

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to enhancing patient care continuums;
3 amending s. 381.026, F.S.; defining the term "patient
4 care continuum"; revising the purpose of the patient's
5 bill of rights; providing that patients have a right
6 to expect their health care records to be shared
7 between their health care providers; conforming
8 provisions to changes made by the act; amending s.
9 381.0405, F.S.; revising the purpose and functions of
10 the Office of Rural Health; amending s. 381.0406,
11 F.S.; revising legislative findings; revising the
12 definition of the term "health care provider";
13 defining the term "patient care continuum"; requiring
14 rural health networks to use health information
15 exchange systems for specified purposes; amending s.
16 381.04065, F.S.; revising criteria for Department of
17 Health approval of certain cooperative agreements in
18 certified rural health networks; amending s. 395.1052,
19 F.S.; requiring hospitals to use health information
20 exchange systems to provide certain notification to a
21 patient's primary care provider, if any; requiring
22 hospitals to inform each patient of the right to
23 request the hospital's treating physician consult with
24 any provider within the patient's care continuum,
25 rather than only the primary care provider or a
26 specialist provider, when developing the patient's
27 plan of care; requiring the treating physician to make
28 a reasonable effort to consult with such provider, if
29 requested; amending s. 395.3015, F.S.; requiring

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30 certain hospitals to require use of an electronic
31 system for patient medical records; amending s.
32 408.05, F.S.; revising membership requirements for the
33 State Consumer Health Information and Policy Advisory
34 Council; amending s. 408.051, F.S.; defining and
35 revising terms; requiring health care facilities to
36 use health information exchange systems to exchange
37 electronic health records; providing requirements for
38 the exchange of electronic health records and minimum
39 requirements for such records; prohibiting vendors of
40 certified electronic health record technologies from
41 charging health care facilities and health care
42 practitioners more than a specified amount for
43 building an interface with a health information
44 exchange system; requiring such vendors to provide
45 system upgrades and software updates free of charge to
46 health care facilities and health care practitioners
47 who purchase the technology; amending s. 408.0611,
48 F.S.; requiring the Agency for Health Care
49 Administration to provide health information exchange
50 systems with access to the electronic prescribing
51 clearinghouse for a specified purpose; amending s.
52 456.057, F.S.; requiring certain records owners to use
53 a health information exchange system to provide
54 patient records to health care practitioners and
55 providers; amending ss. 381.4018 and 456.42, F.S.;
56 conforming cross-references; providing an effective
57 date.

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59 WHEREAS, laws and rules should allow health care
60 practitioners to practice to the full extent of their
61 professional training and expertise throughout a patient's care
62 continuum through the secure electronic exchange of the
63 patient's health records between private, local, and state
64 health information exchange systems, and

65 WHEREAS, laws and rules should allow health care providers
66 to deliver primary, acute, tertiary, quaternary, long-term, and
67 palliative health care services based on real-time data created
68 by health care providers throughout a patient's care continuum
69 to improve patient outcomes and quality of life, and

70 WHEREAS, all types of health care providers who create or
71 own a patient's health records should be free to share such
72 health information without the constraints of costly interfaces
73 imposed by certified electronic health record technology
74 vendors, and

75 WHEREAS, patients have a right to expect robust
76 communication between all of the health care providers within
77 their care continuums, and

78 WHEREAS, laws and rules should not allow or create
79 mechanisms that block the owner of health records from sharing
80 or exchanging such records with health care providers in a
81 patient's care continuum, and

82 WHEREAS, laws and rules should not add burdens or barriers
83 beyond what is required by state and federal health information
84 privacy laws, focusing only on those policies that prevent
85 patient harm rather than policies that are overly prescriptive
86 and unnecessarily restrict communication between a patient's
87 health care providers, and

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88 WHEREAS, laws and rules should allow Medicaid and other
89 public health programs to share a defined set of patient health
90 information to support the care continuum throughout the life of
91 a patient, NOW, THEREFORE,

92

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

94

95 Section 1. Present paragraphs (d) and (e) of subsection (2)
96 of section 381.026, Florida Statutes, are redesignated as
97 paragraphs (e) and (f), respectively, a new paragraph (d) is
98 added to that subsection, and subsection (3), paragraph (b) of
99 subsection (4), and subsection (6) of that section are amended,
100 to read:

101 381.026 Florida Patient's Bill of Rights and
102 Responsibilities.-

103 (2) DEFINITIONS.-As used in this section and s. 381.0261,
104 the term:

105 (d) "Patient care continuum" means an integrated system of
106 health care which follows a patient through time or through a
107 range of services and requires health care providers and other
108 providers to document care more thoroughly over time and to
109 share patient data across specialties, offering a more unified
110 patient care approach and facilitating the seamless transition
111 of the patient's care between specialists and other providers.
112 The term includes, but is not limited to, an interdisciplinary
113 or case management team involving health care providers and
114 nonmedical administrators who collaborate to document the
115 patient's progression of care and assist in day-to-day health
116 care provider decisions to ensure that the patient receives the

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117 highest possible quality of care.

