

By Senator Grall

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1 A bill to be entitled
2 An act relating to patient access to records; amending
3 s. 394.4615, F.S.; requiring a service provider to
4 furnish and provide access to records within a
5 specified timeframe after receiving a request for such
6 records; requiring that certain service providers
7 furnish such records in the manner chosen by the
8 requester; amending s. 395.3025, F.S.; removing
9 provisions requiring a licensed facility to furnish
10 patient records only after discharge to conform to
11 changes made by the act; revising provisions relating
12 to the appropriate disclosure of patient records
13 without consent; amending s. 397.501, F.S.; requiring
14 a service provider to furnish and provide access to
15 records within a specified timeframe after receiving a
16 request from an individual or the individual's legal
17 representative; requiring that certain service
18 providers furnish such records in the manner chosen by
19 the requester; amending s. 400.145, F.S.; revising the
20 timeframe within which a nursing home facility must
21 provide access to and copies of resident records after
22 receiving a request for such records; creating s.
23 408.833, F.S.; defining the term "legal
24 representative"; requiring a provider to furnish and
25 provide access to records within a specified timeframe
26 after receiving a request from a client or the
27 client's legal representative; requiring that certain
28 providers furnish such records in the manner chosen by
29 the requester; authorizing a provider to impose

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30 reasonable terms necessary to preserve such records;
31 providing exceptions; amending s. 456.057, F.S.;
32 requiring certain licensed health care practitioners
33 to furnish and provide access to copies of reports and
34 records within a specified timeframe after receiving a
35 request from a patient or the patient's legal
36 representative; requiring that certain licensed health
37 care practitioners furnish such reports and records in
38 the manner chosen by the requester; defining the term
39 "legal representative"; authorizing such licensed
40 health care practitioners to impose reasonable terms
41 necessary to preserve such reports and records;
42 amending ss. 316.1932, 316.1933, 395.4025, 400.0234,
43 429.294, 440.185, and 456.47, F.S.; conforming cross-
44 references; providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Subsections (3) through (12) of section
49 394.4615, Florida Statutes, are renumbered as subsections (4)
50 through (13), respectively, and a new subsection (3) is added to
51 that section, to read:

52 394.4615 Clinical records; confidentiality.-

53 (3) Within 14 working days after receiving a request made
54 in accordance with paragraphs (2) (a)-(c), a service provider
55 must furnish clinical records in its possession. A service
56 provider may furnish the requested records in paper form or,
57 upon request, in an electronic format. A service provider who
58 maintains an electronic health record system shall furnish the

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59 requested records in the manner chosen by the requester which
60 must include electronic format, access through a web-based
61 patient portal, or submission through a patient's electronic
62 personal health record.

63 Section 2. Subsections (4) through (11) of section
64 395.3025, Florida Statutes, are renumbered as subsections (2)
65 through (9), respectively, and subsections (1), (2), and (3),
66 paragraph (e) of present subsection (4), paragraph (a) of
67 present subsection (7), and present subsection (8) of that
68 section, are amended to read:

69 395.3025 Patient and personnel records; copy costs ~~copies~~;
70 examination.—

71 ~~(1) Any licensed facility shall, upon written request, and~~
72 ~~only after discharge of the patient, furnish, in a timely~~
73 ~~manner, without delays for legal review, to any person admitted~~
74 ~~therein for care and treatment or treated thereat, or to any~~
75 ~~such person's guardian, curator, or personal representative, or~~
76 ~~in the absence of one of those persons, to the next of kin of a~~
77 ~~decedent or the parent of a minor, or to anyone designated by~~
78 ~~such person in writing, a true and correct copy of all patient~~
79 ~~records, including X rays, and insurance information concerning~~
80 ~~such person, which records are in the possession of the licensed~~
81 ~~facility, provided the person requesting such records agrees to~~
82 ~~pay a charge.~~ The exclusive charge for copies of patient records
83 may include sales tax and actual postage, and, except for
84 nonpaper records that are subject to a charge not to exceed \$2,
85 may not exceed \$1 per page. A fee of up to \$1 may be charged for
86 each year of records requested. These charges shall apply to all
87 records furnished, whether directly from the facility or from a

