

By Senator Grall

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A bill to be entitled

An act relating to patient access to records; amending s. 394.4615, F.S.; requiring mental health service providers to furnish clinical records in accordance with specified requirements and within a specified timeframe after receiving a written request for such records; providing construction; amending s. 395.3025, F.S.; revising provisions related to the release of patient records by hospitals and ambulatory surgical centers to conform to changes made by the act; requiring such providers to furnish patient records in accordance with specified requirements and within a specified timeframe after receiving a written request; providing construction; establishing that the Department of Health, rather than the Agency for Health Care Administration, has the authority to issue subpoenas for patient records from hospitals and ambulatory surgical centers in certain circumstances; amending s. 397.501, F.S.; requiring substance abuse service providers to furnish clinical records in accordance with specified requirements and within a specified timeframe after receiving a written request; providing construction; amending s. 400.145, F.S.; revising the timeframe within which a nursing home facility must provide access to, and copies of, resident records after receiving a request for such records; creating s. 408.833, F.S.; defining terms; requiring licensed providers to furnish and provide access to client records within specified timeframes

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after receiving a written request from a client or the client's legal representative; requiring providers to furnish the client's protected health information in the form and format chosen by the requester, if readily producible, or, if not readily producible, in another mutually agreeable readable form; providing exceptions for providers governed by other specified provisions; amending s. 456.057, F.S.; defining the terms "designated record set" and "legal representative"; requiring health care practitioners to furnish and provide access to patient records within specified timeframes after receiving a written request from a patient or the patient's legal representative; requiring health care practitioners to furnish records in the form and format chosen by the requester, if readily producible, or, if not readily producible, in another mutually agreeable readable form; amending ss. 316.1932, 316.1933, 395.4025, 397.702, 429.294, 440.185, and 456.47, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Present subsections (3) through (12) of section 394.4615, Florida Statutes, are redesignated as subsections (4) through (13), respectively, a new subsection (3) is added to that section, and paragraphs (a), (b), and (c) of subsection (2) of that section are republished, to read:

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394.4615 Clinical records; confidentiality.—

(2) The clinical record shall be released when:

(a) The patient or the patient's guardian or legal custodian authorizes the release. The guardian, guardian advocate, or legal custodian shall be provided access to the appropriate clinical records of the patient. The patient or the patient's guardian, guardian advocate, or legal custodian may authorize the release of information and clinical records to appropriate persons to ensure the continuity of the patient's health care or mental health care. A receiving facility must document that, within 24 hours of admission, individuals admitted on a voluntary basis have been provided with the option to authorize the release of information from their clinical record to the individual's health care surrogate or proxy, attorney, representative, or other known emergency contact.

(b) The patient is represented by counsel and the records are needed by the patient's counsel for adequate representation.

(c) The court orders such release. In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains.

(3) For requests made in writing and pursuant to paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c), a service provider shall furnish the requested clinical records in accordance with all of the following requirements:

(a) As specified in 45 C.F.R. s. 164.524(a), the patient or his or her legal representative must be given the opportunity to inspect and obtain a copy of the patient's protected health

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information in a designated record set, as defined in and s.
408.833 and 45 C.F.R. s. 164.501.

(b) As specified in 45 C.F.R. s. 164.524(b)(2), the records must be furnished within 30 calendar days after the request is received.

(c) The protected health information must be provided in the form and format requested, if readily producible, including electronic form if maintained electronically; otherwise, it must be provided in a mutually agreeable readable form and format as required under 45 C.F.R. s. 164.524(c)(2).

(d) As provided in 45 C.F.R. s. 164.524(c)(4), the provider may impose a reasonable, cost-based fee that may only include coverage of the following costs:

1. Labor for copying the protected health information, whether in paper or electronic form.

2. Supplies for creating the copy, including electronic media if the individual requested the electronic copy be provided on portable media.

