

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1209

Poison Control

SPONSOR(S): Sansom

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee		Bell	Mitchell
2) Health & Families Council			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 1209 addresses the release of patient records to poison control facilities for patient case management and for state and federal data reporting requirements.

Poison control centers play a significant role in assessing, triaging, managing, and monitoring known and suspected poisonings in Florida, and in protecting the public health. Poison control centers perform epidemiological surveillance and may be the first line of defense in the event of a bioterrorism attack. In order to better care for poisoned patients, poison control centers need access to patient information.

The Legislature tried to address this issue in 2004 by passing SB 2448. SB 2448 included a provision that required licensed facilities to release patient information to regional poison control centers for patient case management. However, this provision only captured hospital records, not private medical centers or physician offices. The poison control centers are still experiencing difficulties accessing patient information, and are concerned about meeting state and federal reporting requirements.

HB 1209 amends ss. 395.1027, 395.3025, and 456.057, F.S., to authorize the release of patient records to regional poison control centers of patient information that is relevant to the episode under evaluation for treatment or case management of poison cases, and necessary to comply with data collection and reporting requirements of state and federal law. The requirements in the bill apply to patient records in all licensed facilities, including physician offices and private medical centers.

The effective date of the bill is July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill authorizes the release of patient records to regional poison control centers for patient treatment purposes and reporting requirements.

Maintain Public Security – The bill authorizes the release of patient information to treat poisoned patients. Having all relevant patient information is likely to improve poisoned patient outcomes.

B. EFFECT OF PROPOSED CHANGES:

HB 1209 addresses the release of patient records to poison control facilities for patient case management and for state and federal data reporting requirements.

The bill amends ss. 395.1027, 395.3025, and 456.057, F.S., to authorize the release of patient records to regional poison control centers of patient information that is relevant to the episode under evaluation for treatment or case management of poison cases, and necessary to comply with data collection and reporting requirements of state and federal law. The requirements in the bill apply to patient records in all licensed facilities, including physician offices and private medical centers.

PRESENT SITUATION

Regional Poison Control Centers

Pursuant to Section 18, Chapters 89-283, Laws of Florida, codified in Section 395.1027, F.S., the Legislature created the Florida Poison Information Center Network. The three poison control centers in Florida are located in Jacksonville, Tampa, and Miami. Each regional poison control center must be affiliated with and physically located in a certified Level I trauma center and must be affiliated with an accredited medical school or college of pharmacy. The regional poison control centers must be coordinated with the Divisions of Children's Medical Services Prevention and Intervention in the Department of Health. Section 395.1027, F.S., requires each regional poison control center to provide the following services:

- Toll-free access by the public for poison information;
- Case management of poison cases;
- Professional consultation to health care practitioners;
- Prevention education to the public; and
- Data collection and reporting.

Poison Control Center Requirements

Poison control centers must be certified or have a waiver from certification to obtain federal funding under the Poison Control Center Enhancement and Awareness Act (Act).¹ Under the Act, a poison control center may seek a waiver of certification requirements if the center can reasonably demonstrate that the center will obtain certification within a reasonable period of time. The American Association of Poison Control Centers (AAPCC) is a nationwide organization of poison centers and interested individuals.² AAPCC certifies regional poison control centers and poison center personnel. The AAPCC

¹ The law (Section 4 of P.L. 108-194) requires the Secretary to award grants to only certified regional poison control centers for specified purposes which include improving and expanding poison control data collection systems including, at the Secretary's discretion, by assisting poison control centers to improve data collection activities, and improving national toxic exposure surveillance by enhancing activities at the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

² See the website for the American Association of Poison Control Centers at [<http://www.aapcc.org/aapcc.htm>].

requires certified poison control centers to submit their human exposure data to AAPCC's Toxic Exposure Surveillance System with all required data elements.

Role of Poison Control Centers

Poison control centers play a significant role in assessing, triaging, managing, and monitoring known and suspected poisonings in Florida, and in protecting public health. Poison control centers perform epidemiological surveillance and may be the first line of defense in the event of a bioterrorism attack. In order to better care for poisoned patients, poison control centers need access to patient information.

