

By Senator Thurston

33-00855-18

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1 A bill to be entitled
2 An act relating to electronic health records; amending
3 s. 408.051, F.S.; requiring a contracted vendor to
4 release certain electronic health care records to
5 another vendor selected by the health care provider
6 within a specified timeframe; requiring a contract
7 between a vendor and a health care provider to include
8 a certain provision related to the payment of
9 liquidated damages; providing that a vendor that fails
10 to transfer designated electronic health records
11 within the required timeframe is liable under the
12 provisions of such contract; providing an effective
13 date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (5) of section 408.051, Florida
18 Statutes, is renumbered as subsection (6) and amended, and a new
19 subsection (5) is added to that section, to read:

20 408.051 Florida Electronic Health Records Exchange Act.—

21 (5) TRANSFER OF ELECTRONIC HEALTH RECORDS BETWEEN VENDORS.—

22 A contracted vendor responsible for the storage and maintenance
23 of electronic health records for a health care provider shall
24 release those records to another vendor selected by the health
25 care provider within 30 days after termination of the contract.
26 A contract between a vendor and a health care provider must
27 contain a provision for payment of liquidated damages of no less
28 than 20 percent of the annual payment to the vendor for
29 noncompliance with this subsection.

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30 (6) ~~(5)~~ PENALTIES.—

31 (a) A person who does any of the following may be liable to
32 the patient or a health care provider that has released an
33 identifiable health record in reliance on an authorization form
34 presented to the health care provider by the person for
35 compensatory damages caused by an unauthorized release, plus
36 reasonable attorney ~~attorney's~~ fees and costs:

37 1. ~~(a)~~ Forges a signature on an authorization form or
38 materially alters the authorization form of another person
39 without the person's authorization; or

40 2. ~~(b)~~ Obtains an authorization form or an identifiable
41 health record of another person under false pretenses.

42 (b) A vendor that fails to transfer designated electronic
43 health records within the timeframe required under subsection
44 (5) shall be liable for payment of liquidated damages as
45 specified in the contract for services.

46 Section 2. This act shall take effect July 1, 2018.