3. Postage, if the copy or the summary under subparagraph 4. is mailed.

4. Preparation of a summary or explanation of the protected health information, if agreed to in advance.

(e) The fees for electronic copies of protected health information are limited to \$6.50 per request, inclusive of labor, supplies, and postage costs in accordance with 45 C.F.R. s. 164.524(c)(4). Per-page fees are prohibited for electronic records and may apply when protected health information is maintained exclusively on paper and remains in that form, in which case the per-page fee may not exceed \$1 per page inclusive

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of labor, supplies, and postage costs. A fee may not be charged for accessing protected health information that is accessed through an electronic patient portal with view and download functionality. Covered entities shall inform the patient or the patient's legal representative in advance of the estimated fee and may provide a publicly available fee schedule. Fees may not be charged for administrative or outsourcing costs.

In accordance with 45 C.F.R. ss. 160.202 and 160.203, to the extent that this section provides greater rights for free access to patient records or imposes lower fees for gaining such access than those provided pursuant to federal laws or regulations, this section supersedes those federal laws and regulations, but only to that extent.

Section 2. Subsections (1), (2), and (3), paragraph (e) of subsection (4), paragraph (a) of subsection (7), and subsection (8) of section 395.3025, Florida Statutes, are amended to read:

395.3025 Patient and personnel records; copies; examination.—

(1) For requests made in writing, a licensed facility must furnish the requested patient records in accordance with all of the following requirements:

(a) As specified in 45 C.F.R. s. 164.524(a), the patient or his or her legal representative must be given the opportunity to inspect and obtain a copy of the patient's protected health information in a designated record set, as defined in s. 408.833 and 45 C.F.R. s. 164.501.

(b) As specified in 45 C.F.R. s. 164.524(b)(2), the records must be furnished within 30 calendar days after the request is

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received.

(c) The protected health information must be provided in the form and format requested, if readily producible, including electronic form if maintained electronically; otherwise, it must be provided in a mutually agreeable readable form and format as required under 45 C.F.R. s. 164.524(c)(2).

(d) As provided in 45 C.F.R. s. 164.524(c)(4), the licensed facility may impose a reasonable, cost-based fee that may only include coverage of the following costs:

1. Labor for copying the protected health information, whether in paper or electronic form.

2. Supplies for creating the copy, including electronic media if the individual requested the electronic copy be provided on portable media.

3. Postage, if the copy or the summary under subparagraph 4. is mailed.

4. Preparation of a summary or explanation of the protected health information, if agreed to in advance.

(e) The fees for electronic copies of protected health information are limited to \$6.50 per request, inclusive of labor, supplies, and postage costs in accordance with 45 C.F.R. s. 164.524(c)(4). Per-page fees are prohibited for electronic records and may apply when protected health information is maintained exclusively on paper and remains in that form, in which case the per-page fee may not exceed \$1 per page inclusive of labor, supplies, and postage costs. A fee may not be charged for accessing protected health information that is accessed through an electronic patient portal with view and download functionality. Licensed facilities shall inform the patient or

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the patient's legal representative in advance of the estimated fee and may provide a publicly available fee schedule. Licensed facilities may not charge fees for administrative or outsourcing costs.

In accordance with 45 C.F.R. ss. 160.202 and 160.203, to the extent that this section provides greater rights for free access to patient records or imposes lower fees for gaining such access than those provided pursuant to federal laws or regulations, this section supersedes those federal laws and regulations, but only to that extent ~~Any licensed facility shall, upon written request, and only after discharge of the patient, furnish, in a timely manner, without delays for legal review, to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or in the absence of one of those persons, to the next of kin of a decedent or the parent of a minor, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, and insurance information concerning such person, which records are in the possession of the licensed facility, provided the person requesting such records agrees to pay a charge. The exclusive~~ charge for copies of patient records may include sales tax and actual postage, and, except for nonpaper records that are subject to a charge not to exceed \$6.50 ~~\$2~~, may not exceed \$1 per page. A fee of up to \$1 may be charged for each year of records requested. These charges shall apply to all records furnished, whether directly from the facility or from a copy service providing these services on behalf of the facility.