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88 copy service providing these services on behalf of the facility.
89 However, a patient whose records are copied or searched for the
90 purpose of continuing to receive medical care is not required to
91 pay a charge for copying or for the search. ~~The licensed~~
92 ~~facility shall further allow any such person to examine the~~
93 ~~original records in its possession, or microforms or other~~
94 ~~suitable reproductions of the records, upon such reasonable~~
95 ~~terms as shall be imposed to assure that the records will not be~~
96 ~~damaged, destroyed, or altered.~~

97 ~~(2) This section does not apply to records maintained at~~
98 ~~any licensed facility the primary function of which is to~~
99 ~~provide psychiatric care to its patients, or to records of~~
100 ~~treatment for any mental or emotional condition at any other~~
101 ~~licensed facility which are governed by the provisions of s.~~
102 ~~394.4615.~~

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

105 (2) ~~(4)~~ Patient records are confidential and must not be
106 disclosed without the consent of the patient or his or her legal
107 representative, but appropriate disclosure may be made without
108 such consent to:

109 (e) The Department of Health ~~agency~~ upon subpoena issued
110 pursuant to s. 456.071, but the records obtained thereby must be
111 used solely for the purpose of the department ~~agency~~ and the
112 appropriate professional board in its investigation,
113 prosecution, and appeal of disciplinary proceedings. If the
114 department ~~agency~~ requests copies of the records, the facility
115 shall charge no more than its actual copying costs, including
116 reasonable staff time. The records must be sealed and must not

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117 be available to the public pursuant to s. 119.07(1) or any other
118 statute providing access to records, nor may they be available
119 to the public as part of the record of investigation for and
120 prosecution in disciplinary proceedings made available to the
121 public by the department ~~agency~~ or the appropriate regulatory
122 board. However, the department ~~agency~~ must make available, upon
123 written request by a practitioner against whom probable cause
124 has been found, any such records that form the basis of the
125 determination of probable cause.

126 (5) (a) ~~(7) (a)~~ If the content of any record of patient
127 treatment is provided under this section, the recipient, ~~if~~
128 ~~other than the patient or the patient's representative,~~ may use
129 such information only for the purpose provided and may not
130 further disclose any information to any other person or entity,
131 unless expressly permitted by the written consent of the
132 patient. A general authorization for the release of medical
133 information is not sufficient for this purpose. The content of
134 such patient treatment record is confidential and exempt from
135 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
136 Constitution.

137 (6) ~~(8)~~ Patient records at hospitals and ambulatory surgical
138 centers are exempt from disclosure under s. 119.07(1), except as
139 provided by subsections (2) and (3) ~~(1) (5)~~.

140 Section 3. Paragraphs (a) through (j) of subsection (7) of
141 section 397.501, Florida Statutes, are redesignated as
142 paragraphs (c) through (l), respectively, and new paragraphs (a)
143 and (b) are added to that subsection, to read:

144 397.501 Rights of individuals.—Individuals receiving
145 substance abuse services from any service provider are

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146 guaranteed protection of the rights specified in this section,
147 unless otherwise expressly provided, and service providers must
148 ensure the protection of such rights.

149 (7) RIGHT TO ACCESS AND CONFIDENTIALITY OF INDIVIDUAL
150 RECORDS.—

151 (a) Within 14 working days after receiving a written
152 request from an individual or an individual's legal
153 representative, a service provider shall furnish a true and
154 correct copy of all records in the possession of the service
155 provider. The service provider may furnish the requested records
156 in paper form or, upon request, in an electronic format. A
157 service provider that maintains an electronic health record
158 system shall furnish the requested records in the manner chosen
159 by the requester which must include electronic format, access
160 through a web-based patient portal, or submission through a
161 patient's electronic personal health record. For purposes of
162 this section, the term "legal representative" has the same
163 meaning as provided in s. 408.833(1).

