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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/18/2019	.	
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The Committee on Health Policy (Harrell) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 111 - 671

and insert:

service provider must furnish applicable clinical records in its possession.

(b) If a service provider maintains a system of electronic health records as defined in s. 408.051, the service provider shall furnish the requested records in the manner chosen by the requester, which may include paper documents, electronic format,



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11 access through a web-based patient portal, or submission through  
12 a patient's electronic personal health record.

13 (4) The service provider may charge a requester no more  
14 than the reasonable costs of reproducing the clinical records,  
15 including reasonable staff time.

16 (a) The reasonable costs of reproducing paper copies of  
17 written or typed documents or reports may not exceed \$1 per page  
18 for the first 25 pages and 25 cents per page for all pages  
19 thereafter.

20 (b) The reasonable costs of reproducing X-rays and other  
21 forms of images shall be the actual costs. Actual costs shall be  
22 the sum of the cost of the material and supplies used to  
23 duplicate the record and the labor and overhead costs associated  
24 with the duplication.

25 (c) If the nature or volume of the clinical records  
26 requested to be copied requires extensive use of information  
27 technology resources or extensive clerical or supervisory  
28 assistance by personnel of the service provider, or both, the  
29 service provider may charge, in addition to the charges imposed  
30 under paragraphs (a) and (b), a special service charge, which  
31 shall be reasonable and shall be based on the cost incurred for  
32 such extensive use of information technology resources or the  
33 labor cost of the personnel providing the service which is  
34 actually incurred by the service provider or attributable to the  
35 service provider for the clerical and supervisory assistance  
36 required, or both.

37 (d) The charges established in this subsection apply to all  
38 records furnished, whether directly from a service provider or  
39 from a copy service acting on behalf of the service provider.



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40 However, a patient whose records are copied or searched for the  
41 purpose of continuing to receive care is not required to pay a  
42 charge for copying or for the search.

43 Section 2. Subsection (1) and paragraph (e) of subsection  
44 (4) of section 395.3025, Florida Statutes, are amended to read:

45 395.3025 Patient and personnel records; copies;  
46 examination.-

47 (1) (a) Any licensed facility shall, upon written request,  
48 and only after discharge of the patient, furnish, in a timely  
49 manner as provided in paragraph (b), without delays for legal  
50 review, to any person admitted therein for care and treatment or  
51 treated thereat, or to any such person's guardian, curator, or  
52 personal representative, or in the absence of one of those  
53 persons, to the next of kin of a decedent or the parent of a  
54 minor, or to anyone designated by such person in writing, a true  
55 and correct copy of all patient records, including X rays, and  
56 insurance information concerning such person, which records are  
57 in the possession of the licensed facility, provided the person  
58 requesting such records agrees to pay a charge as provided in  
59 paragraph (d).

60 (b) Within 14 working days after receiving a request made  
61 in accordance with paragraph (a), a licensed facility must  
62 furnish applicable patient records in its possession.

63 (c) If a licensed facility maintains a system of electronic  
64 health records as defined in s. 408.051, the licensed facility  
65 shall furnish the requested records in the manner chosen by the  
66 requester, which may include paper documents, electronic format,  
67 access through a web-based patient portal, or submission through  
68 a patient's electronic personal health record.



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69           (d) The licensed facility may charge a requester no more  
70 than the reasonable costs of reproducing the patient records,  
71 including reasonable staff time.

72           1. The reasonable costs of reproducing paper copies of  
73 written or typed documents or reports may not exceed \$1 per page  
74 for the first 25 pages and 25 cents per page for all pages  
75 thereafter.

76           2. The reasonable costs of reproducing X-rays and other  
77 forms of images shall be the actual costs. Actual costs shall be  
78 the sum of the cost of the material and supplies used to  
79 duplicate the record and the labor and overhead costs associated  
80 with the duplication.