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204 However, a patient whose records are copied or searched for the
205 purpose of continuing to receive medical care is not required to
206 pay a charge for copying or for the search. ~~The licensed~~
207 ~~facility shall further allow any such person to examine the~~
208 ~~original records in its possession, or microforms or other~~
209 ~~suitable reproductions of the records, upon such reasonable~~
210 ~~terms as shall be imposed to assure that the records will not be~~
211 ~~damaged, destroyed, or altered.~~

212 (2) ~~This section does not apply to records maintained at~~
213 ~~any licensed facility the primary function of which is to~~
214 ~~provide psychiatric care to its patients, or to records of~~
215 ~~treatment for any mental or emotional condition at any other~~
216 ~~licensed facility which are governed by the provisions of s.~~
217 ~~394.4615.~~

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

220 (4) Patient records are confidential and must not be
221 disclosed without the consent of the patient or his or her legal
222 representative, but appropriate disclosure may be made without
223 such consent to:

224 (e) The Department of Health ~~agency~~ upon subpoena issued
225 pursuant to s. 456.071, but the records obtained thereby must be
226 used solely for the purpose of the department ~~agency~~ and the
227 appropriate professional board in its investigation,
228 prosecution, and appeal of disciplinary proceedings. If the
229 department ~~agency~~ requests copies of the records, the facility
230 may not ~~shall~~ charge ~~no~~ more than its actual copying costs,
231 including reasonable staff time. The records must be sealed and
232 must not be available to the public pursuant to s. 119.07(1) or

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any other statute providing access to records, nor may they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department ~~agency~~ or the appropriate regulatory board. However, the department ~~agency~~ must make available, upon written request by a practitioner against whom probable cause has been found, any such records that form the basis of the determination of probable cause.

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

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

Section 3. Present subsections (8), (9), and (10) of section 397.501, Florida Statutes, are redesignated as subsections (9), (10), and (11), respectively, a new subsection (8) is added to that section, and paragraph (d) of subsection (7) of that section is republished, to read:

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

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

(7) RIGHT TO CONFIDENTIALITY OF INDIVIDUAL RECORDS.—

(d) Any answer to a request for a disclosure of individual records which is not permissible under this section or under the appropriate federal regulations must be made in a way that will not affirmatively reveal that an identified individual has been, or is being diagnosed or treated for substance abuse. The regulations do not restrict a disclosure that an identified individual is not and has never received services.

(8) RIGHT TO ACCESS INDIVIDUAL RECORDS.—

(a) For requests made in writing, a service provider must furnish the requested clinical records of an individual in accordance with all of the following requirements:

1. As specified in 45 C.F.R. s. 164.524(a), the individual or his or her legal representative must be given the opportunity to inspect and obtain a copy of the individual's protected health information in a designated record set, as defined in s. 408.833 and 45 C.F.R. s. 164.501.

2. As specified in 45 C.F.R. s. 164.524(b)(2), the records must be furnished within 30 calendar days after the request is received.

3. The protected health information must be provided in the form and format requested, if readily producible, including electronic form if maintained electronically; otherwise, it must be provided in a mutually agreeable readable form and format as required under 45 C.F.R. s. 164.524(c)(2).

4. As provided in 45 C.F.R. s. 164.524(c)(4), the service

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provider may impose a reasonable, cost-based fee that may only include coverage of the following costs:

a. Labor for copying the protected health information, whether in paper or electronic form.

b. Supplies for creating the copy, including electronic media if the individual requested the electronic copy be provided on portable media.

c. Postage, if the copy or the summary under subparagraph d. is mailed.

d. Preparation of a summary or explanation of the protected health information, if agreed to in advance.

5. The fees for electronic copies of protected health information are limited to \$6.50 per request, inclusive of labor, supplies, and postage costs in accordance with 45 C.F.R. s. 164.524(c)(4). Per-page fees are prohibited for electronic records and may apply when protected health information is maintained exclusively on paper and remains in that form, in which case the per-page fee may not exceed \$1 per page inclusive of labor, supplies, and postage costs. A fee may not be charged for accessing protected health information that is accessed through an electronic patient portal with view and download functionality. Service providers shall inform the individual or the individual's legal representative in advance of the estimated fee being imposed and may provide a publicly available fee schedule. Service providers may not charge fees for administrative or outsourcing costs.

