

By the Committee on Health, Aging and Long-Term Care; and
Senator Mitchell

317-1811-01

1 A bill to be entitled
2 An act relating to medical records; providing
3 legislative findings and intent; amending s.
4 456.057, 395.3025, 400.1415, F.S.; prohibiting
5 the use of a patient's medical records for
6 purposes of solicitation and marketing without
7 specific written release or authorization;
8 providing an effective date.

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

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12 Section 1. 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, pharmacist, and public or private
18 health facility 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 or 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, right to privacy in all matters regarding her
29 or his personal health, and not have such information
30 exploited for purposes of solicitation or marketing the sale
31 of goods and services.

1 Section 2. 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 3. Subsection (7) of section 395.3025, Florida
6 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 4. Subsection (1) of section 400.1415, Florida
25 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 5. This act shall take effect July 1, 2001.

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 2146

9 The bill prohibits the use of patient information for
10 solicitation or marketing the sale of goods or services absent
11 a specific written release or authorization permitting
12 utilization of patient information for that purpose.

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