81           3. If the nature or volume of the patient records requested  
82 to be copied requires extensive use of information technology  
83 resources or extensive clerical or supervisory assistance by  
84 personnel of the licensed facility, or both, the licensed  
85 facility may charge, in addition to the charges imposed under  
86 subparagraphs 1. and 2., a special service charge, which shall  
87 be reasonable and shall be based on the cost incurred for such  
88 extensive use of information technology resources or the labor  
89 cost of the personnel providing the service which is actually  
90 incurred by the licensed facility or attributable to the  
91 licensed facility for the clerical and supervisory assistance  
92 required, or both.

93           4. The charges established in this paragraph ~~The exclusive~~  
94 ~~charge for copies of patient records may include sales tax and~~  
95 ~~actual postage, and, except for nonpaper records that are~~  
96 ~~subject to a charge not to exceed \$2, may not exceed \$1 per~~  
97 ~~page. A fee of up to \$1 may be charged for each year of records~~



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98 ~~requested. These charges shall~~ apply to all records furnished,  
99 whether directly from the facility or from a copy service acting  
100 ~~providing these services~~ on behalf of the facility. However, a  
101 patient whose records are copied or searched for the purpose of  
102 continuing to receive ~~medical~~ care is not required to pay a  
103 charge for copying or for the search.

104 (e) If a person authorized to receive copies of patient  
105 records under paragraph (a) requests to examine the licensed  
106 facility's original records pertaining to the patient, the  
107 licensed facility shall, within 10 working days after receiving  
108 such a request, provide such person with access to examine such  
109 original records, microforms, or other suitable reproductions of  
110 such records in its possession. A licensed facility may impose  
111 any reasonable terms necessary to ensure ~~further allow any such~~  
112 ~~person to examine the original records in its possession, or~~  
113 ~~microforms or other suitable reproductions of the records, upon~~  
114 ~~such reasonable terms as shall be imposed to assure that the~~  
115 records will not be damaged, destroyed, or altered.

116 (4) Patient records are confidential and may ~~must~~ not be  
117 disclosed without the consent of the patient or his or her legal  
118 representative; however, ~~but~~ appropriate disclosure may be made  
119 without such consent to:

120 (e) The department ~~agency~~ upon subpoena issued pursuant to  
121 s. 456.071, but the records obtained thereby must be used solely  
122 for the purpose of the department ~~agency~~ and the appropriate  
123 professional board in its investigation, prosecution, and appeal  
124 of disciplinary proceedings. If the department ~~agency~~ requests  
125 copies of the records, the facility shall charge no more than  
126 its actual copying costs, including reasonable staff time. The



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127 records must be sealed and must not be available to the public  
128 pursuant to s. 119.07(1) or any other statute providing access  
129 to records, nor may they be available to the public as part of  
130 the record of investigation for and prosecution in disciplinary  
131 proceedings made available to the public by the department  
132 ~~agency~~ or the appropriate regulatory board. However, the  
133 department ~~agency~~ must make available, upon written request by a  
134 practitioner against whom probable cause has been found, any  
135 such records that form the basis of the determination of  
136 probable cause.

137 Section 3. Present paragraphs (a) through (j) of subsection  
138 (7) of section 397.501, Florida Statutes, are redesignated as  
139 paragraphs (d) through (m), respectively, and new paragraphs  
140 (a), (b), and (c) are added to that subsection, to read:

141 397.501 Rights of individuals.—Individuals receiving  
142 substance abuse services from any service provider are  
143 guaranteed protection of the rights specified in this section,  
144 unless otherwise expressly provided, and service providers must  
145 ensure the protection of such rights.

146 (7) RIGHT TO ACCESS TO AND CONFIDENTIALITY OF INDIVIDUAL  
147 RECORDS.—

148 (a)1. Within 14 working days after receiving a written  
149 request from an individual or an individual's legal  
150 representative, a service provider shall furnish a true and  
151 correct copy of all records pertaining to that individual in the  
152 possession of the service provider.

