

Bill No. CS for SB 2750

Amendment No. ____ Barcode 091780

CHAMBER ACTION

Senate

House

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Senator Peaden moved the following amendment:

Senate Amendment (with title amendment)

On page 9, line 27, through
page 12, line 15, delete those lines

and insert:

Section 3. Paragraphs (a) and (e) of subsection (4)
and paragraph (b) of subsection (7) of section 395.3025,
Florida Statutes, are amended, and a new paragraph (1) is
added to subsection (4) of that section, to read:

395.3025 Patient and personnel records; copies;
examination.--

(4) Patient records are confidential and must not be
disclosed without the consent of the person to whom they
pertain, but appropriate disclosure may be made without such
consent to:

(a) ~~licensed~~ Facility personnel and all licensed
health care practitioners ~~attending physicians~~ for use in
connection with the treatment of the patient.

(e) The Department of Health ~~agency~~ upon subpoena

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1 issued pursuant to s. 456.071, but the records obtained
2 thereby must be used solely for the purpose of the department
3 ~~agency~~ and the appropriate professional board in its
4 investigation, prosecution, and appeal of disciplinary
5 proceedings. The administrator or records custodian in a
6 facility licensed under this chapter shall certify that a true
7 and complete copy of the records requested pursuant to a
8 subpoena or patient release have been provided to the
9 department or otherwise identify those documents that have not
10 been provided. If the department ~~agency~~ requests copies of the
11 records, the facility shall charge no more than its actual
12 copying costs, including reasonable staff time. The records
13 must be sealed and must not be available to the public
14 pursuant to s. 119.07(1) or any other statute providing access
15 to records, nor may they be available to the public as part of
16 the record of investigation for and prosecution in
17 disciplinary proceedings made available to the public by the
18 department ~~agency~~ or the appropriate regulatory board.
19 However, the department ~~agency~~ must make available, upon
20 written request by a practitioner against whom probable cause
21 has been found, any such records that form the basis of the
22 determination of probable cause.

23 (1) Researchers or facility personnel for research
24 purposes, provided that the researchers or facility personnel
25 demonstrate compliance with the requirements of 45 C.F.R. s.
26 164.512(i).

27 (7)

28 (b) Absent a specific written release or authorization
29 permitting utilization of patient information for ~~solicitation~~
30 ~~or~~ marketing the sale of goods or services, any use of such
31 ~~that~~ information for that purpose ~~those purposes~~ is

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1 prohibited. For purposes of this paragraph, the term
2 "marketing" is defined as set forth in 45 C.F.R. s. 164.501.

3 Section 4. Paragraph (b) of subsection (2) of section
4 395.7015, Florida Statutes, is amended to read:

5 395.7015 Annual assessment on health care entities.--

6 (2) There is imposed an annual assessment against
7 certain health care entities as described in this section:

8 (b) For the purpose of this section, "health care
9 entities" include the following:

10 1. Ambulatory surgical centers and mobile surgical
11 facilities licensed under s. 395.003. This subsection shall
12 only apply to mobile surgical facilities operating under
13 contracts entered into on or after July 1, 1998.

14 2. Clinical laboratories licensed under s. 483.091,
15 excluding any hospital laboratory defined under s. 483.041(6),
16 any clinical laboratory operated by the state or a political
17 subdivision of the state, any clinical laboratory which
18 qualifies as an exempt organization under s. 501(c)(3) of the
19 Internal Revenue Code of 1986, as amended, and which receives
20 70 percent or more of its gross revenues from services to
21 charity patients or Medicaid patients, and any blood, plasma,
22 or tissue bank procuring, storing, or distributing blood,
23 plasma, or tissue either for future manufacture or research or
24 distributed on a nonprofit basis, and further excluding any
25 clinical laboratory which is wholly owned and operated by 6 or
26 fewer physicians who are licensed pursuant to chapter 458 or
27 chapter 459 and who practice in the same group practice, and
28 at which no clinical laboratory work is performed for patients
29 referred by any health care provider who is not a member of
30 the same group.