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

171 Section 4. Subsection (1) of section 400.145, Florida
172 Statutes, is amended to read:

173 400.145 Copies of records of care and treatment of
174 resident.—

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175 (1) Upon receipt of a written request that complies with
176 the federal Health Insurance Portability and Accountability Act
177 of 1996 (HIPAA) and this section, a nursing home facility shall
178 furnish to a competent resident, or to a representative of that
179 resident who is authorized to make requests for the resident's
180 records under HIPAA or subsection (2), copies of the resident's
181 paper and electronic records that are in possession of the
182 facility. Such records must include any medical records and
183 records concerning the care and treatment of the resident
184 performed by the facility, except for progress notes and
185 consultation report sections of a psychiatric nature. The
186 facility shall provide a resident with access to the requested
187 records within 24 hours, excluding weekends and holidays, and
188 provide copies of the requested records within 2 14 working days
189 after receipt of a request relating to a current resident or
190 within 30 working days after receipt of a request relating to a
191 former resident.

192 Section 5. Section 408.833, Florida Statutes, is created to
193 read:

194 408.833 Client access to medical records.—

195 (1) For purposes of this section, the term "legal
196 representative" means an attorney who has been designated by a
197 client to receive copies of the client's medical, care and
198 treatment, or interdisciplinary records; a legally recognized
199 guardian of the client; a court-appointed representative of the
200 client; or a person designated by the client or by a court of
201 competent jurisdiction to receive copies of the client's
202 medical, care and treatment, or interdisciplinary records.

203 (2) Within 14 working days after receiving a written

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204 request from a client or client's legal representative, a
205 provider shall furnish a true and correct copy of all records,
206 including medical, care and treatment, and interdisciplinary
207 records, as applicable, in the possession of the provider. A
208 provider may furnish the requested records in paper form or,
209 upon request, in an electronic format. A provider that maintains
210 an electronic health record system shall furnish the requested
211 records in the manner chosen by the requester which must include
212 electronic format, access through a web-based patient portal, or
213 submission through a patient's electronic personal health
214 record.

215 (3) Within 10 working days after receiving a request from a
216 client or a client's legal representative, a provider shall
217 provide access to examine the original records in its
218 possession, or microforms or other suitable reproductions of the
219 records. A provider may impose any reasonable terms necessary to
220 ensure that the records will not be damaged, destroyed, or
221 altered.

222 (4) This section does not apply to:

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

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

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

231 Section 6. Subsection (6) of section 456.057, Florida
232 Statutes, is amended to read:

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233 456.057 Ownership and control of patient records; report or
234 copies of records to be furnished; disclosure of information.-

235 (6)(a) Any health care practitioner licensed by the
236 department or a board within the department who makes a physical
237 or mental examination of, or administers treatment or dispenses
238 legend drugs to, any patient ~~person~~ shall, upon request of such
239 patient ~~person~~ or the patient's ~~person's~~ legal representative,
240 furnish, within 14 working days after such request ~~in a timely~~
241 ~~manner, without delays for legal review,~~ copies of all reports
242 and records relating to such examination or treatment, including
243 X rays and insurance information. A health care practitioner may
244 furnish the requested reports and records in paper form or, upon
245 request, in an electronic format. A health care practitioner who
246 maintains an electronic health record system shall furnish the
247 requested reports and records in the manner chosen by the
248 requester which must include electronic format, access through a
249 web-based patient portal, or submission through a patient's
250 electronic personal health record. For purposes of this section,
251 the term "legal representative" means a patient's attorney who
252 has been designated by the patient to receive copies of the
253 patient's medical records, a legally recognized guardian of the
254 patient, a court-appointed representative of the patient, or any
255 other person designated by the patient or by a court of
256 competent jurisdiction to receive copies of the patient's
257 medical records.

258 (b) Within 10 working days after receiving a written
259 request by a patient or a patient's legal representative, a
260 healthcare practitioner must provide access to examine the
261 original reports and records, or microforms or other suitable

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262 reproductions of the reports and records in the healthcare
263 practitioner's possession. The healthcare practitioner may
264 impose any reasonable terms necessary to ensure that the reports
265 and records will not be damaged, destroyed, or altered.