(b) Within 10 business days after receiving such a written request, a service provider must provide access to examine the original records in its possession, or microforms or other

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suitable reproductions of the records, in accordance with subsection (7). The service provider may impose any reasonable terms necessary to ensure that the records will not be damaged, destroyed, or altered.

(c) In accordance with 45 C.F.R. ss. 160.202 and 160.203, to the extent that this subsection provides greater rights for free access to clinical records or imposes lower fees for gaining such access than those provided pursuant to federal laws or regulations, the provisions of this subsection supersede those federal laws and regulations, but only to that extent.

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

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

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

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resident or within 30 ~~business working~~ days after receipt of a request relating to a former resident.

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

408.833 Client access to medical records.—

(1) As used in this section, the term:

(a) "Client" has the same meaning as provided in s. 408.803.

(b) "Designated record set," consistent with 45 C.F.R. s. 164.501, means a group of records, maintained by or for a provider, which includes any of the following:

1. Medical and billing records for a patient.

2. Enrollment, payment, claims adjudication, and case or medical management record systems.

3. Any other record used, in whole or in part, by or for the provider to make decisions about a patient's care, coverage, or benefits, regardless of whether such records have, in fact, been used to make such decisions about the particular patient requesting access to the records.

(c) "Legal representative" means any of the following:

1. A legally recognized guardian of the client.

2. A court-appointed representative of the client.

3. A person designated by the client or by a court of competent jurisdiction to receive copies of the client's medical records, care and treatment records, or interdisciplinary records.

4. An attorney who has been designated by a client to receive copies of the client's medical records, care and treatment records, or interdisciplinary records.

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378 (d) "Provider" means any of the entities listed in s.
379 408.802.

380 (2)(a) Within 30 calendar days after receiving a written
381 request from a client or a client's legal representative, a
382 provider shall furnish a true and correct copy of the requested
383 records within the designated record set which are in the
384 provider's possession.

385 (b) Within 30 calendar days after receiving a written
386 request from a client or a client's legal representative, a
387 provider shall furnish a true and correct copy of additional
388 requested records, including medical records, care and treatment
389 records, and interdisciplinary records, as applicable, which are
390 in the provider's possession.

391 (c) Within 10 business days after receiving a request from
392 a client or a client's legal representative, a provider shall
393 provide access to examine the original records in the provider's
394 possession, or microforms or other suitable reproductions of the
395 records. A provider may impose any reasonable terms necessary to
396 ensure that the records will not be damaged, destroyed, or
397 altered.

398 (3) The protected health information must be provided in
399 the form and format requested by the client or client's legal
400 representative if the requested records are readily producible
401 in that form and format. If the requested records are not
402 readily producible in the requested form or format, the provider
403 must produce the records in a mutually agreeable readable form
404 as specified in 45 C.F.R. s. 164.524(c)(2).

405 (4) This section does not apply to:

406 (a) Records maintained at a licensed facility as defined in

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s. 395.002, the primary function of which is to provide psychiatric care to its patients, or to records of treatment for any mental or emotional condition at any other licensed facility which are governed by s. 394.4615;

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

(c) Records of a resident of a nursing home facility which are governed by s. 400.145.

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

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

(6) (a) As used in this subsection, the term:

1. "Designated record set," consistent with 45 C.F.R. s. 164.501, means a group of records, maintained by or for the health care practitioner, which includes any of the following:

a. Medical and billing records for a patient.

b. Enrollment, payment, claims adjudication, and case or medical management record systems.

c. Any other record used, in whole or in part, by or for the provider to make decisions about a patient's care, coverage, or benefits, regardless of whether such records have, in fact, been used to make such decisions about the particular patient requesting access to the records.

2. "Legal representative" means any of the following:

a. A legally recognized guardian of the patient.

b. A court-appointed representative of the patient.

c. A person designated by the patient or by a court of competent jurisdiction to receive copies of the patient's

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436 medical records, care and treatment records, or
437 interdisciplinary records.