118 (3) PURPOSE.—It is the purpose of this section to promote
119 the interests and well-being of the patients of health care
120 providers and health care facilities and to promote better
121 communication between the patient and the patient's health care
122 providers throughout the patient's care continuum ~~provider~~. It
123 is the intent of the Legislature that health care providers
124 understand their responsibility to give their patients a general
125 understanding of the procedures to be performed on them; ~~and~~ to
126 provide information pertaining to their health care so that they
127 may make decisions in an informed manner after considering the
128 information relating to their condition, the available treatment
129 alternatives, and substantial risks and hazards inherent in the
130 treatments; and to provide the necessary follow-up care and
131 information after the procedures are performed on them. It is
132 the intent of the Legislature that patients have a general
133 understanding of their responsibilities toward health care
134 providers and health care facilities. It is the intent of the
135 Legislature that the provision of such information to a patient
136 eliminate potential misunderstandings between patients and
137 health care providers. It is a public policy of the state that
138 the interests of patients be recognized in a patient's bill of
139 rights and responsibilities and that a health care facility or
140 health care provider may not require a patient to waive his or
141 her rights as a condition of treatment. This section may ~~shall~~
142 not be used for any purpose in any civil or administrative
143 action and neither expands nor limits any rights or remedies
144 provided under any other law.

145 (4) RIGHTS OF PATIENTS.—Each health care facility or

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146 provider shall observe the following standards:

147 (b) *Information.*—

148 1. A patient has the right to know the name, function, and
149 qualifications of each health care provider who is providing
150 medical services to the patient. A patient may request such
151 information from his or her responsible provider or the health
152 care facility in which he or she is receiving medical services.

153 2. A patient in a health care facility has the right to
154 know what patient support services are available in the
155 facility.

156 3. A patient has the right to be given by his or her health
157 care provider information concerning diagnosis, planned course
158 of treatment, alternatives, risks, and prognosis, unless it is
159 medically inadvisable or impossible to give this information to
160 the patient, in which case the information must be given to the
161 patient's guardian or a person designated as the patient's
162 representative. A patient has the right to refuse this
163 information.

164 4. A patient has the right to expect his or her health care
165 records to be shared, in accordance with any applicable state
166 and federal privacy regulations, among health care providers and
167 other providers involved in the patient's care continuum for the
168 purpose of facilitating a seamless transition of the patient's
169 care between specialists and other providers.

170 5. A patient has the right to refuse any treatment based on
171 information required by this paragraph, except as otherwise
172 provided by law. The responsible provider shall document any
173 such refusal.

174 ~~6.5.~~ A patient in a health care facility has the right to

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175 know what facility rules and regulations apply to patient
176 conduct.

177 ~~7.6.~~ A patient has the right to express grievances to a
178 health care provider, a health care facility, or the appropriate
179 state licensing agency regarding alleged violations of patients'
180 rights. A patient has the right to know the health care
181 provider's or health care facility's procedures for expressing a
182 grievance.

183 ~~8.7.~~ A patient in a health care facility who does not speak
184 English has the right to be provided an interpreter when
185 receiving medical services if the facility has a person readily
186 available who can interpret on behalf of the patient.

187 ~~9.8.~~ A health care provider or health care facility shall
188 respect a patient's right to privacy and should refrain from
189 making a written inquiry or asking questions concerning the
190 ownership of a firearm or ammunition by the patient or by a
191 family member of the patient, or the presence of a firearm in a
192 private home or other domicile of the patient or a family member
193 of the patient. Notwithstanding this provision, a health care
194 provider or health care facility that in good faith believes
195 that this information is relevant to the patient's medical care
196 or safety, or safety of others, may make such a verbal or
197 written inquiry.

198 ~~10.9.~~ A patient may decline to answer or provide any
199 information regarding ownership of a firearm by the patient or a
200 family member of the patient, or the presence of a firearm in
201 the domicile of the patient or a family member of the patient. A
202 patient's decision not to answer a question relating to the
203 presence or ownership of a firearm does not alter existing law

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204 regarding a physician's authorization to choose his or her
 205 patients.

