 6. Paragraph (c) of subsection (2) of section  
23 409.9117, Florida Statutes, is amended to read:

24 409.9117 Primary care disproportionate share  
25 program.--

26 (2) In the establishment and funding of this program,  
27 the agency shall use the following criteria in addition to  
28 those specified in s. 409.911, payments may not be made to a  
29 hospital unless the hospital agrees to:

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

10 Section 7. Paragraph (d) of subsection (3) of section  
11 409.912, Florida Statutes, is amended to read:

12 409.912 Cost-effective purchasing of health care.--The  
13 agency shall purchase goods and services for Medicaid  
14 recipients in the most cost-effective manner consistent with  
15 the delivery of quality medical care. The agency shall  
16 maximize the use of prepaid per capita and prepaid aggregate  
17 fixed-sum basis services when appropriate and other  
18 alternative service delivery and reimbursement methodologies,  
19 including competitive bidding pursuant to s. 287.057, designed  
20 to facilitate the cost-effective purchase of a case-managed  
21 continuum of care. The agency shall also require providers to  
22 minimize the exposure of recipients to the need for acute  
23 inpatient, custodial, and other institutional care and the  
24 inappropriate or unnecessary use of high-cost services.

25 (3) The agency may contract with:

26 (d) No more than four provider service networks for  
27 demonstration projects to test Medicaid direct contracting.  
28 The demonstration projects may be reimbursed on a  
29 fee-for-service or prepaid basis. A provider service network  
30 which is reimbursed by the agency on a prepaid basis shall be  
31 exempt from parts I and III of chapter 641, but must meet

1 appropriate financial reserve, quality assurance, and patient  
2 rights requirements as established by the agency. The agency  
3 shall award contracts on a competitive bid basis and shall  
4 select bidders based upon price and quality of care. Medicaid  
5 recipients assigned to a demonstration project shall be chosen  
6 equally from those who would otherwise have been assigned to  
7 prepaid plans and MediPass. The agency is authorized to seek  
8 federal Medicaid waivers as necessary to implement the  
9 provisions of this section. A demonstration project awarded  
10 pursuant to this paragraph shall be for 4 ~~2~~ years from the  
11 date of implementation.

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

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

3           456.057 Ownership and control of patient records;  
4 report or copies of records to be furnished.--

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

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

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

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

26           4.(d) For statistical and scientific research,  
27 provided the information is abstracted in such a way as to  
28 protect the identity of the patient or provided written  
29 permission is received from the patient or the patient's legal  
30 representative.

31

1           (b) Absent a specific written release or authorization  
2 permitting utilization of patient information for solicitation  
3 or marketing the sale of goods or services, any use of that  
4 information for those purposes is prohibited.

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.  
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