31 3. Diagnostic-imaging centers that are freestanding

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1 outpatient facilities that provide specialized services for
2 the identification or determination of a disease through
3 examination and also provide sophisticated radiological
4 services, and in which services are rendered by a physician
5 licensed by the Board of Medicine under s. 458.311,~~s.~~
6 ~~458.313~~, or s. 458.315 ~~458.317~~, or by an osteopathic physician
7 licensed by the Board of Osteopathic Medicine under s.
8 459.006, s. 459.007, or s. 459.0075. For purposes of this
9 paragraph, "sophisticated radiological services" means the
10 following: magnetic resonance imaging; nuclear medicine;
11 angiography; arteriography; computed tomography; positron
12 emission tomography; digital vascular imaging; bronchography;
13 lymphangiography; splenography; ultrasound, excluding
14 ultrasound providers that are part of a private physician's
15 office practice or when ultrasound is provided by two or more
16 physicians licensed under chapter 458 or chapter 459 who are
17 members of the same professional association and who practice
18 in the same medical specialties; and such other sophisticated
19 radiological services, excluding mammography, as adopted in
20 rule by the board.

21 Section 5. Subsection (10) of section 400.141, Florida
22 Statutes, is amended to read:

23 400.141 Administration and management of nursing home
24 facilities.--Every licensed facility shall comply with all
25 applicable standards and rules of the agency and shall:

26 (10) Keep full records of resident admissions and
27 discharges; medical and general health status, including
28 medical records, personal and social history, and identity and
29 address of next of kin or other persons who may have
30 responsibility for the affairs of the residents; and
31 individual resident care plans including, but not limited to,

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1 prescribed services, service frequency and duration, and
 2 service goals. The records shall be open to inspection by the
 3 agency. A certified complete copy of the records shall be
 4 provided to the Department of Health upon subpoena issued
 5 pursuant to ss. 456.057 and 456.071. The provisions of chapter
 6 456 apply to records obtained pursuant to this section.

7
 8 Facilities that have been awarded a Gold Seal under the
 9 program established in s. 400.235 may develop a plan to
 10 provide certified nursing assistant training as prescribed by
 11 federal regulations and state rules and may apply to the
 12 agency for approval of their program.

13 Section 6. Subsection (3) is added to section 400.145,
 14 Florida Statutes, to read:

15 400.145 Records of care and treatment of resident;
 16 copies to be furnished.--

17 (3) The administrator or records custodian in a
 18 facility licensed under this part shall certify that a true
 19 and complete copy of the records requested pursuant to a
 20 subpoena or patient release has been provided to the
 21 department or otherwise identify those documents that have not
 22 been provided.

23 Section 7. Subsection (4) of section 400.211, Florida
 24 Statutes, is amended to read:

25 400.211 Persons employed as nursing assistants;
 26 certification requirement.--

27 (4) When employed by a nursing home facility for a
 28 12-month period or longer, a nursing assistant, to maintain
 29 certification, shall submit to a performance review every 12
 30 months and must receive regular inservice education based on
 31 the outcome of such reviews. The inservice training must:

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1 (a) Be sufficient to ensure the continuing competence
2 of nursing assistants, must be at least 12 ~~18~~ hours per year,
3 and may include hours accrued under s. 464.203(7)~~(8)~~;

4 (b) Include, at a minimum:

5 1. Techniques for assisting with eating and proper
6 feeding;

7 2. Principles of adequate nutrition and hydration;

8 3. Techniques for assisting and responding to the
9 cognitively impaired resident or the resident with difficult
10 behaviors;

11 4. Techniques for caring for the resident at the
12 end-of-life; and

13 5. Recognizing changes that place a resident at risk
14 for pressure ulcers and falls; and

15 (c) Address areas of weakness as determined in nursing
16 assistant performance reviews and may address the special
17 needs of residents as determined by the nursing home facility
18 staff.

19
20 Costs associated with this training may not be reimbursed from
21 additional Medicaid funding through interim rate adjustments.

22
23 (Redesignate subsequent sections.)

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25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, lines 9-22, delete those lines

29
30 and insert:

31 clinical records may be restricted; amending s.

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1 395.3025, F.S.; authorizing the release of
2 patient records to a health care practitioner,
3 the Department of Health, or a researcher or
4 facility personnel under certain circumstances;
5 revising a restriction on the use of patient
6 information for certain purposes; amending s.
7 395.7015, F.S.; conforming cross-references;
8 amending s. 400.141, F.S.; providing for the
9 release of certain nursing home resident
10 records to the Department of Health pursuant to
11 subpoena; amending s. 400.145, F.S., and
12 creating s. 400.455, F.S.; requiring
13 certification of certain records by the nursing
14 home administrator or records custodian;
15 amending s. 400.211, F.S.; reducing required
16 inservice training hours for nursing
17 assistants; amending s.

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