206 11.10. A health care provider or health care facility may
 207 not discriminate against a patient based solely upon the
 208 patient's exercise of the constitutional right to own and
 209 possess firearms or ammunition.

210 12.11. A health care provider or health care facility shall
 211 respect a patient's legal right to own or possess a firearm and
 212 should refrain from unnecessarily harassing a patient about
 213 firearm ownership during an examination.

214 (6) SUMMARY OF RIGHTS AND RESPONSIBILITIES.—Any health care
 215 practitioner as defined in s. 456.001 ~~provider~~ who treats a
 216 patient in an office or any health care facility licensed under
 217 chapter 395 that provides emergency services and care or
 218 outpatient services and care to a patient, or admits and treats
 219 a patient, shall adopt and make available to the patient, in
 220 writing, a statement of the rights and responsibilities of
 221 patients, including the following:

222
 223 SUMMARY OF THE FLORIDA PATIENT'S BILL
 224 OF RIGHTS AND RESPONSIBILITIES
 225

226 Florida law requires that your health care provider or
 227 health care facility recognize your rights while you are
 228 receiving medical care and that you respect the health care
 229 provider's or health care facility's right to expect certain
 230 behavior on the part of patients. You may request a copy of the
 231 full text of this law from your health care provider or health
 232 care facility. A summary of your rights and responsibilities

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233 follows:

234 A patient has the right to be treated with courtesy and
235 respect, with appreciation of his or her individual dignity, and
236 with protection of his or her need for privacy.

237 A patient has the right to a prompt and reasonable response
238 to questions and requests.

239 A patient has the right to know who is providing medical
240 services and who is responsible for his or her care.

241 A patient has the right to know what patient support
242 services are available, including whether an interpreter is
243 available if he or she does not speak English.

244 A patient has the right to bring any person of his or her
245 choosing to the patient-accessible areas of the health care
246 facility or provider's office to accompany the patient while the
247 patient is receiving inpatient or outpatient treatment or is
248 consulting with his or her health care provider, unless doing so
249 would risk the safety or health of the patient, other patients,
250 or staff of the facility or office or cannot be reasonably
251 accommodated by the facility or provider.

252 A patient has the right to know what rules and regulations
253 apply to his or her conduct.

254 A patient has the right to be given by the health care
255 provider information concerning diagnosis, planned course of
256 treatment, alternatives, risks, and prognosis.

257 A patient has the right to expect communication between
258 health care providers involved in the patient's care continuum.

259 A patient has the right to refuse any treatment, except as
260 otherwise provided by law.

261 A patient has the right to be given, upon request, full

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262 information and necessary counseling on the availability of
263 known financial resources for his or her care.

264 A patient who is eligible for Medicare has the right to
265 know, upon request and in advance of treatment, whether the
266 health care provider or health care facility accepts the
267 Medicare assignment rate.

268 A patient has the right to receive, upon request, before
269 ~~prior to~~ treatment, a reasonable estimate of charges for medical
270 care.

271 A patient has the right to receive a copy of a reasonably
272 clear and understandable, itemized bill and, upon request, to
273 have the charges explained.

274 A patient has the right to impartial access to medical
275 treatment or accommodations, regardless of race, national
276 origin, religion, handicap, or source of payment.

277 A patient has the right to treatment for any emergency
278 medical condition that will deteriorate from failure to provide
279 treatment.

280 A patient has the right to know if medical treatment is for
281 purposes of experimental research and to give his or her consent
282 or refusal to participate in such experimental research.

283 A patient has the right to express grievances regarding any
284 violation of his or her rights, as stated in Florida law,
285 through the grievance procedure of the health care provider or
286 health care facility which served him or her and to the
287 appropriate state licensing agency.

288 A patient is responsible for providing to the health care
289 provider, to the best of his or her knowledge, accurate and
290 complete information about present complaints, past illnesses,

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291 hospitalizations, medications, and other matters relating to his
292 or her health.

293 A patient is responsible for reporting unexpected changes
294 in his or her condition to the health care provider.

295 A patient is responsible for reporting to the health care
296 provider whether he or she comprehends a contemplated course of
297 action and what is expected of him or her.

298 A patient is responsible for following the treatment plan
299 recommended by the health care provider.

300 A patient is responsible for keeping appointments and, when
301 he or she is unable to do so for any reason, for notifying the
302 health care provider or health care facility.