153 2. For the purpose of this subsection, the term "legal  
154 representative" means an individual's legal guardian or, if the  
155 individual is younger than 18 years old, the individual's parent



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156 or legal guardian.

157 3. If a service provider maintains a system of electronic  
158 health records as defined in s. 408.051, the service provider  
159 shall furnish the requested records in the manner chosen by the  
160 requester, which may include paper documents, electronic format,  
161 access through a web-based patient portal, or submission through  
162 an individual's electronic personal health record.

163 (b) A service provider may charge the requester no more  
164 than the reasonable costs of reproducing the records, including  
165 reasonable staff time.

166 1. The reasonable costs of reproducing paper copies of  
167 written or typed documents or reports may not exceed \$1 per page  
168 for the first 25 pages and 25 cents per page for all pages  
169 thereafter.

170 2. The reasonable costs of reproducing X-rays and such  
171 other kinds of records shall be the actual costs. Actual costs  
172 are the sum of the cost of the material and supplies used to  
173 duplicate the records and the labor and overhead costs  
174 associated with the duplication.

175 3. If the nature or volume of the records requested to be  
176 copied requires extensive use of information technology  
177 resources or extensive clerical or supervisory assistance by  
178 personnel of the service provider, or both, the service provider  
179 may charge, in addition to the charges imposed under  
180 subparagraphs 1. and 2., a special service charge, which shall  
181 be reasonable and shall be based on the cost incurred for such  
182 extensive use of information technology resources or the labor  
183 cost of the personnel providing the service which is actually  
184 incurred by the service provider or attributable to the service



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185 provider for the clerical and supervisory assistance required,  
186 or both.

187 4. The charges established in this paragraph apply to all  
188 records furnished, whether directly from a service provider or  
189 from a copy service acting on behalf of the service provider.  
190 However, an individual whose records are copied or searched for  
191 the purpose of continuing to receive care is not required to pay  
192 a charge for copying or for the search.

193 (c) Within 10 working days after receiving a request from  
194 an individual or an individual's legal representative to examine  
195 the service provider's original records pertaining to that  
196 individual, a service provider shall provide access to examine  
197 such original records, microforms, or other suitable  
198 reproductions of such records in its possession. A service  
199 provider may impose any reasonable terms necessary to ensure  
200 that the records will not be damaged, destroyed, or altered.

201 Section 4. Subsection (4) of section 400.145, Florida  
202 Statutes, is amended to read:

203 400.145 Copies of records of care and treatment of  
204 resident.—

205 (4)(a) Within 14 working days after receiving a request  
206 made in accordance with subsections (1)-(3), a nursing home  
207 facility must furnish applicable resident records in its  
208 possession in accordance with this subsection.

209 (b) If a nursing home facility maintains a system of  
210 electronic health records as defined in s. 408.051, the facility  
211 shall furnish the requested records in the manner chosen by the  
212 requester, which may include paper documents, electronic format,  
213 or access through a web-based portal.





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214 (c) The nursing home facility may charge a requester no  
215 more than the reasonable costs of reproducing the records,  
216 including reasonable staff time.

217 1. The reasonable costs of reproducing paper copies of  
218 written or typed documents or reports may not exceed \$1 per page  
219 for the first 25 pages and 25 cents per page for all pages  
220 thereafter.

221 2. The reasonable costs of reproducing X-rays and other  
222 forms of images shall be the actual costs. Actual costs shall be  
223 the sum of the cost of the material and supplies used to  
224 duplicate the record and the labor and overhead costs associated  
225 with the duplication.

226 3. If the nature or volume of the records requested to be  
227 copied requires extensive use of information technology  
228 resources or extensive clerical or supervisory assistance by  
229 personnel of the nursing home facility, or both, the facility  
230 may charge, in addition to the charges imposed under  
231 subparagraphs 1. and 2., a special service charge, which shall  
232 be reasonable and shall be based on the cost incurred for such  
233 extensive use of information technology resources or the labor  
234 cost of the personnel providing the service which is actually  
235 incurred by the facility or attributable to the facility for the  
236 clerical and supervisory assistance required, or both.