438 d. An attorney who has been designated by a patient to
439 receive copies of the patient's medical records, care and
440 treatment records, or interdisciplinary records.

441 (b)1. Within 30 calendar days after receiving a written ~~Any~~
442 ~~health care practitioner licensed by the department or a board~~
443 ~~within the department who makes a physical or mental examination~~
444 ~~of, or administers treatment or dispenses legend drugs to, any~~
445 ~~person shall, upon request from a patient of such person or the~~
446 patient's person's legal representative, a health care
447 practitioner shall furnish a true and correct copy of the
448 requested records within the designated record set which are in
449 the practitioner's possession.

450 2. Within 30 calendar days after receiving a written
451 request from a patient or a patient's legal representative, a
452 health care practitioner shall furnish a true and correct copy
453 of additional requested records, including medical records, care
454 and treatment records, and interdisciplinary records, as
455 applicable, which are in the practitioner's possession.

456 3. Within 10 business days after receiving a request from a
457 patient or a patient's legal representative, a health care
458 practitioner shall provide access to examine the original
459 records in the practitioner's possession, or microforms or other
460 suitable reproductions of the records. A health care
461 practitioner may impose any reasonable terms necessary to ensure
462 that the records will not be damaged, destroyed, or altered.

463 4. The protected health information must be provided in the
464 form and format requested by the patient or legal representative

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if the requested records are readily producible in that form and format. If the requested records are not readily producible in the requested form or format, the practitioner must produce the records in a mutually agreeable readable form as specified in 45 C.F.R. s. 164.524(c)(2), ~~in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information.~~

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

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

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)

(f)1. The tests determining the weight of alcohol in the defendant's blood or breath shall be administered at the request of a law enforcement officer substantially in accordance with rules of the Department of Law Enforcement. Such rules must specify precisely the test or tests that are approved by the Department of Law Enforcement for reliability of result and ease

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of administration, and must provide an approved method of administration which must be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood does not affect the admissibility of a test of blood withdrawn for medical purposes.

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

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

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

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

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

3. The person tested may, at his or her own expense, have a physician, registered nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other

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552 person of his or her own choosing administer an independent test
553 in addition to the test administered at the direction of the law
554 enforcement officer for the purpose of determining the amount of
555 alcohol in the person's blood or breath or the presence of
556 chemical substances or controlled substances at the time
557 alleged, as shown by chemical analysis of his or her blood or
558 urine, or by chemical or physical test of his or her breath. The
559 failure or inability to obtain an independent test by a person
560 does not preclude the admissibility in evidence of the test
561 taken at the direction of the law enforcement officer. The law
562 enforcement officer shall not interfere with the person's
563 opportunity to obtain the independent test and shall provide the
564 person with timely telephone access to secure the test, but the
565 burden is on the person to arrange and secure the test at the
566 person's own expense.

567 4. Upon the request of the person tested, full information
568 concerning the results of the test taken at the direction of the
569 law enforcement officer shall be made available to the person or
570 his or her attorney. Full information is limited to the
571 following:

572 a. The type of test administered and the procedures
573 followed.

574 b. The time of the collection of the blood or breath sample
575 analyzed.

576 c. The numerical results of the test indicating the alcohol
577 content of the blood and breath.

578 d. The type and status of any permit issued by the
579 Department of Law Enforcement which was held by the person who
580 performed the test.

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

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

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

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

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

(2)(a) Only a physician, certified paramedic, registered nurse, licensed practical nurse, other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory

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610 director, supervisor, technologist, or technician, acting at the
611 request of a law enforcement officer, may withdraw blood for the
612 purpose of determining the alcoholic content thereof or the
613 presence of chemical substances or controlled substances
614 therein. However, the failure of a law enforcement officer to
615 request the withdrawal of blood shall not affect the
616 admissibility of a test of blood withdrawn for medical purposes.