303 A patient is responsible for his or her actions if he or
304 she refuses treatment or does not follow the health care
305 provider's instructions.

306 A patient is responsible for assuring that the financial
307 obligations of his or her health care are fulfilled as promptly
308 as possible.

309 A patient is responsible for following health care facility
310 rules and regulations affecting patient care and conduct.

311 Section 2. Subsection (2), paragraph (a) of subsection (3),
312 and paragraph (c) of subsection (4) of section 381.0405, Florida
313 Statutes, are amended to read:

314 381.0405 Office of Rural Health.—

315 (2) PURPOSE.—The Office of Rural Health shall actively
316 foster the provision of health care services in rural areas and
317 serve as a catalyst for improved patient care continuums and
318 health services provided to citizens in rural areas of this ~~the~~
319 state.

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320 (3) GENERAL FUNCTIONS.—The office shall:

321 (a) Integrate policies related to physician workforce,
322 hospitals, public health, ~~and~~ state regulatory functions, and
323 the secure exchange of electronic patient health records between
324 health information exchange systems as defined in s. 408.051(2).

325 (4) COORDINATION.—The office shall:

326 (c) Foster the creation of regional health care systems
327 that promote cooperation, rather than competition, to support
328 patient care continuums.

329 Section 3. Paragraph (c) of subsection (1) and subsections
330 (2) and (9) of section 381.0406, Florida Statutes, are amended
331 to read:

332 381.0406 Rural health networks.—

333 (1) LEGISLATIVE FINDINGS AND INTENT.—

334 (c) The Legislature further finds that the availability of
335 a continuum of quality health care services, including
336 preventive, primary, secondary, tertiary, ~~and~~ long-term, and
337 palliative care, is essential to the economic and social
338 vitality of rural communities.

339 (2) DEFINITIONS.—As used in ss. 381.0405-381.04065, the
340 term:

341 (c) ~~(a)~~ "Rural" means an area with a population density of
342 less than 100 individuals per square mile or an area defined by
343 the most recent United States Census as rural.

344 (a) ~~(b)~~ "Health care provider" means any individual, group,
345 or entity, public or private, that provides health care,
346 including ~~preventive~~ health care, primary health care,
347 secondary and tertiary health care, palliative health care, in-
348 hospital health care, public health care, and health promotion

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349 and education.

350 (b) "Patient care continuum" means an integrated system of
351 health care which follows a patient through time or through a
352 range of services and requires health care providers and other
353 providers to document care more thoroughly over time and to
354 share patient data across specialties, offering a more unified
355 patient care approach and facilitating the seamless transition
356 of the patient's care between specialists and other providers.
357 The term includes, but is not limited to, an interdisciplinary
358 or case management team involving health care providers and
359 nonmedical administrators who collaborate to document the
360 patient's progression of care and assist in day-to-day health
361 care provider decisions to ensure that the patient receives the
362 highest possible quality of care.

363 (d)~~(e)~~ "Rural health network" or "network" means a
364 nonprofit legal entity, consisting of rural and urban health
365 care providers and others, that is organized to plan and deliver
366 health care services on a cooperative basis in a rural area,
367 except for some secondary and tertiary care services.

368 (9) Networks shall establish standard protocols, coordinate
369 and share patient records, and develop patient information
370 exchange systems using health information exchange systems as
371 defined in s. 408.051(2) to support patient care continuums.

372 Section 4. Subsection (2) of section 381.04065, Florida
373 Statutes, is amended to read:

374 381.04065 Rural health network cooperative agreements.—

375 (2) DEPARTMENT APPROVAL.—Providers who are members of
376 certified rural health networks who seek to consolidate services
377 or technologies or enter into cooperative agreements shall seek

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378 approval from the Department of Health, which may consult with
379 the Department of Legal Affairs. The department shall determine
380 that the likely benefits resulting from the agreement outweigh
381 any disadvantages attributable to any potential reduction in
382 competition resulting from the agreement and issue a letter of
383 approval if, in its determination, the agreement reduces or
384 moderates costs and meets any of the following criteria:

385 (a) Consolidates services or facilities in a market area
386 used by rural health network patients to avoid duplication.~~†~~

387 (b) Promotes cooperation between rural health network
388 members in the market area.~~†~~

389 (c) Encourages cost sharing among rural health network
390 facilities.~~†~~

391 (d) Enhances the quality of rural health care.~~†~~~~or~~

392 (e) Improves utilization of rural health resources and
393 equipment.