266 (c) ~~However,~~ When a patient's psychiatric, chapter 490
267 psychological, or chapter 491 psychotherapeutic records are
268 requested by the patient or the patient's legal representative,
269 the health care practitioner may provide a report of examination
270 and treatment in lieu of copies of records. Upon a patient's
271 written request, complete copies of the patient's psychiatric
272 records shall be provided directly to a subsequent treating
273 psychiatrist. The furnishing of such report or copies may ~~shall~~
274 not be conditioned upon payment of a fee for services rendered.

275 Section 7. Paragraph (f) of subsection (1) of section
276 316.1932, Florida Statutes, is amended to read:

277 316.1932 Tests for alcohol, chemical substances, or
278 controlled substances; implied consent; refusal.-

279 (1)

280 (f)1. The tests determining the weight of alcohol in the
281 defendant's blood or breath shall be administered at the request
282 of a law enforcement officer substantially in accordance with
283 rules of the Department of Law Enforcement. Such rules must
284 specify precisely the test or tests that are approved by the
285 Department of Law Enforcement for reliability of result and ease
286 of administration, and must provide an approved method of
287 administration which must be followed in all such tests given
288 under this section. However, the failure of a law enforcement
289 officer to request the withdrawal of blood does not affect the
290 admissibility of a test of blood withdrawn for medical purposes.

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291 2.a. Only a physician, certified paramedic, registered
292 nurse, licensed practical nurse, other personnel authorized by a
293 hospital to draw blood, or duly licensed clinical laboratory
294 director, supervisor, technologist, or technician, acting at the
295 request of a law enforcement officer, may withdraw blood for the
296 purpose of determining its alcoholic content or the presence of
297 chemical substances or controlled substances therein. However,
298 the failure of a law enforcement officer to request the
299 withdrawal of blood does not affect the admissibility of a test
300 of blood withdrawn for medical purposes.

301 b. Notwithstanding any provision of law pertaining to the
302 confidentiality of hospital records or other medical records, if
303 a health care provider, who is providing medical care in a
304 health care facility to a person injured in a motor vehicle
305 crash, becomes aware, as a result of any blood test performed in
306 the course of that medical treatment, that the person's blood-
307 alcohol level meets or exceeds the blood-alcohol level specified
308 in s. 316.193(1)(b), the health care provider may notify any law
309 enforcement officer or law enforcement agency. Any such notice
310 must be given within a reasonable time after the health care
311 provider receives the test result. Any such notice shall be used
312 only for the purpose of providing the law enforcement officer
313 with reasonable cause to request the withdrawal of a blood
314 sample pursuant to this section.

315 c. The notice shall consist only of the name of the person
316 being treated, the name of the person who drew the blood, the
317 blood-alcohol level indicated by the test, and the date and time
318 of the administration of the test.

319 d. Nothing contained in s. 395.3025(2) ~~s. 395.3025(4)~~, s.

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320 456.057, or any applicable practice act affects the authority to
321 provide notice under this section, and the health care provider
322 is not considered to have breached any duty owed to the person
323 under s. 395.3025(2) ~~s. 395.3025(4)~~, s. 456.057, or any
324 applicable practice act by providing notice or failing to
325 provide notice. It shall not be a breach of any ethical, moral,
326 or legal duty for a health care provider to provide notice or
327 fail to provide notice.

328 e. A civil, criminal, or administrative action may not be
329 brought against any person or health care provider participating
330 in good faith in the provision of notice or failure to provide
331 notice as provided in this section. Any person or health care
332 provider participating in the provision of notice or failure to
333 provide notice as provided in this section shall be immune from
334 any civil or criminal liability and from any professional
335 disciplinary action with respect to the provision of notice or
336 failure to provide notice under this section. Any such
337 participant has the same immunity with respect to participating
338 in any judicial proceedings resulting from the notice or failure
339 to provide notice.