237 4. The charges established in this paragraph apply to all  
238 records furnished, whether directly from a nursing home facility  
239 or from a copy service acting on behalf of the facility.  
240 However, a resident whose records are copied or searched for the  
241 purpose of continuing to receive care is not required to pay a  
242 charge for copying or for the search



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243        (d) Within 10 working days after receiving a request from a  
244 person who is authorized to act on behalf of a resident to  
245 examine the nursing home facility's original records pertaining  
246 to the resident, the facility shall provide access to examine  
247 such original records, microforms, or other suitable  
248 reproductions of such records in its possession. A facility may  
249 impose any reasonable terms necessary ~~A nursing home facility~~  
250 ~~may charge a reasonable fee for the copying of resident records.~~  
251 ~~Such fee may not exceed \$1 per page for the first 25 pages and~~  
252 ~~25 cents per page for each additional page. The facility shall~~  
253 ~~allow a person who is authorized to act on behalf of the~~  
254 ~~resident to examine the original records, microfilms, or other~~  
255 ~~suitable reproductions of the records in its possession upon any~~  
256 ~~reasonable terms imposed by the facility to ensure that the~~  
257 ~~records are not damaged, destroyed, or altered.~~

258        Section 5. Subsections (6) and (17) of section 456.057,  
259 Florida Statutes, are amended to read:

260        456.057 Ownership and control of patient records; report or  
261 copies of records to be furnished; disclosure of information.-

262        (6) (a) Any health care practitioner licensed by the  
263 department or a board within the department who makes a physical  
264 or mental examination of, or administers treatment or dispenses  
265 legend drugs to, any person shall, upon written request of such  
266 person or the person's legal representative, furnish, within 14  
267 working days after such request ~~in a timely manner, without~~  
268 ~~delays for legal review,~~ copies of all reports and records  
269 relating to such examination or treatment, including X-rays \*  
270 ~~rays~~ and insurance information. If the health care practitioner  
271 maintains a system of electronic health records as defined in s.



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272 408.051, the health care practitioner shall furnish the  
273 requested records in the manner chosen by the requester, which  
274 may include paper documents, electronic format, access through a  
275 web-based patient portal, or submission through a patient's  
276 electronic personal health record.

277 (b) Within 10 working days after receiving a written  
278 request by a patient or the patient's legal representative to  
279 examine the health care practitioner's original reports and  
280 records pertaining to the patient, a health care practitioner  
281 must provide access to examine such original reports and  
282 records, or microforms or other suitable reproductions of the  
283 reports and records in the health care practitioner's  
284 possession. The health care practitioner may impose any  
285 reasonable terms necessary to ensure that the reports and  
286 records will not be damaged, destroyed, or altered.

287 (c) For the purposes of this subsection, the term "legal  
288 representative" means a patient's legal guardian or, if the  
289 patient is younger than 18 years old, the patient's parent or  
290 legal guardian.

291 (d) ~~However,~~ When a patient's psychiatric, chapter 490  
292 psychological, or chapter 491 psychotherapeutic records are  
293 requested by the patient or the patient's legal representative,  
294 the health care practitioner may provide a report of examination  
295 and treatment in lieu of copies of records. Upon a patient's  
296 written request, complete copies of the patient's psychiatric  
297 records shall be provided directly to a subsequent treating  
298 psychiatrist. The furnishing of such report or copies ~~may shall~~  
299 not be conditioned upon payment of a fee for services rendered.

300 (17) A licensed health care practitioner may charge the



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301 requester no more than the reasonable costs of reproducing the  
302 reports and records, including reasonable staff time.

