

By Senator Aronberg

27-1578-03

See HB

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A bill to be entitled  
An act relating to health information;  
providing definitions; providing for the  
confidentiality of certain health information;  
requiring certain notice and consent prior to  
disclosure of certain health information;  
providing an effective date.

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

Section 1. Confidentiality of health information.--

(1) DEFINITIONS.--

(a) "Individually identifiable health information"

means information that is a subset of health information,  
including demographic information collected from an individual  
that:

1. Is created by or received from a health care  
provider, health plan, employer, or health care clearinghouse.

2. Relates to the past, present, or future physical  
health, mental health, or physical or mental condition of an  
individual, the provision of health care to an individual, or  
the past, present, or future payment for the provision of  
health care to an individual.

3. Identifies the individual or that could be used to  
identify the individual.

(b) "Marketing" means a communication about a product  
or service that encourages recipients of the communication to  
purchase or use the product or service. "Marketing" does not  
include a communication made as part of the treatment of a  
patient for the purpose of furthering treatment unless the

1 covered entity receives direct or indirect remuneration from a  
2 third party for making the communication.

3 (2) PROTECTION OF PRIVATE HEALTH INFORMATION.--Except  
4 as provided in subsection (3), a health care provider,  
5 pharmacy, health researcher, health plan, health oversight  
6 agency, public health authority, employer, health or life  
7 insurer, or school or university shall not:

8 (a) Disclose individually identifiable health  
9 information to an entity for the purpose of marketing the  
10 products or services of such entity; or

11 (b) Use individually identifiable health information  
12 in its possession to provide marketing services to any entity.

13 (3) NOTICE AND CONSENT REQUIREMENTS.--A health care  
14 provider, pharmacy, health researcher, health plan, health  
15 oversight agency, public health authority, employer, health or  
16 life insurer, or school or university may provide marketing  
17 services to a pharmaceutical company if such health care  
18 entity:

19 (a) Provides clear and conspicuous notice to the  
20 individual involved concerning its disclosure practices for  
21 all individually identifiable health information collected or  
22 created about the individual.

23 (b) Obtains the written consent of the individual  
24 involved to use the information, which consent shall only  
25 refer and apply to the specific marketing purpose for which  
26 the information is to be used.

27 Section 2. This act shall take effect upon becoming a  
28 law.

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