

By the Committee on Health, Aging, and Long-Term Care; and
Senator Alexander

317-2463-04

1 A bill to be entitled
2 An act relating to consumer health care
3 spending protection; providing a popular name;
4 providing a purpose; amending s. 408.05, F.S.;
5 revising membership of the State Comprehensive
6 Health Information System Advisory Council;
7 amending s. 408.061, F.S.; revising a
8 requirement for submission of health care data;
9 requiring the council to assist the Agency for
10 Health Care Administration in developing
11 specifications for data collection; amending s.
12 408.08, F.S.; conforming provisions to changes
13 made by the act; amending s. 395.10973, F.S.;
14 revising powers and duties of the agency to
15 include patient charge and performance outcome
16 reporting; requiring the agency to provide such
17 information to the public and implement
18 effective methods for making public disclosure;
19 requiring the agency to annually report
20 findings to the Governor and Legislature;
21 requiring the agency to adopt certain rules;
22 amending s. 395.301, F.S.; requiring disclosure
23 to nonemergency patients, upon request, of a
24 good-faith estimate of anticipated charges;
25 revising the timeframe in which to provide a
26 statement of itemized expenses to a patient;
27 requiring the facility to disclose information
28 necessary to verify the accuracy of the bill
29 within a specified time period after a written
30 request; requiring the facility to establish a
31 method for reviewing written billing disputes;

1 requiring the facility to maintain a log of all
2 such disputes and report certain information
3 annually to the agency; amending s. 651.118,
4 F.S.; revising guidelines on use of sheltered
5 nursing home beds by specified persons;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. This act may be referred to by the popular
11 name the "Health Care Consumer's Right to Know Act."

12 Section 2. The purpose of this act is to provide
13 health care consumers with reliable and understandable
14 information about facility charges and performance outcomes to
15 assist consumers in making informed decisions about health
16 care.

17 Section 3. Paragraph (a) of subsection (8) of section
18 408.05, Florida Statutes, is amended to read:

19 408.05 State Center for Health Statistics.--

20 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
21 ADVISORY COUNCIL.--

22 (a) There is established in the agency the State
23 Comprehensive Health Information System Advisory Council to
24 assist the center in reviewing the comprehensive health
25 information system and to recommend improvements for such
26 system. The council shall consist of the following 13 members:

27 1. An employee of the Executive Office of the
28 Governor, a representative of an insurer licensed under
29 chapter 627, a consumer advocate, a representative of a
30 business/health coalition, a representative of a health
31 maintenance organization licensed under chapter 641, a

1 representative of a state trade association for health
2 insurers, and two representatives of statewide business
3 associations,to be appointed by the Governor.

4 2. An employee of the Office of Insurance Regulation
5 ~~Department of Financial Services~~, to be appointed by the
6 director of the office ~~Chief Financial Officer~~.

7 3. Three physicians, to be appointed by the Secretary
8 of Health, one of whom is a general surgeon licensed under
9 chapter 458 or chapter 459, one of whom is a general internist
10 licensed under chapter 458 or chapter 459, and one of whom is
11 a radiologist or pathologist licensed under chapter 458 or
12 chapter 459 ~~An employee of the Department of Education, to be~~
13 ~~appointed by the Commissioner of Education.~~

14 4. Three ~~Ten~~ persons, to be appointed by the Secretary
15 Health Care Administration, one of whom represents the chief
16 executive officer of a hospital, one of whom represents the
17 chief executive officer of a teaching hospital, and one of
18 whom represents a hospital nursing executive ~~representing~~
19 ~~other state and local agencies, state universities, the~~
20 ~~Florida Association of Business/Health Coalitions, local~~
21 ~~health councils, professional health-care-related~~
22 ~~associations, consumers, and purchasers.~~

23 Section 4. Subsection (1) of section 408.061, Florida
24 Statutes, is amended to read:

25 408.061 Data collection; uniform systems of financial
26 reporting; information relating to physician charges;
27 confidential information; immunity.--

28 (1) The agency may require the submission by health
29 care facilities, health care providers, and health insurers of
30 data necessary to carry out the agency's duties.

31 Specifications for data to be collected under this section

1 shall be developed by the agency with the assistance of the
2 State Comprehensive Health Information System Advisory Council
3 ~~technical advisory panels including representatives of~~
4 ~~affected entities, consumers, purchasers, and such other~~
5 ~~interested parties as may be determined by the agency.~~

6 (a) Data to be submitted by health care facilities may
7 include, but are not limited to: case-mix data, patient
8 admission or discharge data with patient and provider-specific
9 identifiers included, actual charge data by diagnostic groups,
10 financial data, accounting data, operating expenses, expenses
11 incurred for rendering services to patients who cannot or do
12 not pay, interest charges, depreciation expenses based on the
13 expected useful life of the property and equipment involved,
14 and demographic data. Data may be obtained from documents such
15 as, but not limited to: leases, contracts, debt instruments,
16 itemized patient bills, medical record abstracts, and related
17 diagnostic information. All discharge data shall be submitted
18 quarterly as prescribed by rule.

