

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 1206

INTRODUCER: Health Policy Committee and Senator Montford

SUBJECT: Rights and Responsibilities of Patients

DATE: March 29, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1206 amends the Florida Patient's Bill of Rights to include the right for a patient to bring any person of his or her choosing to the patient-accessible areas of a health care facility or provider's office while the patient is receiving inpatient or outpatient treatment or is consulting with his or her health care provider unless doing so would risk the health of the patient, other patients, or staff of the facility or office or doing so cannot be reasonably accommodated by the facility. The bill also requires this right be added to the summary of rights and responsibilities that must be made available by health care providers to patients.

II. Present Situation:

Florida Patient's Bill of Rights and Responsibilities

Florida Patient's Bill of Rights and Responsibilities¹ (Bill of Rights) establishes a list of rights that each patient has when seeking health care in specified settings. The Bill of Rights requires that all health care facilities² and providers³ must ensure:

- The patient's dignity is respected through ensuring the patient has the right to privacy, with some exceptions; the right to a prompt and reasonable response to a question; and the right to retain and use personal clothing and possessions as space permits.

¹ Section 381.026, F.S.

² Defined as hospitals and ambulatory surgical centers licensed under ch. 395, F.S.,

³ Defined as physicians licensed under chs. 458, 459, and 461, F.S.

- The patient has access to pertinent information including, but not limited to, information on services offered by the provider; the patient's diagnosis, planned course of treatment, alternatives, risks, and prognosis with some exceptions; and the right to express grievances with the healthcare provider; and information on facility rules and regulations.
- The patient has access to financial information including, but not limited to, information on financial resources for the patient's healthcare, a reasonable estimate of charges, and a link to financial information disseminated by the Agency for Health Care Administration.⁴
- The patient has access to health care including impartial access to medical treatment regardless of race, national origin, religion, handicap, or source of payment; treatment for any emergency medical condition that will deteriorate from failure to provide such treatment; and access to any mode of treatment that is, in the patient's judgement and the judgement of his or her health care practitioner, in the best interests of the patient.
- That the patient knows whether or not the treatment he or she is receiving is for purposes of experimental research.

The Bill of Rights requires that patients respect the health care provider's and health care facility's right to expect behavior that is reasonable and responsible. A patient is responsible for:

- Providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.
- Reporting unexpected changes in his or her condition to the health care provider.
- Reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.
- Following the treatment plan recommended by the health care provider.
- Keeping appointments and, when he or she is unable to do so for any reason, for notifying the health care provider or health care facility.
- His or her actions if he or she refuses treatment or does not follow the health care provider's instructions.
- Assuring that the financial obligations of his or her health care are fulfilled as promptly as possible.
- Following health care facility rules and regulations affecting patient care and conduct.

The Bill of Rights also requires that health care providers and health care facilities make available a written summary of the Florida Patient's Bill of Rights.

III. Effect of Proposed Changes:

CS/SB 1206 amends the Florida Patient's Bill of Rights to include the right for a patient to bring any person of his or her choosing to the patient-accessible areas of a health care facility or provider's office while the patient is receiving inpatient or outpatient treatment or is consulting with his or her health care provider unless doing so would risk the health of the patient, other patients, or staff of the facility or office or doing so cannot be reasonably accommodated by the facility. The bill also requires this right be added to the summary of rights and responsibilities that must be made available by health care providers to patients.

⁴ Pursuant to s. 408.05(3), F.S.

An additional potential effect of the bill may be to resolve a perceived statutory restriction on discussing a patient's condition with others present in the room that is created in s. 456.057(7)(a) and (c), F.S., related to the ownership and control of patient records. This section prohibits a health care practitioner from discussing the medical condition of a patient or information disclosed to the practitioner by a patient in the course of care and treatment of the patient with any person other than the patient, the patient's legal representative, or other health care practitioners and providers involved in the patient's care or treatment, except upon written authorization from the patient. This restriction may be more restrictive than the Health Insurance Portability and Accountability Act (HIPAA) provision which allows a provider to share or discuss information if the patient is present and does not object.⁵ The new right created in this bill would clarify the physician may discuss the patient's condition and treatment while a person of the patient's choosing is in the room.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

⁵ See Summary of the HIPAA Privacy Rule at Permitted Uses and Disclosures: (3) Uses and Disclosures with Opportunity to Agree or Object, available at <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/> (last visited on Mar. 24, 2017).

VII. Related Issues:

The term “patient-accessible areas” is not defined in the bill. Additionally the bill does not include rulemaking authority so it may be difficult to clarify the meaning of the term.

VIII. Statutes Affected:

This bill substantially amends section 381.026 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 26, 2017:

The CS clarifies that a patient does not have the right to bring a person with him or her to a consultation or in-patient or out-patient surgery if doing so would risk the health and safety of the patient, other patients, or facility or office staff or if the health care facility or provider cannot reasonably accommodate the person. Additionally, the amendment removes language restricting any person or entity with a fiduciary interest in the patient’s treatment from attending the patient’s consultations or attempting to change the course of the patient’s treatment.

- B. **Amendments:**

None.