340 3. The person tested may, at his or her own expense, have a
341 physician, registered nurse, other personnel authorized by a
342 hospital to draw blood, or duly licensed clinical laboratory
343 director, supervisor, technologist, or technician, or other
344 person of his or her own choosing administer an independent test
345 in addition to the test administered at the direction of the law
346 enforcement officer for the purpose of determining the amount of
347 alcohol in the person's blood or breath or the presence of
348 chemical substances or controlled substances at the time

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349 alleged, as shown by chemical analysis of his or her blood or
350 urine, or by chemical or physical test of his or her breath. The
351 failure or inability to obtain an independent test by a person
352 does not preclude the admissibility in evidence of the test
353 taken at the direction of the law enforcement officer. The law
354 enforcement officer shall not interfere with the person's
355 opportunity to obtain the independent test and shall provide the
356 person with timely telephone access to secure the test, but the
357 burden is on the person to arrange and secure the test at the
358 person's own expense.

359 4. Upon the request of the person tested, full information
360 concerning the results of the test taken at the direction of the
361 law enforcement officer shall be made available to the person or
362 his or her attorney. Full information is limited to the
363 following:

364 a. The type of test administered and the procedures
365 followed.

366 b. The time of the collection of the blood or breath sample
367 analyzed.

368 c. The numerical results of the test indicating the alcohol
369 content of the blood and breath.

370 d. The type and status of any permit issued by the
371 Department of Law Enforcement which was held by the person who
372 performed the test.

373 e. If the test was administered by means of a breath
374 testing instrument, the date of performance of the most recent
375 required inspection of such instrument.

376
377 Full information does not include manuals, schematics, or

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378 software of the instrument used to test the person or any other
379 material that is not in the actual possession of the state.
380 Additionally, full information does not include information in
381 the possession of the manufacturer of the test instrument.

382 5. A hospital, clinical laboratory, medical clinic, or
383 similar medical institution or physician, certified paramedic,
384 registered nurse, licensed practical nurse, other personnel
385 authorized by a hospital to draw blood, or duly licensed
386 clinical laboratory director, supervisor, technologist, or
387 technician, or other person assisting a law enforcement officer
388 does not incur any civil or criminal liability as a result of
389 the withdrawal or analysis of a blood or urine specimen, or the
390 chemical or physical test of a person's breath pursuant to
391 accepted medical standards when requested by a law enforcement
392 officer, regardless of whether or not the subject resisted
393 administration of the test.

394 Section 8. Paragraph (a) of subsection (2) of section
395 316.1933, Florida Statutes, is amended to read:

396 316.1933 Blood test for impairment or intoxication in cases
397 of death or serious bodily injury; right to use reasonable
398 force.—

399 (2) (a) Only a physician, certified paramedic, registered
400 nurse, licensed practical nurse, other personnel authorized by a
401 hospital to draw blood, or duly licensed clinical laboratory
402 director, supervisor, technologist, or technician, acting at the
403 request of a law enforcement officer, may withdraw blood for the
404 purpose of determining the alcoholic content thereof or the
405 presence of chemical substances or controlled substances
406 therein. However, the failure of a law enforcement officer to

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407 request the withdrawal of blood shall not affect the
408 admissibility of a test of blood withdrawn for medical purposes.

409 1. Notwithstanding any provision of law pertaining to the
410 confidentiality of hospital records or other medical records, if
411 a health care provider, who is providing medical care in a
412 health care facility to a person injured in a motor vehicle
413 crash, becomes aware, as a result of any blood test performed in
414 the course of that medical treatment, that the person's blood-
415 alcohol level meets or exceeds the blood-alcohol level specified
416 in s. 316.193(1)(b), the health care provider may notify any law
417 enforcement officer or law enforcement agency. Any such notice
418 must be given within a reasonable time after the health care
419 provider receives the test result. Any such notice shall be used
420 only for the purpose of providing the law enforcement officer
421 with reasonable cause to request the withdrawal of a blood
422 sample pursuant to this section.

423 2. The notice shall consist only of the name of the person
424 being treated, the name of the person who drew the blood, the
425 blood-alcohol level indicated by the test, and the date and time
426 of the administration of the test.

427 3. Nothing contained in s. 395.3025(2) ~~s. 395.3025(4)~~, s.
428 456.057, or any applicable practice act affects the authority to
429 provide notice under this section, and the health care provider
430 is not considered to have breached any duty owed to the person
431 under s. 395.3025(2) ~~s. 395.3025(4)~~, s. 456.057, or any
432 applicable practice act by providing notice or failing to
433 provide notice. It shall not be a breach of any ethical, moral,
434 or legal duty for a health care provider to provide notice or
435 fail to provide notice.