394 (f) Improves the secure exchange of electronic patient
395 health records between health information exchange systems as
396 specified in s. 408.051 to support the patient care continuum.

397 Section 5. Subsections (1) and (2) of section 395.1052,
398 Florida Statutes, are amended to read:

399 395.1052 Patient access to primary care and specialty
400 providers; notification.—A hospital shall:

401 (1) Notify each patient's primary care provider, if any,
402 within 24 hours after the patient's admission to the hospital,
403 using a health information exchange system for exchanging
404 electronic health records as specified in s. 408.051.

405 (2) Inform the patient immediately upon admission that he
406 or she may request to have the hospital's treating physician

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407 consult with the patient's primary care provider, ~~or~~ specialist
408 provider, or other provider within the patient's care continuum,
409 if any, when developing the patient's plan of care. Upon the
410 patient's request, the hospital's treating physician shall make
411 reasonable efforts to consult with the patient's primary care
412 provider, ~~or~~ specialist provider, or other specified provider
413 when developing the patient's plan of care.

414 Section 6. Section 395.3015, Florida Statutes, is amended
415 to read:

416 395.3015 Patient records; form and content.—Each hospital
417 operated by the agency or ~~by~~ the Department of Corrections shall
418 require ~~the~~ use of an electronic ~~a~~ system of problem-oriented
419 medical records for its patients, which system must ~~shall~~
420 include the following elements: basic client data collection; a
421 listing of the patient's problems; the initial plan with
422 diagnostic and therapeutic orders as appropriate for each
423 problem identified; and progress notes, including a discharge
424 summary. The agency shall, by rule, establish criteria for such
425 problem-oriented medical record systems in order to ensure
426 comparability among facilities and to facilitate the compilation
427 of statewide statistics.

428 Section 7. Paragraphs (a) and (b) of subsection (6) of
429 section 408.05, Florida Statutes, are amended to read:

430 408.05 Florida Center for Health Information and
431 Transparency.—

432 (6) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY
433 COUNCIL.—

434 (a) There is established in the agency the State Consumer
435 Health Information and Policy Advisory Council to assist the

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436 center. The council consists of the following members:

437 1. An employee of the Executive Office of the Governor, to
438 be appointed by the Governor.

439 2. An employee of the Office of Insurance Regulation, to be
440 appointed by the director of the office.

441 3. An employee of the Department of Education, to be
442 appointed by the Commissioner of Education.

443 4. Ten persons, to be appointed by the Secretary of Health
444 Care Administration, representing other state and local
445 agencies, state universities, business and health coalitions,
446 local health councils, professional health-care-related
447 associations, entities responsible for operating health
448 information exchange systems as defined in s. 408.051(2),
449 consumers, and purchasers.

450 (b) Each member of the council shall be appointed to serve
451 for a term of 2 years following the date of appointment. A
452 vacancy shall be filled by appointment for the remainder of the
453 term, and each appointing authority retains the right to
454 reappoint members whose terms of appointment have expired. A
455 member may not serve for more than 8 years.

456 Section 8. Section 408.051, Florida Statutes, is amended to
457 read:

458 408.051 Florida Electronic Health Records Exchange Act.—

459 (1) SHORT TITLE.—This section may be cited as the “Florida
460 Electronic Health Records Exchange Act.”

461 (2) DEFINITIONS.—As used in this section, the term:

462 (b) ~~(a)~~ “Electronic health record” means a record of a
463 person’s medical treatment which is created by a licensed health
464 care provider and stored in an interoperable and accessible

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465 digital format.

466 ~~(b) "Qualified electronic health record" means an~~
467 ~~electronic record of health-related information concerning an~~
468 ~~individual which includes patient demographic and clinical~~
469 ~~health information, such as medical history and problem lists,~~
470 ~~and which has the capacity to provide clinical decision support,~~
471 ~~to support physician order entry, to capture and query~~
472 ~~information relevant to health care quality, and to exchange~~
473 ~~electronic health information with, and integrate such~~
474 ~~information from, other sources.~~

475 ~~(a)-(e)~~ "Certified electronic health record technology"
476 means a technology that can maintain ~~qualified~~ electronic health
477 records ~~record that is~~ certified pursuant to s. 3001(c)(5) of
478 the Public Health Service Act as meeting standards adopted under
479 s. 3004 of such act which are applicable to the type of record
480 involved, such as an ambulatory electronic health record for
481 office-based physicians or an inpatient hospital electronic
482 health record for hospitals, and that can share patient data for
483 every patient encounter, transition, or referral and records
484 stored or maintained in the technology using a secure node
485 within a health information exchange system.