19 (b) Data to be submitted by health care providers may
20 include, but are not limited to: Medicare and Medicaid
21 participation, types of services offered to patients, amount
22 of revenue and expenses of the health care provider, and such
23 other data which are reasonably necessary to study utilization
24 patterns.

25 (c) Data to be submitted by health insurers may
26 include, but are not limited to: claims, premium,
27 administration, and financial information.

28 (d) Data required to be submitted by health care
29 facilities, health care providers, or health insurers shall
30 not include specific provider contract reimbursement
31 information. However, such specific provider reimbursement

1 data shall be reasonably available for onsite inspection by
2 the agency as is necessary to carry out the agency's
3 regulatory duties. Any such data obtained by the agency as a
4 result of onsite inspections may not be used by the state for
5 purposes of direct provider contracting and are confidential
6 and exempt from the provisions of s. 119.07(1) and s. 24(a),
7 Art. I of the State Constitution.

8 (e) A requirement to submit data shall be adopted by
9 rule if the submission of data is being required of all
10 members of any type of health care facility, health care
11 provider, or health insurer. Rules are not required, however,
12 for the submission of data for a special study mandated by the
13 Legislature or when information is being requested for a
14 single health care facility, health care provider, or health
15 insurer.

16 Section 5. Subsection (3) of section 408.08, Florida
17 Statutes, is amended to read:

18 408.08 Inspections and audits; violations; penalties;
19 fines; enforcement.--

20 (3) Any health care provider that refuses to file a
21 report, fails to timely file a report, files a false report,
22 or files an incomplete report and upon notification fails to
23 timely file a complete report required under s. 408.061; that
24 violates this section, ~~s. 408.061~~, or s. 408.20, or rule
25 adopted thereunder; or that fails to provide documents or
26 records requested by the agency under this chapter shall be
27 referred to the appropriate licensing board which shall take
28 appropriate action against the health care provider.

29 Section 6. Subsections (9) through (13) are added to
30 section 395.10973, Florida Statutes, to read:

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1 395.10973 Powers and duties of the agency.--It is the
2 function of the agency to:

3 (9)(a) Make available on its Internet website no later
4 than October 1, 2004, and in a hard-copy format upon request,
5 patient charge and performance outcome data collected as
6 prescribed by rule on the effective date of this act from
7 licensed facilities pursuant to s. 408.061(1)(a) and (2) for
8 not less than 100 conditions or procedures and the volume of
9 inpatient hospitalizations or procedures by the appropriate
10 Medicare diagnosis-related groups, International
11 Classification of Diseases 9 or Common Procedural Terminology
12 code. Procedures performed 50 or fewer times shall not be
13 included. The Internet website shall also provide an
14 interactive search that allows consumers to view and compare
15 the information for specific facilities, a map that allows
16 consumers to select a county or region, definitions of all of
17 the data, descriptions of each procedure, and an explanation
18 about why the data may differ from facility to facility. Such
19 public data shall be updated on a quarterly basis.

20 (b) Analyze and trend for comparison by and between
21 facilities the gross charges for the 100 conditions or
22 procedures following an adjustment to reflect changes in
23 patient acuity, case mix, and severity of illness. This
24 information shall be posted annually on the agency's Internet
25 website.

26 (c) Establish by rule the conditions and procedures to
27 be disclosed based upon input from the State Comprehensive
28 Health Information System Advisory Council. When determining
29 which conditions and procedures are to be disclosed, the
30 council and the agency shall consider their variation in
31 costs, variation in outcomes and magnitude of variations, and

1 other relevant information so that the disclosed list of
2 conditions and procedures will assist health care consumers in
3 differentiating between facilities when making health
4 treatment decisions. This data shall be adjusted for case mix
5 and severity, if applicable, comparing volume of cases,
6 patient charges, length of stay, readmission rates,
7 complication rates, mortality rates, infection rates, and
8 whether a health care facility uses any computerized drug
9 order system.

10 (d) Make available educational information relevant to
11 the disclosed 100 conditions and procedures pursuant to this
12 subsection, including, but not limited to, an explanation of
13 the medical condition or procedure, potential side effects,
14 alternative treatments and costs, and additional resources
15 that can assist consumers in informed decisionmaking. Such
16 information may be made available by linking consumers to
17 credible national resources such as, but not limited to, the
18 National Library of Medicine.

