

1 A bill to be entitled
2 An act relating to hospice care; amending s. 400.6005,
3 F.S.; revising legislative findings and intent;
4 amending s. 400.601, F.S.; redefining the term
5 "hospice"; defining the terms "hospice program" and
6 "seriously ill"; amending s. 400.60501, F.S.;
7 requiring the Department of Elderly Affairs, in
8 conjunction with the Agency for Health Care
9 Administration, to adopt by rule certain outcome
10 measures by a specified date; requiring the
11 department, in conjunction with the agency, to adopt
12 national hospice outcome measures and make such
13 measures available to the public; amending s. 400.609,
14 F.S.; revising provisions to specify that a continuum
15 of hospice care be provided to terminally ill patients
16 and their families; creating s. 400.6093, F.S.;
17 authorizing hospices, or providers operating under
18 contract with a hospice, to provide palliative care to
19 seriously ill patients and their family members;
20 providing construction; amending s. 400.6095, F.S.;
21 making technical changes; creating s. 400.6096, F.S.;
22 authorizing a hospice to assist in the disposal of
23 certain prescribed controlled substances; requiring a
24 hospice that assists in the disposal of certain
25 prescribed controlled substances to have an

26 | established policy, procedure, or system for such
 27 | disposal; authorizing a hospice physician, nurse, or
 28 | social worker to assist in the disposal of certain
 29 | prescribed controlled substances in a patient's home
 30 | under certain conditions; providing requirements for
 31 | such disposal; amending s. 400.611, F.S.; expanding
 32 | access to confidential interdisciplinary patient care
 33 | and billing records; increasing the period of time
 34 | such records must be retained by a hospice; specifying
 35 | to whom a hospice may release a patient's
 36 | interdisciplinary record of care; providing an
 37 | effective date.

38 |

39 | Be It Enacted by the Legislature of the State of Florida:

40 |

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

43 | 400.6005 Legislative findings and intent.—The Legislature
 44 | finds that a terminally ill patient ~~individuals and their~~
 45 | ~~families,~~ who is ~~are~~ no longer pursuing curative medical
 46 | treatment and the patient's family, should have the opportunity
 47 | to select a support system that allows ~~permits~~ the patient to
 48 | exercise maximum independence and dignity during the final days
 49 | of life. The Legislature also finds that a seriously ill patient
 50 | and the patient's family should have the opportunity to select a

51 support system that provides palliative care and supportive care
52 and allows the patient to exercise maximum independence while
53 receiving such care. The Legislature finds that hospice care
54 provides a cost-effective and less intrusive form of medical
55 care while meeting the social, psychological, and spiritual
56 needs of terminally ill and seriously ill patients and their
57 families. The intent of this part is to provide for the
58 development, establishment, and enforcement of basic standards
59 to ensure the safe and adequate care of persons receiving
60 hospice services.

61 Section 2. Section 400.601, Florida Statutes, is amended
62 to read:

63 400.601 Definitions.—As used in this part, the term:

64 (1) "Agency" means the Agency for Health Care
65 Administration.

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

67 (3) "Hospice" means a centrally administered corporation
68 or a limited liability company that provides a continuum of
69 palliative and supportive care for a the terminally or seriously
70 ill patient and his or her family.

71 (4) "Hospice care team" means an interdisciplinary team of
72 qualified professionals and volunteers who, in consultation with
73 a the patient, the patient's family, and the patient's primary
74 or attending physician, collectively assess, coordinate, and
75 provide the appropriate palliative care and supportive care to

76 hospice patients and their families.

77 (5) "Hospice program" means a continuum of palliative and
 78 supportive care for a terminally ill patient and his or her
 79 family offered by a hospice.

80 (6)-(5) "Hospice residential unit" means a homelike living
 81 facility, other than a facility licensed under other parts of
 82 this chapter, under chapter 395, or under chapter 429, which
 83 ~~that~~ is operated by a hospice for the benefit of its patients
 84 and is considered by a patient who lives there to be his or her
 85 primary residence.

