



HB 0763

2003

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

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

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10 Section 1. Confidentiality of health information.--

11 (1) DEFINITIONS.--

12 (a) "Individually identifiable health information" means
13 information that is a subset of health information, including
14 demographic information collected from an individual that:

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

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

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

24 (b) "Marketing" means a communication about a product or
25 service that encourages recipients of the communication to
26 purchase or use the product or service. "Marketing" does not
27 include a communication made as part of the treatment of a
28 patient for the purpose of furthering treatment unless the
29 covered entity receives direct or indirect remuneration from a
30 third party for making the communication.



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

36 (a) Disclose individually identifiable health information
37 to an entity for the purpose of marketing the products or
38 services of such entity; or

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

41 (3) NOTICE AND CONSENT REQUIREMENTS.--A health care
42 provider, pharmacy, health researcher, health plan, health
43 oversight agency, public health authority, employer, health or
44 life insurer, or school or university may provide marketing
45 services to a pharmaceutical company if such health care entity:

46 (a) Provides clear and conspicuous notice to the
47 individual involved concerning its disclosure practices for all
48 individually identifiable health information collected or
49 created about the individual.

50 (b) Obtains the written consent of the individual involved
51 to use the information, which consent shall only refer and apply
52 to the specific marketing purpose for which the information is
53 to be used.

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