19 (10) Publicly disclose comparison information as to
20 each medical condition or procedure pursuant to subsection
21 (9), including the age of the data and an explanation of the
22 methodology used to adjust the data, in language that is
23 understandable to laypersons and accessible to consumers using
24 an interactive query system to allow for the comparison of the
25 latest reported patient charge and performance outcome data
26 among all licensed facilities in the state. The agency shall
27 provide guidance to consumers on how to use this information
28 to make informed health care decisions.

29 (11) Study and implement by October 1, 2005, the most
30 effective methods for public disclosure of patient charge and
31 performance outcome data pursuant to subsection (9), including

1 additional mechanisms to deliver this information to
2 consumers, that would enhance informed decisionmaking among
3 consumers and health care purchasers. The agency shall also
4 evaluate the value of disclosing additional measures that are
5 adopted by the National Quality Forum, the Joint Commission on
6 Accreditation of Healthcare Organizations, The Leapfrog Group,
7 or a similar national entity that establishes standards to
8 measure the performance of health care providers.

9 (12) Report its findings and recommendations pursuant
10 to subsection (11) to the Governor, the President of the
11 Senate, and the Speaker of the House of Representatives by
12 October 1, 2005, and on an annual basis thereafter. The agency
13 shall also make this annual report available to the public on
14 its Internet website.

15 (13) Adopt rules to implement the provisions of
16 subsections (9) and (10) no later than January 15, 2005. Adopt
17 rules to implement the provisions of subsections (11) and (12)
18 by October 1, 2005.

19 Section 7. Section 395.301, Florida Statutes, is
20 amended to read:

21 395.301 Itemized patient bill; form and content
22 prescribed by the agency.--

23 (1) A licensed facility as defined in s. 395.002(17)
24 shall disclose to a prospective patient upon request, prior to
25 treatment being rendered or admission in a nonemergency
26 situation, a written good faith estimate of the reasonably
27 anticipated charges generally required for the facility to
28 treat the patient's condition. In order to comply with this
29 subsection, the facility may provide, upon request, the median
30 charges for its top 100 conditions or procedures by the
31 appropriate Medicare diagnosis-related group International

1 Classification of Diseases 9 or Common Procedural Terminology
2 code. Upon request of the patient, the facility shall notify
3 the patient of any revision to the good-faith estimate in a
4 timely manner if the good-faith estimate represented one of
5 the 100 conditions or procedures determined by the agency
6 under s. 395.10973(9). Such estimate shall not prohibit the
7 actual charges from exceeding the estimate.

8 (2)~~(1)~~ A licensed facility not operated by the state
9 shall notify each patient during admission and at discharge of
10 his or her right to receive an itemized bill upon request.
11 Within 7 days following the patient's discharge or release
12 from a licensed facility not operated by the state, ~~or within~~
13 ~~7 days after the earliest date at which the loss or expense~~
14 ~~from the service may be determined,~~ the licensed facility
15 providing the service shall, upon request, submit to the
16 patient, or to the patient's survivor or legal guardian, as
17 may be appropriate, an itemized statement detailing in
18 language comprehensible to an ordinary layperson the specific
19 nature of charges or expenses incurred by the patient, which
20 in the initial billing shall contain a statement of specific
21 services received and expenses incurred for such items of
22 service, enumerating in detail the constituent components of
23 the services received within each department of the licensed
24 facility and including unit price data on rates charged by the
25 licensed facility, as prescribed by the agency.

26 (3)~~(2)~~ Each ~~such~~ statement submitted pursuant to
27 subsection (2):

28 (a) May not include charges of hospital-based
29 physicians if billed separately.

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1 (b) May not include any generalized category of
2 expenses such as "other" or "miscellaneous" or similar
3 categories.

4 (c) Shall list drugs by brand or generic name and not
5 refer to drug code numbers when referring to drugs of any
6 sort.

7 (d) Shall specifically identify therapy treatment as
8 to the date, type, and length of treatment when therapy
9 treatment is a part of the statement. Any person receiving a
10 statement pursuant to this section shall be fully and
11 accurately informed as to each charge and service provided by
12 the institution preparing the statement.

13 (4)~~(3)~~ On each ~~such~~ itemized statement submitted
14 pursuant to subsection (2), there shall appear the words "A
15 FOR-PROFIT (or NOT-FOR-PROFIT or PUBLIC) HOSPITAL (or
16 AMBULATORY SURGICAL CENTER) LICENSED BY THE STATE OF FLORIDA"
17 or substantially similar words sufficient to identify clearly
18 and plainly the ownership status of the licensed facility.
19 Each itemized statement must prominently display the phone
20 number of the medical facility's patient liaison who is
21 responsible for expediting the resolution of any billing
22 dispute between the patient, or his or her representative, and
23 the billing department.

