

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Health Regulation 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 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 or 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. This act shall take effect July 1, 2001.

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

7 And the title is amended as follows:

8 On page 1, line 2, after the semicolon

9

10 insert:

11 creating legislative intent; amending s.

12 395.3025, F.S.; amending s. 400.1415, F.S.;

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