

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Council for Healthy Communities offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. The Legislature finds that personally identifying information, name, age, diagnosis, address, bank account numbers, and debit and credit card numbers contained in the records relating to an individual's personal health or eligibility for health-related services made or received by the individual's physician, pharmacist, and public or private health facility should be held confidential. Furthermore, the Legislature finds that every person has an expectation of and a right to privacy in all matters concerning her or his personal health when medical services are provided. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private sectors. For these reasons, it is the expressed intent of the Legislature to

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

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

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

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

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

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

29 4.(d) For statistical and scientific research,
30 provided the information is abstracted in such a way as to
31 protect the identity of the patient or provided written

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1 permission is received from the patient or the patient's legal
2 representative.

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

7 Section 3. Subsection (7) of section 395.3025, Florida
8 Statutes is amended to read:

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 (1) Any person who fraudulently alters, defaces, or
27 falsifies any medical record or releases medical records for
28 the purposes of solicitation or marketing the sale of goods or
29 services absent a specific written release or authorization
30 permitting utilization of patient information; or other
31 nursing home record, or causes or procures any of these

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1 offenses to be committed, commits a misdemeanor of the second
2 degree, punishable as provided in s. 775.082 or s. 775.083.

3 Section 5. Section 626.9651, Florida Statutes, is
4 created to read:

5 626.9651 Privacy.--The department shall adopt rules
6 consistent with other provisions of the Florida Insurance Code
7 to govern the use of a consumer's nonpublic personal financial
8 and health information. These rules must be based on,
9 consistent with, and not more restrictive than the Privacy of
10 Consumer Financial and Health Information Regulation, adopted
11 September 26, 2000, by the National Association of Insurance
12 Commissioners, however, the rules must permit the use and
13 disclosure of nonpublic personal health information for
14 scientific, medical, or public policy research, in accordance
15 with federal law. In addition, these rules must be consistent
16 with, and not more restrictive than, the standards contained
17 in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No.
18 106-102. If the department determines that a health insurer or
19 health maintenance organization is in compliance with, or is
20 actively undertaking compliance with, the consumer privacy
21 protection rules adopted by the United States Department of
22 Health and Human Services, in conformance with the Health
23 Insurance Portability and Affordability Act, that health
24 insurer or health maintenance organization is in compliance
25 with this section.

26 Section 6. This act shall take effect July 1, 2001.

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

30 And the title is amended as follows:

31 On page 1, lines 2-7,

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1 remove from the title of the bill: all of said lines
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3 and insert in lieu thereof:
4 An act relating to medical records; creating
5 legislative intent; amending s. 395.3025, F.S.;
6 amending s. 400.1415, F.S.; amending s.
7 456.057, F.S.; prohibiting the use of a
8 patient's medical records for the purposes of
9 the solicitation and marketing the sale of
10 goods or services; providing for discipline,
11 injunctive relief, and fines; creating s.
12 626.9651, F.S.; requiring the Department of
13 Insurance to adopt rules governing the use of a
14 consumer's nonpublic personal financial and
15 health information; providing standards for the
16 rules; providing an effective date.
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