24 (5)~~(4)~~ An itemized bill shall be provided once to the
25 patient's physician at the physician's request, at no charge.

26 (6)~~(5)~~ In any billing for services subsequent to the
27 initial billing for such services, the patient, or the
28 patient's survivor or legal guardian, may elect, at his or her
29 option, to receive a copy of the detailed statement of
30 specific services received and expenses incurred for each such
31 item of service as provided in subsection (2)~~(1)~~.

1 ~~(7)(6)~~ No physician, dentist, podiatric physician, or
2 licensed facility may add to the price charged by any third
3 party except for a service or handling charge representing a
4 cost actually incurred as an item of expense; however, the
5 physician, dentist, podiatric physician, or licensed facility
6 is entitled to fair compensation for all professional services
7 rendered. The amount of the service or handling charge, if
8 any, shall be set forth clearly in the bill to the patient.

9 (8) A licensed facility shall make available to a
10 patient all records necessary for verification of the accuracy
11 of the patient's bill within 7 business days after the written
12 request for such records. The verification information must be
13 made available in the facility's offices. Such records shall
14 be available to the patient prior to and after payment of the
15 bill or claim. The facility may not charge the patient for
16 making such verification records available; however, the
17 facility may charge its usual fee for providing copies of
18 records as specified in s. 395.3025.

19 (9) Each facility shall establish an impartial method
20 for reviewing written billing disputes of patients and provide
21 a written response, with a clear explanation of the grounds
22 for the response, to the patient making the dispute within 30
23 days after the receipt of the dispute. A facility shall
24 maintain a complete and accurate log of all disputes and shall
25 report to the agency the number of disputes, the total of the
26 charges subject to dispute, and a summary of the dispositions
27 of the disputes no later than January 1 of each year.

28 Section 8. Subsection (7) of section 651.118, Florida
29 Statutes, is amended to read:

30 651.118 Agency for Health Care Administration;
31 certificates of need; sheltered beds; community beds.--

1 (7) Notwithstanding the provisions of subsection (2),
2 at the discretion of the continuing care provider, sheltered
3 nursing home beds may be used for persons who are not
4 residents of the continuing care facility and who are not
5 parties to a continuing care contract for a period of up to 5
6 years after the date of issuance of the initial nursing home
7 license. A provider whose 5-year period has expired or is
8 expiring may request the Agency for Health Care Administration
9 for an extension, not to exceed 30 percent of the total
10 sheltered nursing home beds, if the utilization by residents
11 of the nursing home facility in the sheltered beds will not
12 generate sufficient income to cover nursing home facility
13 expenses, as evidenced by one of the following:

14 (a) The nursing home facility has a net loss for the
15 most recent fiscal year as determined under generally accepted
16 accounting principles, excluding the effects of extraordinary
17 or unusual items, as demonstrated in the most recently audited
18 financial statement; or

19 (b) The nursing home facility would have had a pro
20 forma loss for the most recent fiscal year, excluding the
21 effects of extraordinary or unusual items, if revenues were
22 reduced by the amount of revenues from persons in sheltered
23 beds who were not residents, as reported on by a certified
24 public accountant.

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26 The agency shall be authorized to grant an extension to the
27 provider based on the evidence required in this subsection.
28 The agency may request a continuing care facility to use up to
29 25 percent of the patient days generated by new admissions of
30 nonresidents during the extension period to serve Medicaid
31 recipients for those beds authorized for extended use if there

1 is a demonstrated need in the respective service area and if
2 funds are available. A provider who obtains an extension is
3 prohibited from applying for additional sheltered beds under
4 the provision of subsection (2), unless additional residential
5 units are built or the provider can demonstrate need by
6 continuing care facility residents to the Agency for Health
7 Care Administration. The 5-year limit does not apply to up to
8 five sheltered beds designated for inpatient hospice care as
9 part of a contractual arrangement with a hospice licensed
10 under part VI of chapter 400. A continuing care facility that
11 uses such beds after the 5-year period shall report such use
12 to the Agency for Health Care Administration. For purposes of
13 this subsection, "resident" means a person who, upon admission
14 to the continuing care facility, initially resides in a part
15 of the continuing care facility not licensed under part II of
16 chapter 400.

17 Section 9. This act shall take effect July 1, 2004.

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19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
20 COMMITTEE SUBSTITUTE FOR
21 Senate Bill 2022

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23 The Committee Substitute differs from SB 2022 in the following
24 ways:

25 The bill has the popular name the "Health Care Consumer's
26 Right to Know Act."

27 The type of data the Agency for Health Care Administration
28 must publish concerning patient charges and performance
29 outcomes is revised.

30 The composition of the State Comprehensive Health Information
31 System Advisory Council is revised.

The bill revises requirements for the use of sheltered nursing
home beds in continuing care retirement communities.

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