486 (c) "Health care facility" means any facility listed in s.
487 408.802.

488 (d) "Health care practitioner" has the same meaning as in
489 s. 456.001.

490 (e) "Health information exchange system" means a privately,
491 locally, or state-held software technology that uses secure
492 nodes to allow a two-way exchange of information across a broad
493 network of unaffiliated providers, including those using

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494 different certified electronic health record technologies, and
495 that does not exclude providers from its exchange system. Such
496 systems must use, at a minimum, the United States Core Data for
497 Interoperability, Version 2, and the Health Level Seven
498 International Messaging Standard, Version 2, to provide the
499 capability of including, at a minimum, patient demographics,
500 encounter information, care team members, allergies and
501 intolerances, medications, immunizations, clinical problems,
502 clinical notes, diagnostic imaging, and laboratory results in
503 electronic health records, and must follow a structured
504 hierarchy of coding information with respect to the facility,
505 the patient, each patient encounter, clinical information, and
506 clinical results.

507 (f)~~(d)~~ "Health record" means any information, recorded in
508 any form or medium, which relates to the past, present, or
509 future health of an individual for the primary purpose of
510 providing health care and health-related services.

511 (g)~~(e)~~ "Identifiable health record" means any health record
512 that identifies the patient or with respect to which there is a
513 reasonable basis to believe the information can be used to
514 identify the patient.

515 (h) "Node" means a communication endpoint within a network
516 which is an interface exposed by certified electronic health
517 record technology.

518 (i)~~(f)~~ "Patient" means an individual who has sought, is
519 seeking, is undergoing, or has undergone care or treatment in a
520 health care facility or by a health care practitioner ~~provider~~.

521 (j)~~(g)~~ "Patient representative" means a parent of a minor
522 patient, a court-appointed guardian for the patient, a health

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523 care surrogate, or a person holding a power of attorney or
524 notarized consent appropriately executed by the patient granting
525 permission to a health care facility or health care practitioner
526 ~~provider~~ to disclose the patient's health care information to
527 that person. In the case of a deceased patient, the term also
528 means the personal representative of the estate of the deceased
529 patient; the deceased patient's surviving spouse, surviving
530 parent, or surviving adult child; the parent or guardian of a
531 surviving minor child of the deceased patient; the attorney for
532 the patient's surviving spouse, parent, or adult child; or the
533 attorney for the parent or guardian of a surviving minor child.

534 (3) ELECTRONIC HEALTH RECORDS EXCHANGE.—Health care
535 facilities shall use health information exchange systems to
536 exchange electronic health records. Any exchange of electronic
537 health records must reflect a complete account, providing all
538 context, of the patient encounter at the facility, including all
539 patient data collected by the facility for that encounter. The
540 electronic health records must include, at a minimum, patient
541 demographics, encounter information, care team members,
542 allergies and intolerances, medications, immunizations, clinical
543 problems, clinical notes, diagnostic imaging, and laboratory
544 results and must follow a structured hierarchy of coding
545 information with respect to the facility, the patient, each
546 patient encounter, clinical information, and clinical results.

547 (4) EMERGENCY RELEASE OF IDENTIFIABLE HEALTH RECORD.—A
548 health care practitioner ~~provider~~ may release or access an
549 identifiable health record of a patient without the patient's
550 consent for use in the treatment of the patient for an emergency
551 medical condition, as defined in s. 395.002(8), when the health

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552 care practitioner ~~provider~~ is unable to obtain the patient's
553 consent or the consent of the patient representative due to the
554 patient's condition or the nature of the situation requiring
555 immediate medical attention. A health care practitioner ~~provider~~
556 who in good faith releases or accesses an identifiable health
557 record of a patient in any form or medium under this subsection
558 is immune from civil liability for accessing or releasing an
559 identifiable health record.

560 (5)~~(4)~~ UNIVERSAL PATIENT AUTHORIZATION FORM.—

561 (a) ~~By July 1, 2010,~~ The agency shall develop forms in both
562 paper and electronic formats which may be used by a health care
563 practitioner ~~provider~~ to document patient authorization for the
564 use or release, in any form or medium, of an identifiable health
565 record.

566 (b) The agency shall adopt by rule the authorization form
567 and accompanying instructions and make the authorization form
568 available on the agency's website, pursuant to s. 408.05.

569 (c) A health care practitioner ~~who receives~~ ~~provider~~
570 ~~receiving~~ an authorization form containing a request for the
571 release of an identifiable health record shall accept the form
572 as a valid authorization to release an identifiable health
573 record. A health care practitioner ~~provider~~ may elect to accept
574 the authorization form in either electronic or paper format or
575 both. The individual or entity that submits the authorization
576 form containing a request for the release of an identifiable
577 health record must submit the form in a ~~shall determine which~~
578 ~~format is~~ accepted by the health care practitioner ~~provider~~
579 ~~prior to submitting the form.~~

580 (d) An individual or entity that submits a request for an

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581 identifiable health record is not required under this section to
 582 use the authorization form adopted and distributed by the
 583 agency.

584 (e) The exchange by a health care practitioner ~~provider~~ of
 585 an identifiable health record upon receipt of an authorization
 586 form completed and submitted in accordance with agency
 587 instructions creates a rebuttable presumption that the release
 588 of the identifiable health record was appropriate. A health care
 589 practitioner who ~~provider that~~ releases an identifiable health
 590 record in reliance on the information provided to the health
 591 care practitioner ~~provider~~ on a properly completed authorization
 592 form does not violate any right of confidentiality and is immune
 593 from civil liability for accessing or releasing an identifiable
 594 health record under this subsection.

595 (f) A health care practitioner who ~~provider that~~ exchanges
 596 an identifiable health record upon receipt of an authorization
 597 form may ~~shall~~ not be deemed to have violated or waived any
 598 privilege protected under the statutory or common law of this
 599 state.

600 (6) ~~(5)~~ PENALTIES.—A person who does any of the following
 601 may be liable to the patient or a health care practitioner who
 602 ~~provider that~~ has released an identifiable health record in
 603 reliance on an authorization form presented to the health care
 604 practitioner ~~provider~~ by that ~~the~~ person for compensatory
 605 damages caused by an unauthorized release, plus reasonable
 606 attorney ~~attorney's~~ fees and costs:

607 (a) Forges a signature on an authorization form or
 608 materially alters the authorization form of another person
 609 without the person's authorization. ~~;~~ ~~or~~

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610 (b) Obtains an authorization form or an identifiable health
611 record of another person under false pretenses.

612 (7) CERTIFIED ELECTRONIC HEALTH RECORD TECHNOLOGY VENDORS.-
613 A vendor of a certified electronic health record technology may
614 not charge a health care facility or health care practitioner
615 more than \$10,000 to build an interface that allows the facility
616 or practitioner to integrate into a health information exchange
617 system. A vendor of a certified electronic health record
618 technology shall provide any available system upgrades or
619 software updates free of charge to a health care facility or
620 health care practitioner who purchases such technology.

621 Section 9. Subsection (5) is added to section 408.0611,
622 Florida Statutes, to read:

623 408.0611 Electronic prescribing clearinghouse.-

624 (5) The agency shall provide health information exchange
625 systems as defined in s. 408.051(2) with access to the
626 electronic prescribing clearinghouse under this section for the
627 purpose of supporting patient care continuums.

628 Section 10. Subsection (11) of section 456.057, Florida
629 Statutes, is amended to read:

630 456.057 Ownership and control of patient records; report or
631 copies of records to be furnished; disclosure of information.-

632 (11) Records owners are responsible for maintaining a
633 record of all disclosures of information contained in the
634 medical record to a third party, including the purpose of the
635 disclosure request. The record of disclosure may be maintained
636 in the medical record. The third party to whom information is
637 disclosed is prohibited from further disclosing any information
638 in the medical record without the expressed written consent of

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639 the patient or the patient's legal representative. Records
640 owners who provide patient records to a health care practitioner
641 or provider must do so using a health information exchange
642 system as defined in s. 408.051(2).

643 Section 11. Paragraph (a) of subsection (4) of section
644 381.4018, Florida Statutes, is amended to read:

645 381.4018 Physician workforce assessment and development.—

646 (4) PHYSICIAN WORKFORCE ADVISORY COUNCIL.—There is created
647 in the department the Physician Workforce Advisory Council, an
648 advisory council as defined in s. 20.03. The council shall
649 comply with the requirements of s. 20.052, except as otherwise
650 provided in this section.

651 (a) The council shall consist of 19 members. Members
652 appointed by the State Surgeon General shall include:

653 1. A designee from the department who is a physician
654 licensed under chapter 458 or chapter 459 and recommended by the
655 State Surgeon General.

656 2. An individual who is affiliated with the Science
657 Students Together Reaching Instructional Diversity and
658 Excellence program and recommended by the area health education
659 center network.

660 3. Two individuals recommended by the Council of Florida
661 Medical School Deans, one representing a college of allopathic
662 medicine and one representing a college of osteopathic medicine.

663 4. One individual recommended by the Florida Hospital
664 Association, representing a hospital that is licensed under
665 chapter 395, has an accredited graduate medical education
666 program, and is not a statutory teaching hospital.

667 5. One individual representing a statutory teaching

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668 hospital as defined in s. 408.07 and recommended by the Safety
669 Net Hospital Alliance.

670 6. One individual representing a family practice teaching
671 hospital as defined in s. 395.805 and recommended by the Council
672 of Family Medicine and Community Teaching Hospitals.

673 7. Two individuals recommended by the Florida Medical
674 Association, one representing a primary care specialty and one
675 representing a nonprimary care specialty.

676 8. Two individuals recommended by the Florida Osteopathic
677 Medical Association, one representing a primary care specialty
678 and one representing a nonprimary care specialty.

679 9. Two individuals who are program directors of accredited
680 graduate medical education programs, one representing a program
681 ~~that is~~ accredited by the Accreditation Council for Graduate
682 Medical Education and one representing a program ~~that is~~
683 accredited by the American Osteopathic Association.

684 10. An individual recommended by the Florida Association of
685 Community Health Centers representing a federally qualified
686 health center located in a rural area as defined in s.
687 381.0406(2) ~~s. 381.0406(2)(a)~~.

688 11. An individual recommended by the Florida Academy of
689 Family Physicians.

690 12. An individual recommended by the Florida Alliance for
691 Health Professions Diversity.

692 13. The Chancellor of the State University System or his or
693 her designee.

694 14. A layperson member as determined by the State Surgeon
695 General.

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697 Appointments to the council shall be made by the State Surgeon
698 General. Each entity authorized to make recommendations under
699 this subsection shall make at least two recommendations to the
700 State Surgeon General for each appointment to the council. The
701 State Surgeon General shall name one appointee for each position
702 from the recommendations made by each authorized entity.

703 Section 12. Subsection (3) of section 456.42, Florida
704 Statutes, is amended to read:

705 456.42 Written prescriptions for medicinal drugs.—

706 (3) A health care practitioner licensed by law to prescribe
707 a medicinal drug who maintains a system of electronic health
708 records as defined in s. 408.051(2) ~~s. 408.051(2)(a)~~, or who
709 prescribes medicinal drugs as an owner, an employee, or a
710 contractor of a licensed health care facility or practice that
711 maintains such a system and who is prescribing in his or her
712 capacity as such an owner, an employee, or a contractor, may
713 only electronically transmit prescriptions for such drugs. This
714 requirement applies to such a health care practitioner upon
715 renewal of the health care practitioner's license or by July 1,
716 2021, whichever is earlier, but does not apply if:

717 (a) The practitioner and the dispenser are the same entity;

718 (b) The prescription cannot be transmitted electronically
719 under the most recently implemented version of the National
720 Council for Prescription Drug Programs SCRIPT Standard;

721 (c) The practitioner has been issued a waiver by the
722 department, not to exceed 1 year in duration, from the
723 requirement to use electronic prescribing due to demonstrated
724 economic hardship, technological limitations that are not
725 reasonably within the control of the practitioner, or another

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726 exceptional circumstance demonstrated by the practitioner;

727 (d) The practitioner reasonably determines that it would be
728 impractical for the patient in question to obtain a medicinal
729 drug prescribed by electronic prescription in a timely manner
730 and such delay would adversely impact the patient's medical
731 condition;

732 (e) The practitioner is prescribing a drug under a research
733 protocol;

734 (f) The prescription is for a drug for which the federal
735 Food and Drug Administration requires the prescription to
736 contain elements that may not be included in electronic
737 prescribing;

738 (g) The prescription is issued to an individual receiving
739 hospice care or who is a resident of a nursing home facility; or

740 (h) The practitioner determines that it is in the best
741 interest of the patient, or the patient determines that it is in
742 his or her own best interest, to compare prescription drug
743 prices among area pharmacies. The practitioner must document
744 such determination in the patient's medical record.

745

746 The department, in consultation with the Board of Medicine, the
747 Board of Osteopathic Medicine, the Board of Podiatric Medicine,
748 the Board of Dentistry, the Board of Nursing, and the Board of
749 Optometry, may adopt rules to implement this subsection.

750 Section 13. This act shall take effect July 1, 2022.