303 (a) The reasonable costs of reproducing paper copies of  
304 written or typed documents or reports may not exceed \$1 per page  
305 for the first 25 pages and 25 cents per page for all pages  
306 thereafter.

307 (b) The reasonable costs of reproducing X-rays and such  
308 other kinds of records shall be the actual costs. Actual costs  
309 are the sum of the cost of the material and supplies used to  
310 duplicate the record and the labor and overhead costs associated  
311 with the duplication.

312 (c) If the nature or volume of the records requested to be  
313 copied requires extensive use of information technology  
314 resources or extensive clerical or supervisory assistance by  
315 personnel of the health care practitioner, or both, the health  
316 care practitioner may charge, in addition to the charges imposed  
317 under paragraphs (a) and (b), a special service charge, which  
318 shall be reasonable and shall be based on the cost incurred for  
319 such extensive use of information technology resources or the  
320 labor cost of the personnel providing the service which is  
321 actually incurred by the health care practitioner or  
322 attributable to the health care practitioner for the clerical  
323 and supervisory assistance required, or both.

324 (d) The charges established in this subsection apply to all  
325 reports and records furnished, whether directly from a health  
326 care practitioner or from a copy service providing such services  
327 on behalf of the health care practitioner. However, a patient  
328 whose reports and records are copied or searched for the purpose  
329 of continuing to receive medical care is not required to pay a



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330 ~~charge for copying or for the search A health care practitioner~~  
331 ~~or records owner furnishing copies of reports or records or~~  
332 ~~making the reports or records available for digital scanning~~  
333 ~~pursuant to this section shall charge no more than the actual~~  
334 ~~cost of copying, including reasonable staff time, or the amount~~  
335 ~~specified in administrative rule by the appropriate board, or~~  
336 ~~the department when there is no board.~~

337  
338 ===== T I T L E A M E N D M E N T =====

339 And the title is amended as follows:

340 Delete lines 10 - 56

341 and insert:

342 records; providing for a special service charge under  
343 specified conditions; amending s. 395.3025, F.S.;

344 requiring a licensed facility to furnish and provide  
345 access to patient records within a specified timeframe  
346 after receiving a request for such records; providing  
347 a conditional requirement that such records be  
348 furnished in the manner chosen by the requester;

349 authorizing the licensed facility to charge a  
350 reasonable cost associated with reproducing such  
351 records; providing for a special service charge under  
352 specified conditions; revising provisions relating to  
353 the appropriate disclosure of patient records without  
354 consent; amending s. 397.501, F.S.; requiring a  
355 service provider to furnish and provide access to  
356 records within a specified timeframe after receiving a  
357 request from an individual or an individual's legal  
358 representative; defining the term "legal



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359 representative"; providing a conditional requirement  
360 that such records be furnished in the manner chosen by  
361 the requester; authorizing the service provider to  
362 charge a reasonable cost associated with reproducing  
363 such records; providing for a special service charge  
364 under specified conditions; amending s. 400.145, F.S.;  
365 requiring a nursing home facility to furnish and  
366 provide access to records within a specified timeframe  
367 after receiving a request; providing a conditional  
368 requirement that such records be furnished in the  
369 manner chosen by the requester; authorizing the  
370 nursing home facility to charge a reasonable cost  
371 associated with reproducing such records; providing  
372 for a special service charge under specified  
373 conditions; amending s. 456.057, F.S.; requiring  
374 certain licensed health care practitioners to furnish  
375 and provide access to copies of reports and records  
376 within a specified timeframe after receiving a request  
377 from a patient or a patient's legal representative;  
378 authorizing such licensed health care practitioners to  
379 impose reasonable terms necessary to preserve such  
380 reports and records; defining the term "legal  
381 representative"; authorizing such licensed health care  
382 practitioners to charge a reasonable cost associated  
383 with reproducing such reports and records; providing  
384 for a special service charge under specified  
385 conditions; amending s. 395.1012, F.S.; requiring a