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2001 Legislature CS for CS for SB 2092, 2nd Engrossed (ntc)

1
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

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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

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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

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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

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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

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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

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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.

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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.

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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

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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
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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

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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.

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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

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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

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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

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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.

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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.

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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

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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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