

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Grant offered the following:

**Amendment (with title amendment)**

Remove lines 230-357 and insert:

5. Informal interviews of treating health care providers.-

A prospective defendant or his or her legal representative may  
interview the claimant's treating health care providers in an  
informal setting and without the presence of the claimant or the  
claimant's legal representative, but only with the explicit  
consent of the claimant or the claimant's legal representative;  
however, this subparagraph does not require a claimant's  
treating health care provider to submit to a request for an  
interview by a prospective defendant or his or her legal  
representative. A prospective defendant or his or her legal  
representative seeking to interview a claimant's treating health  
care provider must provide the claimant or the claimant's legal

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17 representative with a written request for consent to conduct the  
18 interview at least 15 days before the date of the desired  
19 interview. If the claimant or claimant's legal representative  
20 consents to the interview, notice of the interview shall be  
21 provided to the prospective defendant or his or her legal  
22 representative not more than 10 days after receipt of the  
23 request. As a condition to giving consent for the interview, the  
24 claimant or the claimant's legal representative may require that  
25 the entire interview be recorded by a certified court reporter  
26 and a transcription be provided to the claimant at the  
27 claimant's expense and that no part of the interview may be  
28 conducted outside the presence of the court reporter or off the  
29 transcribed record.

30 ~~6.5.~~ Unsworn statements of treating health care  
31 providers.—A prospective defendant or his or her legal  
32 representative may also take unsworn statements of the  
33 claimant's treating health care providers. The statements must  
34 be limited to those areas that are potentially relevant to the  
35 claim of personal injury or wrongful death. Subject to the  
36 procedural requirements of subparagraph 1., a prospective  
37 defendant may take unsworn statements from a claimant's treating  
38 physicians. Reasonable notice and opportunity to be heard must  
39 be given to the claimant or the claimant's legal representative  
40 before taking unsworn statements. The claimant or claimant's  
41 legal representative has the right to attend the taking of such  
42 unsworn statements.

43 Section 4. Subsection (3) of section 766.1065, Florida  
44 Statutes, is amended to read:

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45 766.1065 Authorization for release of protected health  
46 information.-

47 (3) The authorization required by this section shall be in  
48 the following form and shall be construed in accordance with the  
49 "Standards for Privacy of Individually Identifiable Health  
50 Information" in 45 C.F.R. parts 160 and 164:

51  
52 AUTHORIZATION FOR RELEASE OF  
53 PROTECTED HEALTH INFORMATION  
54

55 A. I, (...Name of patient or authorized  
56 representative...) [hereinafter "Patient"], authorize  
57 that (...Name of health care provider to whom the  
58 presuit notice is directed...) and his/her/its  
59 insurer(s), self-insurer(s), and attorney(s), and the  
60 designated treating health care provider(s) listed  
61 below and his/her/its insurer(s), self-insurer(s), and  
62 attorney(s) may obtain and disclose (within the  
63 parameters set out below) the protected health  
64 information described below for the following specific  
65 purposes:

- 66 1. Facilitating the investigation and evaluation of  
67 the medical negligence claim described in the  
68 accompanying presuit notice; ~~or~~  
69 2. Defending against any litigation arising out of  
70 the medical negligence claim made on the basis of the  
71 accompanying presuit notice; or-

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72 3. Obtaining legal advice or representation arising  
73 out of the medical negligence claim described in the  
74 accompanying presuit notice.

75 B. The health information obtained, used, or  
76 disclosed extends to, and includes, ~~the~~ verbal health  
77 information as well as ~~the~~ written health information  
78 and is described as follows:

79 1. The health information in the custody of the  
80 following health care providers who have examined,  
81 evaluated, or treated the Patient in connection with  
82 injuries complained of after the alleged act of  
83 negligence: (List the name and current address of all  
84 health care providers). This authorization extends to  
85 any additional health care providers that may in the  
86 future evaluate, examine, or treat the Patient for the  
87 injuries complained of.

88 2. The health information in the custody of the  
89 following health care providers who have examined,  
90 evaluated, or treated the Patient during a period  
91 commencing 2 years before the incident that is the  
92 basis of the accompanying presuit notice.

93  
94 (List the name and current address of such health care  
95 providers, if applicable.)  
96

97 C. This authorization does not apply to the following  
98 list of health care providers possessing health care  
99 information about the Patient because the Patient

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100 certifies that such health care information is not  
101 potentially relevant to the claim of personal injury  
102 or wrongful death that is the basis of the  
103 accompanying presuit notice.

104  
105 (List the name of each health care provider to whom  
106 this authorization does not apply and the inclusive  
107 dates of examination, evaluation, or treatment to be  
108 withheld from disclosure. If none, specify "none.")  
109

110 D. The persons or class of persons to whom the  
111 Patient authorizes such health information to be  
112 disclosed or by whom such health information is to be  
113 used:

- 114 1. Any health care provider providing care or  
115 treatment for the Patient.
- 116 2. Any liability insurer or self-insurer providing  
117 liability insurance coverage, self-insurance, or  
118 defense to any health care provider to whom presuit  
119 notice is given, or to any health care provider listed  
120 in subsections B.1.-2. above, regarding the care and  
121 treatment of the Patient.
- 122 3. Any consulting or testifying expert employed by or  
123 on behalf of (name of health care provider to whom  
124 presuit notice was given) and his/her/its insurer(s),  
125 self-insurer(s), or attorney(s) regarding the matter  
126 of the presuit notice accompanying this authorization.

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127 4. Any attorney (including his/her ~~secretarial,~~  
128 ~~clerical, or paralegal~~ staff) employed by or on behalf  
129 of (name of health care provider to whom presuit  
130 notice was given) or employed by or on behalf of any  
131 health care provider(s) listed in subsections B.1.-2.  
132 above, regarding the matter of the presuit notice  
133 accompanying this authorization or the care and  
134 treatment of the Patient.

135 5. Any trier of the law or facts relating to any suit  
136 filed seeking damages arising out of the medical care  
137 or treatment of the Patient.

138 E. This authorization does not permit the

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141 **T I T L E A M E N D M E N T**

142 Remove line 41 and insert:  
143 health care providers under certain circumstances;  
144 amending s. 381.028, F.S.;