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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2017	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 400.6005, Florida Statutes, is amended  
to read:

400.6005 Legislative findings and intent.—The Legislature  
finds that a terminally ill patient ~~individuals and their~~  
~~families,~~ who is ~~are~~ no longer pursuing curative medical  
treatment and the patient's family, should have the opportunity



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11 to select a support system that allows ~~permits~~ the patient to  
12 exercise maximum independence and dignity during the final days  
13 of life. The Legislature also finds that a seriously ill patient  
14 and the patient's family should have the opportunity to select a  
15 support system that provides palliative care and supportive care  
16 and allows the patient to exercise maximum independence while  
17 receiving such care. The Legislature finds that hospice care  
18 provides a cost-effective and less intrusive form of medical  
19 care while meeting the social, psychological, and spiritual  
20 needs of terminally ill and seriously ill patients and their  
21 families. The intent of this part is to provide for the  
22 development, establishment, and enforcement of basic standards  
23 to ensure the safe and adequate care of persons receiving  
24 hospice services.

25 Section 2. Section 400.601, Florida Statutes, is amended to  
26 read:

27 400.601 Definitions.—As used in this part, the term:

28 (1) "Agency" means the Agency for Health Care  
29 Administration.

30 (2) "Department" means the Department of Elderly Affairs.

31 (3) "Hospice" means a centrally administered corporation or  
32 a limited liability company that provides a continuum of  
33 palliative care and supportive care for a ~~the terminally ill~~  
34 patient and his or her family.

35 (4) "Hospice care team" means an interdisciplinary team of  
36 qualified professionals and volunteers who, in consultation with  
37 a ~~the~~ patient, the patient's family, and the patient's primary  
38 or attending physician, collectively assess, coordinate, and  
39 provide the appropriate palliative care and supportive care to



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40 hospice patients and their families.

41 (5) "Hospice program" means a program offered by a hospice  
42 which provides a continuum of palliative care and supportive  
43 care for a patient and his or her family.

44 (6)~~(5)~~ "Hospice residential unit" means a homelike living  
45 facility, other than a facility licensed under other parts of  
46 this chapter, under chapter 395, or under chapter 429, which  
47 ~~that~~ is operated by a hospice for the benefit of its patients  
48 and is considered by a patient who lives there to be his or her  
49 primary residence.

50 (7)~~(6)~~ "Hospice services" means items and services  
51 furnished to a terminally ill patient and family by a hospice,  
52 or by others under arrangements with such a program, in a place  
53 of temporary or permanent residence used as the patient's home  
54 for the purpose of maintaining the patient at home; or, if the  
55 patient needs short-term institutionalization, the services  
56 shall be furnished in cooperation with those contracted  
57 institutions or in the hospice inpatient facility.

58 (8)~~(7)~~ "Palliative care" means services or interventions  
59 furnished to a seriously ill patient and family which are not  
60 curative but are provided for the reduction or abatement of pain  
61 and human suffering.

62 (9)~~(8)~~ "Patient" means the terminally or seriously ill  
63 individual receiving ~~hospice~~ services from a hospice.

64 (10)~~(9)~~ "Plan of care" means a written assessment by the  
65 hospice of each patient's and family's needs and preferences,  
66 and the services to be provided by the hospice to meet those  
67 needs.

68 (11) "Seriously ill" means that the person has a life-



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69 threatening medical condition that may be irreversible and may  
70 continue indefinitely, and such condition may be managed through  
71 palliative care.

72 (12)-(10) "Terminally ill" means that the patient has a  
73 medical prognosis that his or her life expectancy is 1 year or  
74 less if the illness runs its normal course.

75 Section 3. Section 400.60501, Florida Statutes, is amended  
76 to read:

77 400.60501 Outcome measures; adoption of federal quality  
78 measures; public reporting national initiatives; annual report.-

79 (1) No later than December 31, 2019 ~~2007~~, the department of  
80 ~~Elderly Affairs~~, in conjunction with the agency for ~~Health Care~~  
81 ~~Administration~~, shall ~~develop~~ adopt the national hospice outcome  
82 measures in 42 C.F.R. part 418 to determine the quality and  
83 effectiveness of hospice care for hospices licensed in the  
84 state. ~~At a minimum, these outcome measures shall include a~~  
85 ~~requirement that 50 percent of patients who report severe pain~~  
86 ~~on a 0-to-10 scale must report a reduction to 5 or less by the~~  
87 ~~end of the 4th day of care on the hospice program.~~

88 (2) ~~For hospices licensed in the state,~~ The department of  
89 ~~Elderly Affairs~~, in conjunction with the agency for ~~Health Care~~  
90 ~~Administration~~, shall:

91 (a) Make available to the public the national hospice  
92 outcome measures in a format that is comprehensible by a  
93 layperson and that allows a consumer to compare such measures of  
94 one or more hospices. ~~Consider and adopt national initiatives,~~  
95 ~~such as those developed by the national hospice and Palliative~~  
96 ~~Care Organization, to set benchmarks for measuring the quality~~  
97 ~~of hospice care provided in the state.~~



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98 (b) Develop an annual report that analyzes and evaluates  
99 the information collected under this act and any other data  
100 collection or reporting provisions of law.

101 Section 4. Section 400.609, Florida Statutes, is amended to  
102 read:

103 400.609 Hospice services.—Each hospice shall provide a  
104 continuum of hospice services which affords ~~afford~~ the  
105 terminally ill patient and the family of the patient a range of  
106 service delivery which can be tailored to specific needs and  
107 preferences of the terminally ill patient and family at any  
108 point ~~in time~~ throughout the length of care ~~for the terminally~~  
109 ~~ill patient~~ and during the bereavement period. These services  
110 must be available 24 hours a day, 7 days a week, and must  
111 include:

112 (1) SERVICES.—

113 (a) The hospice care team shall directly provide the  
114 following core services: nursing services, social work services,  
115 pastoral or counseling services, dietary counseling, and  
116 bereavement counseling services. Physician services may be  
117 provided by the hospice directly or through contract. A hospice  
118 may also use contracted staff if necessary to supplement hospice  
119 employees in order to meet the needs of patients during periods  
120 of peak patient loads or under extraordinary circumstances.

121 (b) Each hospice must also provide or arrange for such  
122 additional services as are needed to meet the palliative and  
123 support needs of the patient and family. These services may  
124 include, but are not limited to, physical therapy, occupational  
125 therapy, speech therapy, massage therapy, home health aide  
126 services, infusion therapy, provision of medical supplies and



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127 durable medical equipment, day care, homemaker and chore  
128 services, and funeral services.

129 (2) HOSPICE HOME CARE.—Hospice care and services provided  
130 in a private home shall be the primary form of care. The goal of  
131 hospice home care shall be to provide adequate training and  
132 support to encourage self-sufficiency and allow patients and  
133 families to maintain the patient comfortably at home for as long  
134 as possible. The services of the hospice home care program shall  
135 be of the highest quality and shall be provided by the hospice  
136 care team.

137 (3) HOSPICE RESIDENTIAL CARE.—Hospice care and services, to  
138 the extent practicable and compatible with the needs and  
139 preferences of the patient, may be provided by the hospice care  
140 team to a patient living in an assisted living facility, adult  
141 family-care home, nursing home, hospice residential unit or  
142 facility, or other nondomestic place of permanent or temporary  
143 residence. A resident or patient living in an assisted living  
144 facility, adult family-care home, nursing home, or other  
145 facility subject to state licensing who has been admitted to a  
146 hospice program shall be considered a hospice patient, and the  
147 hospice program shall be responsible for coordinating and  
148 ensuring the delivery of hospice care and services to such  
149 person pursuant to the standards and requirements of this part  
150 and rules adopted under this part.

151 (4) HOSPICE INPATIENT CARE.—The inpatient component of care  
152 is a short-term adjunct to hospice home care and hospice  
153 residential care and shall be used only for pain control,  
154 symptom management, or respite care. The total number of  
155 inpatient days for all hospice patients in any 12-month period



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156 may not exceed 20 percent of the total number of hospice days  
157 for all the hospice patients of the licensed hospice. Hospice  
158 inpatient care shall be under the direct administration of the  
159 hospice, whether the inpatient facility is a freestanding  
160 hospice facility or part of a facility licensed pursuant to  
161 chapter 395 or part II of this chapter. The facility or rooms  
162 within a facility used for the hospice inpatient component of  
163 care shall be arranged, administered, and managed in such a  
164 manner as to provide privacy, dignity, comfort, warmth, and  
165 safety for the terminally ill patient and the family. Every  
166 possible accommodation must be made to create as homelike an  
167 atmosphere as practicable. To facilitate overnight family  
168 visitation within the facility, rooms must be limited to no more  
169 than double occupancy; and, whenever possible, both occupants  
170 must be hospice patients. There must be a continuum of care and  
171 a continuity of caregivers between the hospice home program and  
172 the inpatient aspect of care to the extent practicable and  
173 compatible with the preferences of the patient and his or her  
174 family. Fees charged for hospice inpatient care, whether  
175 provided directly by the hospice or through contract, must be  
176 made available upon request to the Agency for Health Care  
177 Administration. The hours for daily operation and the location  
178 of the place where the services are provided must be determined,  
179 to the extent practicable, by the accessibility of such services  
180 to the patients and families served by the hospice.

181 (5) BEREAVEMENT COUNSELING.—The hospice bereavement program  
182 must be a comprehensive program, under professional supervision,  
183 that provides a continuum of formal and informal supportive  
184 services to the family for a minimum of 1 year after the



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185 patient's death. This subsection does not constitute an  
186 additional exemption from chapter 490 or chapter 491.

187 Section 5. Section 400.6093, Florida Statutes, is created  
188 to read:

189 400.6093 Community palliative care services.—A hospice may  
190 provide palliative care to a seriously ill patient and his or  
191 her family members. Such palliative care may be provided to  
192 manage the side effects of treatment for a progressive disease  
193 or medical or surgical condition. Such care may also be provided  
194 directly by the hospice or by other providers under contract  
195 with the hospice. This section does not preclude the provision  
196 of palliative care to seriously ill patients or their family  
197 members by any other health care provider or health care  
198 facility otherwise authorized to provide such care. This section  
199 does not mandate or prescribe additional Medicaid coverage.

200 Section 6. Subsections (1) and (2) of section 400.6095,  
201 Florida Statutes, are amended to read:

202 400.6095 Patient admission; assessment; plan of care;  
203 discharge; death.—

204 (1) Each hospice shall make its services available to all  
205 terminally ill patients ~~persons~~ and their families without  
206 regard to age, gender, national origin, sexual orientation,  
207 disability, diagnosis, cost of therapy, ability to pay, or life  
208 circumstances. A hospice may ~~shall~~ not impose any value or  
209 belief system on its patients or their families and shall  
210 respect the values and belief systems of its patients and their  
211 families.

212 (2) Admission of a terminally ill patient to a hospice  
213 program shall be made upon a diagnosis and prognosis of terminal





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214 illness by a physician licensed pursuant to chapter 458 or  
215 chapter 459 and must ~~shall~~ be dependent on the expressed request  
216 and informed consent of the patient.

217 Section 7. Section 400.6096, Florida Statutes, is created  
218 to read:

219 400.6096 Disposal of prescribed controlled substances  
220 following the death of a patient in the home.-

221 (1) A hospice physician, nurse, or social worker is  
222 authorized to assist in the disposal of a controlled substance  
223 prescribed to a patient at the time of the patient's death  
224 pursuant to the disposal regulations in 21 C.F.R. s. 1317.

225 (2) A hospice that assists in the disposal of a prescribed  
226 controlled substance found in the patient's home at the time of  
227 the patient's death must establish a written policy, procedure,  
228 or system for acceptable disposal methods.

229 (3) A hospice physician, nurse, or social worker, upon the  
230 patient's death and with the permission of a family member or a  
231 caregiver of the patient, may assist in the disposal of an  
232 unused controlled substance prescribed to the patient, pursuant  
233 to the written policy, procedure, or system established under  
234 subsection (2).

235 (4) The prescribed controlled substance disposal procedure  
236 must be carried out in the patient's home. Hospice staff and  
237 volunteers are not authorized to remove a prescribed controlled  
238 substance from the patient's home.

239 Section 8. Section 400.611, Florida Statutes, is amended to  
240 read:

241 400.611 Interdisciplinary records of care; confidentiality;  
242 release of records.-



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243           (1) A hospice shall maintain an up-to-date,  
244 interdisciplinary record of care being given and patient and  
245 family status ~~shall be kept~~. Records shall contain pertinent  
246 past and current medical, nursing, social, and other therapeutic  
247 information and such other information that is necessary for the  
248 safe and adequate care of the patient. Notations regarding all  
249 aspects of care for the patient and family shall be made in the  
250 record. When services are terminated, the record shall show the  
251 date and reason for termination.