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436 4. A civil, criminal, or administrative action may not be
437 brought against any person or health care provider participating
438 in good faith in the provision of notice or failure to provide
439 notice as provided in this section. Any person or health care
440 provider participating in the provision of notice or failure to
441 provide notice as provided in this section shall be immune from
442 any civil or criminal liability and from any professional
443 disciplinary action with respect to the provision of notice or
444 failure to provide notice under this section. Any such
445 participant has the same immunity with respect to participating
446 in any judicial proceedings resulting from the notice or failure
447 to provide notice.

448 Section 9. Subsection (13) of section 395.4025, Florida
449 Statutes, is amended to read:

450 395.4025 Trauma centers; selection; quality assurance;
451 records.—

452 (13) Patient care, transport, or treatment records or
453 reports, or patient care quality assurance proceedings, records,
454 or reports obtained or made pursuant to this section, s.
455 395.3025(2)(f) ~~s. 395.3025(4)(f)~~, s. 395.401, s. 395.4015, s.
456 395.402, s. 395.403, s. 395.404, s. 395.4045, s. 395.405, s.
457 395.50, or s. 395.51 must be held confidential by the department
458 or its agent and are exempt from the provisions of s. 119.07(1).
459 Patient care quality assurance proceedings, records, or reports
460 obtained or made pursuant to these sections are not subject to
461 discovery or introduction into evidence in any civil or
462 administrative action.

463 Section 10. Subsection (1) of section 400.0234, Florida
464 Statutes, is amended to read:

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465 400.0234 Availability of facility records for investigation
466 of resident's rights violations and defenses; penalty.—

467 (1) Failure to provide complete copies of a resident's
468 records, including, but not limited to, all medical records and
469 the resident's chart, within the control or possession of the
470 facility in accordance with s. 408.833 ~~s. 400.145~~ shall
471 constitute evidence of failure of that party to comply with good
472 faith discovery requirements and shall waive the good faith
473 certificate and presuit notice requirements under this part by
474 the requesting party.

475 Section 11. Subsection (1) of section 429.294, Florida
476 Statutes, is amended to read:

477 429.294 Availability of facility records for investigation
478 of resident's rights violations and defenses; penalty.—

479 (1) Failure to provide complete copies of a resident's
480 records, including, but not limited to, all medical records and
481 the resident's chart, within the control or possession of the
482 facility in accordance with s. 408.833 ~~s. 400.145~~, shall
483 constitute evidence of failure of that party to comply with good
484 faith discovery requirements and shall waive the good faith
485 certificate and presuit notice requirements under this part by
486 the requesting party.

487 Section 12. Subsection (4) of section 440.185, Florida
488 Statutes, is amended to read:

489 440.185 Notice of injury or death; reports; penalties for
490 violations.—

491 (4) Additional reports with respect to such injury and of
492 the condition of such employee, including copies of medical
493 reports, funeral expenses, and wage statements, shall be filed

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494 by the employer or carrier to the department at such times and
495 in such manner as the department may prescribe by rule. In
496 carrying out its responsibilities under this chapter, the
497 department or agency may by rule provide for the obtaining of
498 any medical records relating to medical treatment provided
499 pursuant to this chapter, notwithstanding the provisions of ss.
500 90.503 and 395.3025(2) ~~395.3025(4)~~.

501 Section 13. Subsection (3) of section 456.47, Florida
502 Statutes, is amended to read:

503 456.47 Use of telehealth to provide services.—

504 (3) RECORDS.—A telehealth provider shall document in the
505 patient's medical record the health care services rendered using
506 telehealth according to the same standard as used for in-person
507 services. Medical records, including video, audio, electronic,
508 or other records generated as a result of providing such
509 services, are confidential pursuant to ss. 395.3025(2) and
510 456.057 ~~ss. 395.3025(4) and 456.057~~.

511 Section 14. This act shall take effect July 1, 2025.