HIPPA Law Requirements

Sections 261-264 of the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPPA), enacted August 21, 1996, relate to health information privacy. The United States Department of Health and Human Services issued Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) which took effect April 14, 2003. On October 2, 2003, the Florida Secretary of Health sent a letter to health care providers, which noted that poison control centers met significant resistance from health care providers within Florida to share protected health information.

Previous Legislation

In 2004 the Legislature passed SB 2448. This bill included a provision that required licensed facilities to release patient information to regional poison control centers for patient case management. However, this provision only captured hospital records not private medical centers or physician offices. The poison control centers are still experiencing difficulties accessing patient information, and are concerned about meeting state and federal reporting requirements.

Florida Statutory Provisions

Several statutory provisions already allow health facilities and providers to share patient information with regional poison control centers for case management purposes. However, the provisions do not allow patient information to be shared for state and federal data reporting requirements.

Regional poison control centers are exempt from the requirements of the federal Privacy Rule when performing public health functions required under s. 395.1027, F.S. The Privacy Rule allows for disclosure of protected health information to a health care provider involved in the treatment of any patient. Florida law requires the disclosure without the patient's authorization to relate to care provided to the particular patient under the care of the disclosing entity. Both Florida law and the Privacy Rule, when interpreted, would authorize health care providers to share protected health information with a regional poison control center for the treatment of a particular patient and to share protected health information with a poison control center so that the center may complete its required public health activities outlined in s. 395.1027, F.S.

Section 456.057, F.S., deals with the confidentiality of medical records created by specified health care practitioners, including medical physicians. Section 457.057(5), F.S., allows patient records, which are otherwise confidential, to be furnished without written authorization to other health care practitioners and providers involved in the care or treatment of the patient. Section 395.3025, F.S., provides requirements for the confidentiality of patient records held by hospitals in Florida and outlines uses and disclosures of such records. Under s. 395.3025, F.S., patient records that are otherwise confidential may be disclosed to a licensed facility, personnel, and attending physicians for use in connection with treatment of the patient without the consent of the person with whom they pertain. Section 395.3025(7)(a), F.S., provides that if the content of any record of patient treatment is provided under s. 395.3025, F.S., to a recipient other than the patient or the patient's representative, the recipient may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt for the Public Records Law. Section 395.3025(8), F.S., also provides that patient records in hospitals and ambulatory surgical centers are exempt from the disclosure requirements of the Public Records Law, with specified exceptions. To the

extent that poison control centers must be affiliated with and physically located in a certificated Level I trauma center and are subject to the Public Records Law, ss. 395.3025(7)(a) and 456.057(5), F.S., would apply to the centers to exempt treatment records from the Public Records Laws and keep such records confidential when provided to the centers from hospitals or other health care providers.

Therefore, a statutory change is needed to specifically allow for sharing of information with poison control centers for data reporting requirements.

C. SECTION DIRECTORY:

Section 1. Amends s. 395.1027, F.S., to require a licensed health facility or health care practitioner to release patient information to a regional poison control center. The information must be relevant to the episode under evaluation for treatment or case management of poison cases, and necessary to comply with state and federal data collection and reporting requirements.

Section 2. Amends s. 395.3025, F.S., to authorize the release of hospital patient records, without the patient's consent, to regional poison control centers to a regional poison control center for the purpose of treating a poison episode under evaluation or case management, and to comply with state and federal data collection and reporting requirements.

Section 3. Amends s. 456.057, F.S., to authorize the release of medical records created by specified health care practitioners, without the patient's consent, to regional poison control centers for the purposes of treating a poison episode under evaluation or case management and, to comply with state and federal data collection and reporting requirements.

Section 4. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. [See D. FISCAL COMMENTS]

D. FISCAL COMMENTS:

The bill will require health care facilities and practitioners to report a limited amount of patient information related to poisoning cases. There may be nominal costs associated with record duplication and transmission to poison control centers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 395.1027(1), F.S., refers to *accredited* regional poison control centers. The centers are *certified* by a professional organization in the field of poison control. Poison control centers must be certified or have a waiver of certification to obtain federal funding under the Poison Control Center Enhancement and Awareness Act. The bill should amend s. 395.1027(1), F.S., to require poison control centers to be certified rather than accredited.

Concerns were raised with committee staff regarding a public records exemption for regional poison control centers. However, poison control centers patient records are currently exempt covered under the exemptions provided in ss. 395.3025 (7)(a) and (8), F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES