

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

Committee/Subcommittee hearing bill: Health & Human Services  
Committee

Representative Booth offered the following:

**Amendment**

Remove lines 59-251 and insert:

requested records in the manner chosen by the requester,  
including but not limited to, an electronic format, submission  
through a patient's electronic personal health record, or access  
through a web-based patient portal if the service provider  
maintains a patient portal.

**Section 2. Subsections (4) through (11) of section 395.3025,**  
**Florida Statutes, are renumbered as subsections (2) through (9),**  
**respectively, and subsections (1), (2), and (3), paragraph (e)**  
**of present subsection (4), paragraph (a) of present subsection**

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16 **(7), and present subsection (8) of that section, are amended to**  
17 **read:**

18 395.3025 Patient and personnel records; copy costs ~~copies~~;  
19 examination.—

20 (1) ~~Any licensed facility shall, upon written request, and~~  
21 ~~only after discharge of the patient, furnish, in a timely~~  
22 ~~manner, without delays for legal review, to any person admitted~~  
23 ~~therein for care and treatment or treated thereat, or to any~~  
24 ~~such person's guardian, curator, or personal representative, or~~  
25 ~~in the absence of one of those persons, to the next of kin of a~~  
26 ~~decedent or the parent of a minor, or to anyone designated by~~  
27 ~~such person in writing, a true and correct copy of all patient~~  
28 ~~records, including X rays, and insurance information concerning~~  
29 ~~such person, which records are in the possession of the licensed~~  
30 ~~facility, provided the person requesting such records agrees to~~  
31 ~~pay a charge.~~ The exclusive charge for copies of patient records  
32 may include sales tax and actual postage, and, except for  
33 nonpaper records that are subject to a charge not to exceed \$2,  
34 may not exceed \$1 per page. A fee of up to \$1 may be charged for  
35 each year of records requested. These charges shall apply to all  
36 records furnished, whether directly from the facility or from a  
37 copy service providing these services on behalf of the facility.  
38 However, a patient whose records are copied or searched for the  
39 purpose of continuing to receive medical care is not required to  
40 pay a charge for copying or for the search. ~~The licensed~~

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41 ~~facility shall further allow any such person to examine the~~  
42 ~~original records in its possession, or microforms or other~~  
43 ~~suitable reproductions of the records, upon such reasonable~~  
44 ~~terms as shall be imposed to assure that the records will not be~~  
45 ~~damaged, destroyed, or altered.~~

46 ~~(2) This section does not apply to records maintained at~~  
47 ~~any licensed facility the primary function of which is to~~  
48 ~~provide psychiatric care to its patients, or to records of~~  
49 ~~treatment for any mental or emotional condition at any other~~  
50 ~~licensed facility which are governed by the provisions of s.~~  
51 ~~394.4615.~~

52 ~~(3) This section does not apply to records of substance~~  
53 ~~abuse impaired persons, which are governed by s. 397.501.~~

54 ~~(2)-(4)~~ Patient records are confidential and must not be  
55 disclosed without the consent of the patient or his or her legal  
56 representative, but appropriate disclosure may be made without  
57 such consent to:

58 (e) The Department of Health ~~agency~~ upon subpoena issued  
59 pursuant to s. 456.071, but the records obtained thereby must be  
60 used solely for the purpose of the department ~~agency~~ and the  
61 appropriate professional board in its investigation,  
62 prosecution, and appeal of disciplinary proceedings. If the  
63 department ~~agency~~ requests copies of the records, the facility  
64 shall charge no more than its actual copying costs, including  
65 reasonable staff time. The records must be sealed and must not

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66 be available to the public pursuant to s. 119.07(1) or any other  
67 statute providing access to records, nor may they be available  
68 to the public as part of the record of investigation for and  
69 prosecution in disciplinary proceedings made available to the  
70 public by the department ~~agency~~ or the appropriate regulatory  
71 board. However, the department ~~agency~~ must make available, upon  
72 written request by a practitioner against whom probable cause  
73 has been found, any such records that form the basis of the  
74 determination of probable cause.

75 (5)~~(7)~~(a) If the content of any record of patient  
76 treatment is provided under this section, the recipient, ~~if~~  
77 ~~other than the patient or the patient's representative,~~ may use  
78 such information only for the purpose provided and may not  
79 further disclose any information to any other person or entity,  
80 unless expressly permitted by the written consent of the  
81 patient. A general authorization for the release of medical  
82 information is not sufficient for this purpose. The content of  
83 such patient treatment record is confidential and exempt from  
84 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
85 Constitution.

86 (6)~~(8)~~ Patient records at hospitals and ambulatory  
87 surgical centers are exempt from disclosure under s. 119.07(1),  
88 except as provided by subsections (2) and (3) ~~(1)–(5)~~.

89 **Section 3. Paragraphs (a) through (j) of subsection (7) of**  
90 **section 397.501, Florida Statutes, are redesignated as**

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91 **paragraphs (c) through (l), respectively, and new paragraphs (a)**  
92 **and (b) are added to that subsection, to read:**

93 397.501 Rights of individuals.—Individuals receiving  
94 substance abuse services from any service provider are  
95 guaranteed protection of the rights specified in this section,  
96 unless otherwise expressly provided, and service providers must  
97 ensure the protection of such rights.

98 (7) RIGHT TO ACCESS AND CONFIDENTIALITY OF INDIVIDUAL  
99 RECORDS.—

100 (a) Within 14 working days after receiving a written request  
101 from an individual or an individual's legal representative, a  
102 service provider shall furnish a true and correct copy of all  
103 records in the possession of the service provider. The service  
104 provider may furnish the requested records in paper form or,  
105 upon request, in an electronic format. A service provider that  
106 maintains an electronic health record system shall furnish the  
107 requested records in the manner chosen by the requester,  
108 including but not limited to, an electronic format, submission  
109 through a patient's electronic personal health record, or access  
110 through a web-based patient portal if the service provider  
111 maintains a patient portal. For purposes of this section, the  
112 term "legal representative" has the same meaning as provided in  
113 s. 408.833(1).

114 (b) Within 10 working days after receiving such a request  
115 from an individual or an individual's legal representative, a

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116 service provider shall provide access to examine the original  
117 records in its possession, or microforms or other suitable  
118 reproductions of the records. The service provider may impose  
119 any reasonable terms necessary to ensure that the records will  
120 not be damaged, destroyed, or altered.

121 **Section 4. Subsection (1) of section 400.145, Florida Statutes,**  
122 **is amended to read:**

123 400.145 Copies of records of care and treatment of  
124 resident.—

125 (1) Upon receipt of a written request that complies with  
126 the federal Health Insurance Portability and Accountability Act  
127 of 1996 (HIPAA) and this section, a nursing home facility shall  
128 furnish to a competent resident, or to a representative of that  
129 resident who is authorized to make requests for the resident's  
130 records under HIPAA or subsection (2), copies of the resident's  
131 paper and electronic records that are in possession of the  
132 facility. Such records must include any medical records and  
133 records concerning the care and treatment of the resident  
134 performed by the facility, except for progress notes and  
135 consultation report sections of a psychiatric nature. The  
136 facility shall provide a resident with access to the requested  
137 records within 24 hours, excluding weekends and holidays, and  
138 provide copies of the requested records within 2 ~~14~~ working days  
139 after receipt of a request relating to a current resident or

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140 within 30 working days after receipt of a request relating to a  
141 former resident.

142 **Section 5. Section 408.833, Florida Statutes, is created to**  
143 **read:**

144 408.833 Client access to medical records.-

145 (1) For purposes of this section, the term "legal  
146 representative" means an attorney who has been designated by a  
147 client to receive copies of the client's medical, care and  
148 treatment, or interdisciplinary records; a legally recognized  
149 guardian of the client; a court-appointed representative of the  
150 client; or a person designated by the client or by a court of  
151 competent jurisdiction to receive copies of the client's  
152 medical, care and treatment, or interdisciplinary records.

153 (2) Within 14 working days after receiving a written  
154 request from a client or client's legal representative, a  
155 provider shall furnish a true and correct copy of all records,  
156 including medical, care and treatment, and interdisciplinary  
157 records, as applicable, in the possession of the provider. A  
158 provider may furnish the requested records in paper form or,  
159 upon request, in an electronic format. A provider that maintains  
160 an electronic health record system shall furnish the requested  
161 records in the manner chosen by the requester, including but not  
162 limited to, an electronic format, submission through a patient's  
163 electronic personal health record, or access through a web-based  
164 patient portal if the provider maintains a patient portal.

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165 (3) Within 10 working days after receiving a request from  
166 a client or a client's legal representative, a provider shall  
167 provide access to examine the original records in its  
168 possession, or microforms or other suitable reproductions of the  
169 records. A provider may impose any reasonable terms necessary to  
170 ensure that the records will not be damaged, destroyed, or  
171 altered.

172 (4) This section does not apply to:

173 (a) Records maintained at a licensed facility, as defined  
174 in s. 395.002, the primary function of which is to provide  
175 psychiatric care to its patients, or to records of treatment for  
176 any mental or emotional condition at any other licensed facility  
177 which are governed by s. 394.4615;

178 (b) Records of substance abuse impaired persons which are  
179 governed by s. 397.501; or

180 (c) Records of a resident of a nursing home facility.

181 **Section 6. Subsection (6) of section 456.057, Florida Statutes,**  
182 **is amended to read:**

183 456.057 Ownership and control of patient records; report  
184 or copies of records to be furnished; disclosure of  
185 information.—

186 (6)(a) Any health care practitioner licensed by the  
187 department or a board within the department who makes a physical  
188 or mental examination of, or administers treatment or dispenses  
189 legend drugs to, any patient ~~person~~ shall, upon request of such



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190 patient person or the patient's person's legal representative,  
191 furnish, within 14 working days after such request in a timely  
192 manner, without delays for legal review, copies of all reports  
193 and records relating to such examination or treatment, including  
194 X rays and insurance information. A health care practitioner may  
195 furnish the requested reports and records in paper form or, upon  
196 request, in an electronic format. A health care practitioner who  
197 maintains an electronic health record system shall furnish the  
198 requested reports and records in the manner chosen by the  
199 requester, including but not limited to, an electronic format,  
200 submission through a patient's electronic personal health  
201 record, or access through a web-based patient portal if the  
202 practitioner maintains a patient portal. For purposes of this  
203 section,