86 (7)-(6) "Hospice services" means items and services
 87 furnished to a terminally ill patient and family by a hospice,
 88 or by others under arrangements with such a program, in a place
 89 of temporary or permanent residence used as the patient's home
 90 for the purpose of maintaining the patient at home; or, if the
 91 patient needs short-term institutionalization, the services
 92 shall be furnished in cooperation with those contracted
 93 institutions or in the hospice inpatient facility.

94 (8)-(7) "Palliative care" means services or interventions
 95 furnished to a patient that ~~which~~ are not curative but are
 96 provided for the reduction or abatement of pain and human
 97 suffering.

98 (9)-(8) "Patient" means the terminally or seriously ill
 99 individual receiving hospice services.

100 (10)-(9) "Plan of care" means a written assessment by the

101 hospice of each patient's and family's needs and preferences,
 102 and the services to be provided by the hospice to meet those
 103 needs.

104 (11) "Seriously ill" means that the patient has a life-
 105 threatening medical condition which may be irreversible and
 106 which may continue indefinitely and such condition may be
 107 managed through palliative care.

108 (12)-(10) "Terminally ill" means that the patient has a
 109 medical prognosis that his or her life expectancy is 1 year or
 110 less if the illness runs its normal course.

111 Section 3. Section 400.60501, Florida Statutes, is amended
 112 to read:

113 400.60501 Outcome measures; adoption of federal quality
 114 measures; public reporting ~~national initiatives;~~ annual report.-

115 (1) No later than December 31, 2019 ~~2007~~, the department
 116 ~~of Elderly Affairs~~, in conjunction with the agency ~~for Health~~
 117 ~~Care Administration~~, shall adopt ~~develop~~ outcome measures to
 118 determine the quality and effectiveness of hospice care for
 119 hospices licensed in the state. ~~At a minimum, these outcome~~
 120 ~~measures shall include a requirement that 50 percent of patients~~
 121 ~~who report severe pain on a 0 to 10 scale must report a~~
 122 ~~reduction to 5 or less by the end of the 4th day of care on the~~
 123 ~~hospice program.~~

124 (2) For hospices licensed in the state, the department ~~of~~
 125 ~~Elderly Affairs~~, in conjunction with the agency ~~for Health Care~~

126 ~~Administration~~, shall:

127 (a) ~~Consider and Adopt national initiatives, such as those~~
128 ~~developed by the national hospice outcome measures found in 42~~
129 ~~C.F.R. part 418 and Palliative Care Organization, to set~~
130 ~~benchmarks for measuring the quality of hospice care provided in~~
131 ~~the state.~~

132 (b) Make available to the public the national hospice
133 outcome measures in a format that is comprehensible by a
134 layperson and allows a consumer to compare such measures for one
135 or more hospices.

136 (c) ~~(b)~~ Develop an annual report that analyzes and
137 evaluates the information collected under this act and any other
138 data collection or reporting provisions of law.

139 Section 4. Section 400.609, Florida Statutes, is amended
140 to read:

141 400.609 Hospice services.—Each hospice shall provide a
142 continuum of hospice services which afford the terminally ill
143 patient and his or her ~~the~~ family of the patient a range of
144 service delivery which can be tailored to specific needs and
145 preferences of the terminally ill patient and his or her family
146 at any point in time throughout the length of care ~~for the~~
147 ~~terminally ill patient~~ and during the bereavement period. These
148 services must be available 24 hours a day, 7 days a week, and
149 must include:

150 (1) SERVICES.—

151 (a) The hospice care team shall directly provide the
152 following core services: nursing services, social work services,
153 pastoral or counseling services, dietary counseling, and
154 bereavement counseling services. Physician services may be
155 provided by the hospice directly or through contract. A hospice
156 may also use contracted staff if necessary to supplement hospice
157 employees in order to meet the needs of patients during periods
158 of peak patient loads or under extraordinary circumstances.

159 (b) Each hospice must also provide or arrange for such
160 additional services as are needed to meet the palliative and
161 support needs of the patient and family. These services may
162 include, but are not limited to, physical therapy, occupational
163 therapy, speech therapy, massage therapy, home health aide
164 services, infusion therapy, provision of medical supplies and
165 durable medical equipment, day care, homemaker and chore
166 services, and funeral services.

167 (2) HOSPICE HOME CARE.—Hospice care and services provided
168 in a private home shall be the primary form of care. The goal of
169 hospice home care shall be to provide adequate training and
170 support to encourage self-sufficiency and allow patients and
171 families to maintain the patient comfortably at home for as long
172 as possible. The services of the hospice home care program shall
173 be of the highest quality and shall be provided by the hospice
174 care team.

175 (3) HOSPICE RESIDENTIAL CARE.—Hospice care and services,

176 to the extent practicable and compatible with the needs and
177 preferences of the patient, may be provided by the hospice care
178 team to a patient living in an assisted living facility, adult
179 family-care home, nursing home, hospice residential unit or
180 facility, or other nondomestic place of permanent or temporary
181 residence. A resident or patient living in an assisted living
182 facility, adult family-care home, nursing home, or other
183 facility subject to state licensing who has been admitted to a
184 hospice program shall be considered a hospice patient, and the
185 hospice program shall be responsible for coordinating and
186 ensuring the delivery of hospice care and services to such
187 person pursuant to the standards and requirements of this part
188 and rules adopted under this part.

189 (4) HOSPICE INPATIENT CARE.—The inpatient component of
190 care is a short-term adjunct to hospice home care and hospice
191 residential care and shall be used only for pain control,
192 symptom management, or respite care. The total number of
193 inpatient days for all hospice patients in any 12-month period
194 may not exceed 20 percent of the total number of hospice days
195 for all the hospice patients of the licensed hospice. Hospice
196 inpatient care shall be under the direct administration of the
197 hospice, whether the inpatient facility is a freestanding
198 hospice facility or part of a facility licensed pursuant to
199 chapter 395 or part II of this chapter. The facility or rooms
200 within a facility used for the hospice inpatient component of

201 care shall be arranged, administered, and managed in such a
202 manner as to provide privacy, dignity, comfort, warmth, and
203 safety for the terminally ill patient and the family. Every
204 possible accommodation must be made to create as homelike an
205 atmosphere as practicable. To facilitate overnight family
206 visitation within the facility, rooms must be limited to no more
207 than double occupancy; and, whenever possible, both occupants
208 must be hospice patients. There must be a continuum of care and
209 a continuity of caregivers between the hospice home program and
210 the inpatient aspect of care to the extent practicable and
211 compatible with the preferences of the patient and his or her
212 family. Fees charged for hospice inpatient care, whether
213 provided directly by the hospice or through contract, must be
214 made available upon request to the Agency for Health Care
215 Administration. The hours for daily operation and the location
216 of the place where the services are provided must be determined,
217 to the extent practicable, by the accessibility of such services
218 to the patients and families served by the hospice.

219 (5) BEREAVEMENT COUNSELING.—The hospice bereavement
220 program must be a comprehensive program, under professional
221 supervision, that provides a continuum of formal and informal
222 supportive services to the family for a minimum of 1 year after
223 the patient's death. This subsection does not constitute an
224 additional exemption from chapter 490 or chapter 491.

225 Section 5. Section 400.6093, Florida Statutes, is created

226 | to read:

227 | 400.6093 Community palliative care services.—A hospice may
 228 | provide palliative care to a seriously ill patient and his or
 229 | her family members. Such palliative care may be provided to
 230 | manage the side effects of treatment for a progressive disease
 231 | or medical or surgical condition. Such care may also be provided
 232 | directly by the hospice or by other providers under contract
 233 | with the hospice. This section does not preclude the provision
 234 | of palliative care to seriously ill patients by any other health
 235 | care provider or health care facility that is otherwise
 236 | authorized to provide such care. This section does not mandate
 237 | or prescribe additional Medicaid coverage.

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

240 | 400.6095 Patient admission; assessment; plan of care;
 241 | discharge; death.—

242 | (1) Each hospice shall make its services available to all
 243 | terminally ill patients ~~persons~~ and their families without
 244 | regard to age, gender, national origin, sexual orientation,
 245 | disability, diagnosis, cost of therapy, ability to pay, or life
 246 | circumstances. A hospice may ~~shall~~ not impose any value or
 247 | belief system on its patients or their families and shall
 248 | respect the values and belief systems of its patients and their
 249 | families.

250 | (2) Admission of a terminally ill patient to a hospice

251 program shall be made upon a diagnosis and prognosis of terminal
252 illness by a physician licensed pursuant to chapter 458 or
253 chapter 459 and must ~~shall~~ be dependent on the expressed request
254 and informed consent of the patient.

255 Section 7. Section 400.6096, Florida Statutes, is created
256 to read:

257 400.6096 Disposal of prescribed controlled substances
258 following the death of a patient in the home.—

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

263 (2) A hospice that assists in the disposal of a prescribed
264 controlled substance in the patient's home at the time of the
265 patient's death must have an established written policy,
266 procedure, or system for prescribed controlled substance
267 disposal.

268 (3) A hospice physician, nurse, or social worker, upon the
269 patient's death and with the permission of a family member or a
270 caregiver of the patient, is authorized to assist in the
271 disposal of an unused controlled substance prescribed to the
272 patient pursuant to the written policy, procedure, or system
273 established under subsection (2).

274 (4) The prescribed controlled substance disposal procedure
275 must be carried out in the patient's home. Hospice staff and

276 volunteers are not authorized to remove a prescribed controlled
277 substance from the patient's home.

278 Section 8. Section 400.611, Florida Statutes, is amended
279 to read:

280 400.611 Interdisciplinary records of care;
281 confidentiality; release of records.—

282 (1) A hospice shall maintain an up-to-date,
283 interdisciplinary record of care being given and patient and
284 family status shall be kept. Records shall contain pertinent
285 past and current medical, nursing, social, and other therapeutic
286 information and such other information that is necessary for the
287 safe and adequate care of the patient. Notations regarding all
288 aspects of care for the patient and family shall be made in the
289 record. When services are terminated, the record shall show the
290 date and reason for termination.

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

296 (3) The interdisciplinary record of patient care and
297 billing records are confidential.

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

301 (a) A patient authorization executed by the patient prior
302 to death;

303 (b) In the case of an incapacitated patient, a patient
304 authorization executed prior to the patient's death by the
305 patient's then acting legal guardian, health care surrogate as
306 defined in s. 765.101(21), health care proxy as defined in s.
307 765.101(19), or agent under power of attorney;

308 (c) A court order appointing the person as the
309 administrator, curator, executor, or personal representative of
310 the patient's estate with authority to obtain the patient's
311 medical records;

312 (d) If a judicial appointment has not been made pursuant
313 to paragraph (c), a last will that is self-proved under s.
314 732.503 and designates the person to act as the patient's
315 personal representative; or

316 (e) An order by a court of competent jurisdiction to
317 release the interdisciplinary record to the person.

318 (5) For purposes of this section, the term "patient
319 authorization" means an unrevoked written statement by the
320 patient, an oral statement made by the patient that has been
321 reduced to writing in the patient's interdisciplinary record of
322 care, or, in the case of an incapacitated patient, a written
323 authorization to release the interdisciplinary record to a
324 person requesting the record by the patient's then acting legal

325 guardian, health care surrogate, agent under a power of
326 attorney, or health care proxy.

327 (6) A hospice shall release requested aggregate patient
328 statistical data to a state or federal agency acting under its
329 statutory authority. Any information obtained from patient
330 records by a state agency pursuant to its statutory authority is
331 confidential and exempt from the provisions of s. 119.07(1).

332 ~~(3) Patient records of care are confidential. A hospice~~
333 ~~may not release a record or any portion thereof, unless:~~

334 ~~(a) A patient or legal guardian has given express written~~
335 ~~informed consent;~~

336 ~~(b) A court of competent jurisdiction has so ordered; or~~

337 ~~(c) A state or federal agency, acting under its statutory~~
338 ~~authority, requires submission of aggregate statistical data.~~

339 ~~Any information obtained from patient records by a state agency~~
340 ~~pursuant to its statutory authority is confidential and exempt~~
341 ~~from the provisions of s. 119.07(1).~~

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