252           (2) Patient records shall be retained for a period of ~~5~~ 6  
253 years after termination of hospice services, unless otherwise  
254 provided by law. In the case of a patient who is a minor, the ~~5~~  
255 6-year period shall begin on the date the patient reaches or  
256 would have reached the age of majority.

257           (3) The interdisciplinary record of patient ~~records of care~~  
258 and billing records are confidential.

259           (4) A hospice may not release a patient's interdisciplinary  
260 record or any portion thereof, unless the person requesting the  
261 information provides to the hospice:

262           (a) A patient authorization executed by the patient; ~~or~~  
263 ~~legal guardian has given express written informed consent;~~

264           (b) If the patient is incapacitated, a patient  
265 authorization executed before the patient's death by the  
266 patient's then acting legal guardian, health care surrogate,  
267 health care proxy, or agent under power of attorney;

268           (c) A court order appointing the person as the  
269 administrator, curator, executor, or personal representative of  
270 the patient's estate with authority to obtain the patient's  
271 medical records;



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272 (d) If a judicial appointment has not been made pursuant to  
273 paragraph (c), a last will that is self-proved under s. 732.503  
274 and designates the person to act as the patient's personal  
275 representative; or

276 (e) An order by a court of competent jurisdiction to  
277 release the interdisciplinary record to the person ~~has so~~  
278 ~~ordered; or~~

279 ~~(c) A state or federal agency, acting under its statutory~~  
280 ~~authority, requires submission of aggregate statistical data.~~  
281 ~~Any information obtained from patient records by a state agency~~  
282 ~~pursuant to its statutory authority is confidential and exempt~~  
283 ~~from the provisions of s. 119.07(1).~~

284 (5) For purposes of this section, the term "patient  
285 authorization" means an unrevoked written statement by the  
286 patient, or an oral statement made by the patient which has been  
287 reduced to writing in the patient's interdisciplinary record of  
288 care, or, in the case of an incapacitated patient, by the  
289 patient's then acting legal guardian, health care surrogate,  
290 agent under a power of attorney, or health care proxy giving the  
291 patient's permission to release the interdisciplinary record to  
292 a person requesting the record.

293 (6) A hospice must release requested aggregate patient  
294 statistical data to a state or federal agency acting under its  
295 statutory authority. Any information obtained from patient  
296 records by a state agency pursuant to its statutory authority is  
297 confidential and exempt from s. 119.07(1).

298 Section 9. This act shall take effect July 1, 2017.

299  
300 ===== T I T L E A M E N D M E N T =====



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301 And the title is amended as follows:

302 Delete everything before the enacting clause  
303 and insert:

304 A bill to be entitled

305 An act relating to hospice care; amending s. 400.6005,  
306 F.S.; revising legislative findings and intent;  
307 amending s. 400.601, F.S.; redefining the term  
308 "hospice"; defining the terms "hospice program" and  
309 "seriously ill"; amending s. 400.60501, F.S.;  
310 requiring the Department of Elderly Affairs, in  
311 conjunction with the Agency for Health Care  
312 Administration, to adopt national hospice outcome  
313 measures by a specified date and to make such measures  
314 available to the public; amending s. 400.609;  
315 clarifying provisions relating to hospice services;  
316 creating s. 400.6093, F.S.; authorizing hospices, or  
317 providers operating under contract with a hospice, to  
318 provide palliative care to seriously ill persons and  
319 their family members; providing construction; amending  
320 s. 400.6095, F.S.; making technical changes; creating  
321 s. 400.6096, F.S.; authorizing certain hospice  
322 personnel to assist in the disposal of certain  
323 prescribed controlled substances; requiring a hospice  
324 that chooses to assist in the disposal of certain  
325 prescribed controlled substances to establish  
326 policies, procedures, and systems for the disposal;  
327 authorizing a hospice physician, nurse, or social  
328 worker to assist in the disposals of certain  
329 prescribed controlled substances; providing



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330 requirements for such disposals; amending s. 400.611,  
331 F.S.; requiring a hospice to maintain an up-to-date  
332 interdisciplinary record of care; revising the patient  
333 records retention period; providing for the  
334 confidentiality of the interdisciplinary record of  
335 patient care; specifying to whom and under what  
336 conditions a hospice may release a patient's  
337 interdisciplinary record of care; defining a term;  
338 requiring a hospice to release patient statistical  
339 data to certain agencies; specifying that information  
340 from patient records is confidential and exempt from  
341 certain provisions; providing an effective date.