617 1. Notwithstanding any provision of law pertaining to the
618 confidentiality of hospital records or other medical records, if
619 a health care provider, who is providing medical care in a
620 health care facility to a person injured in a motor vehicle
621 crash, becomes aware, as a result of any blood test performed in
622 the course of that medical treatment, that the person's blood-
623 alcohol level meets or exceeds the blood-alcohol level specified
624 in s. 316.193(1)(b), the health care provider may notify any law
625 enforcement officer or law enforcement agency. Any such notice
626 must be given within a reasonable time after the health care
627 provider receives the test result. Any such notice shall be used
628 only for the purpose of providing the law enforcement officer
629 with reasonable cause to request the withdrawal of a blood
630 sample pursuant to this section.

631 2. The notice shall consist only of the name of the person
632 being treated, the name of the person who drew the blood, the
633 blood-alcohol level indicated by the test, and the date and time
634 of the administration of the test.

635 3. Nothing contained in s. 395.3025(2) ~~s. 395.3025(4)~~, s.
636 456.057, or any applicable practice act affects the authority to
637 provide notice under this section, and the health care provider
638 is not considered to have breached any duty owed to the person

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under s. 395.3025(2) ~~s. 395.3025(4)~~, s. 456.057, or any applicable practice act by providing notice or failing to provide notice. It shall not be a breach of any ethical, moral, or legal duty for a health care provider to provide notice or fail to provide notice.

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

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

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

(13) Patient care, transport, or treatment records or reports, or patient care quality assurance proceedings, records, or reports obtained or made pursuant to this section, s. 395.3025(2)(f) ~~s. 395.3025(4)(f)~~, s. 395.401, s. 395.4015, s. 395.402, s. 395.403, s. 395.404, s. 395.4045, s. 395.405, s. 395.50, or s. 395.51 must be held confidential by the department or its agent and are exempt from the provisions of s. 119.07(1). Patient care quality assurance proceedings, records, or reports

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obtained or made pursuant to these sections are not subject to discovery or introduction into evidence in any civil or administrative action.

Section 10. Paragraph (c) of subsection (2) of section 397.702, Florida Statutes, is amended to read:

397.702 Authorization of local ordinances for treatment of habitual abusers in licensed secure facilities.—

(2) Ordinances for the treatment of habitual abusers must provide:

(c) That the court with jurisdiction to make the determination authorized by this section shall hear the petition on an emergency basis as soon as practicable but not later than 10 days after the date the petition was filed. If the allegations of the petition indicate that the respondent has requested the appointment of an attorney, or otherwise indicate the absence of any competent person to speak at the hearing on behalf of the respondent, the court shall immediately appoint an attorney to represent the respondent pursuant to s. 397.501(9) ~~s. 397.501(8)~~, and shall provide notice of the hearing to the attorney. When the court sets a hearing date the petitioner shall provide notice of the hearing and a copy of the petition to all of the persons named in the petition pursuant to subparagraph (b)2., and to such other persons as may be ordered by the court to receive notice.

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

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

(1) Failure to provide complete copies of a resident's

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records, including, but not limited to, all medical records and the resident's chart, within the control or possession of the facility in accordance with s. 408.833 ~~s. 400.145~~, shall constitute evidence of failure of that party to comply with good faith discovery requirements and shall waive the good faith certificate and presuit notice requirements under this part by the requesting party.

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

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

(4) Additional reports with respect to such injury and of the condition of such employee, including copies of medical reports, funeral expenses, and wage statements, shall be filed by the employer or carrier to the department at such times and in such manner as the department may prescribe by rule. In carrying out its responsibilities under this chapter, the department or agency may by rule provide for the obtaining of any medical records relating to medical treatment provided pursuant to this chapter, notwithstanding ss. 90.503 and 395.3025(2) ~~the provisions of ss. 90.503 and 395.3025(4)~~.

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

456.47 Use of telehealth to provide services.—

(3) RECORDS.—A telehealth provider shall document in the patient's medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such

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726 services, are confidential pursuant to ss. 395.3025(2) and
727 456.057 ~~ss. 395.3025(4) and 456.057.~~

728 Section 14. This act shall take effect January 1, 2027.