

By Senator Mitchell

4-961A-01

See HB

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A bill to be entitled

An act relating to medical records; amending s. 456.057, F.S.; prohibiting the use of a patient's medical records for purposes of solicitation and marketing; providing for discipline, injunctive relief, and fines; providing an effective date.

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

Section 1. Subsections (5), (14) and (15) of section 456.057, Florida Statutes, are amended to read:

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

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

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

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

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

6 ~~4.(d)~~ For statistical and scientific research,
7 provided the information is abstracted in such a way as to
8 protect the identity of the patient or provided written
9 permission is received from the patient or the patient's legal
10 representative.

11 (b) Notwithstanding any written authorization for
12 release of medical records under this section, the use of a
13 patient's medical records for purposes of solicitation and
14 marketing is prohibited.

15 (14) Licensees in violation of the provisions of this
16 section shall be disciplined by the appropriate licensing
17 authority.

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

22 Section 2. This act shall take effect upon becoming a
23 law.

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26 LEGISLATIVE SUMMARY

27 Prohibits the use of a patient's medical records for
28 purposes of solicitation and marketing, notwithstanding
29 any written authorization for the release of such records
30 by the patient.
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