FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 1309	**COMPANION BILL:** SB 1140 (Grall)
TITLE: Patient Access to Records	**LINKED BILLS:** None
SPONSOR(S): Booth	**RELATED BILLS:** None

Committee References

Health Professions & Programs 17 Y, 1 N	➤	Health & Human Services 21 Y, 5 N

SUMMARY

Effect of the Bill:
HB 1309 standardizes access to health care records for patients, residents and legal representatives. The bill requires all health care practitioners and facilities, excluding nursing homes, to provide records within 14 days of a request and allow inspection of records within 10 days. Health care providers and facilities may produce the requested records in paper or electronic format. However, health care providers and facilities must produce the requested records in an electronic format, including access through a web-based patient portal or submission into a patient's electronic personal health record, if the health care provider or facility maintains an electronic health recordkeeping system.

The bill requires nursing homes to provide residents with access to their records within 24 hours (excluding holidays and weekends) and a copy of any requested records within two working days of request.

Fiscal or Economic Impact:
None

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Patient Health Care Records Access

The bill standardizes patient access to health care records which varies under current law depending on what kind of health care facility or health care practitioner is involved. The bill requires all health care practitioners and facilities to provide records within 14 days of a request and allow inspection of records within 10 days.

The bill aligns Florida law with federal law by requiring nursing homes to provide residents with access to their records within 24 hours (excluding holidays and weekends) and a copy of any requested records within two working days of request. This makes these requirements enforceable as a licensure requirement by the Agency for Health Care Administration, which regulates nursing homes. (Section 4, 5)

Health care providers and facilities may produce the requested records in paper or electronic format. However, health care providers and facilities must produce the requested records in an electronic format, including access through a web-based patient portal or submission into a patient's electronic personal health record, if the health care provider or facility currently maintains a patient portal. This licensure requirement is enforceable through the Department of Health, which regulates health care practitioners, and by the Agency for Health Care Administration, which regulates health care facilities. (Section 1, 3, 5, 6)
The bill's requirements for production and access to records also apply when a patient's or resident's legal representative makes the records request. Under the bill, a patient's or resident's attorney designated to receive

copies of the patient's or resident's medical, care and treatment, or interdisciplinary records; any legally recognized guardian of the patient or resident; any court appointed representative of the patient or resident; or any person designated by the patient or resident or by a court of competent jurisdiction to receive copies of the patient's or resident's medical, care and treatment, or interdisciplinary records. (Section 2, 3, 5, 6).

The bill provides an effective date of January 1, 2027. (Section 13).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Access to Health Care Records – Federal Law

Health Insurance Portability and Accountability Act

The federal Health Insurance Portability and Accountability Act (HIPAA), enacted in 1996, protects personal health information (PHI).[1] In 2000, the U.S. Department of Health and Human Services promulgated privacy rules which established national standards to protect medical records and other PHI.[2] These rules address, among other things, the use and disclosure of an individual's PHI. Only certain entities, known as "covered entities", are subject to HIPAA's provisions and include:

- Health plans,
- Health care providers,
- Health care clearinghouses; and
- Business associates of any of the above[3]

HIPAA requires the disclosure of an individual's PHI to the individual who is the subject of the PHI information or his or her personal representative,[4] upon his or her request.[5] A covered entity must produce the PHI in the electronic form and format requested by the individual, if it is readily producible in such form and format.[6] In general, HIPAA privacy rules preempt any state law that is contrary to its provisions.[7] However, if the state law is more stringent, the state law will apply.

The 21st Century Cures Act

The 21st Century Cures (Act), was enacted to, among other things, improve patient access to health care records. Whereas HIPAA protects patient privacy, the Act increases patient's access to health care records by prohibiting "actors" from interfering with the access, exchange or use of electronic health information. The Act prohibits three categories of actors from information blocking:[8]

- Health Care Providers;

[1] Pub. L. No. 104-191 (1996). Protected health information includes all individually identifiable health information held or transmitted by a covered entity or its business associate.
[2] U.S. Department of Health and Human Services, *Health Information Privacy*, available at https://www.hhs.gov/hipaa/for-professionals/privacy/index.html (last visited January 22, 2026). The rules were modified in 2002.
[3] U.S. Department of Health and Human Services, Office for Civil Rights, *Summary of the HIPAA Privacy Rule*, (last rev. May 2003), available at https://www.hhs.gov/sites/default/files/privacysummary.pdf. (last visited January 22, 2026).
[4] *Supra*, FN 20 A personal representative is generally a person with authority under state law to make health care decisions on behalf of an individual.
[5] *Supra*, FN 21 HIPAA limits the access to psychotherapy notes, certain lab results, and information compiled for legal proceedings. A covered entity may also deny access to personal health information in certain situations, such as when a health care practitioner believes access could cause harm to the individual or others.
[6] 45 CFR § 164.524(c)(2)(i).
[7] 45 C.F.R. s. 160.203.
[8] ASTP/ONC, *Information Blocking Actors*, available at https://healthit.gov/wp-content/uploads/2025/06/IB_Actors_Fact_Sheet_508.pdf (last visited January 22, 2026).

- Health Information Network or Health Information Exchange
- Health IT Developer of Certified Health IT

Upon request, actors must make access to certain types of clinical notes that have been created in an electronic health record (EHR) immediately available: [9]

- Consultation notes;
- Discharge summary notes;
- Procedure notes;
- Progress notes;
- Imaging narratives;
- Lab report narratives;
- Pathology report narratives; and
- History and physicals.

Notes compiled in reasonable anticipation of, or use in a civil, criminal or administrative action or proceeding and psychotherapy session notes are exempt from being produced under the Act.[10]

The Act provides several exceptions to providing a patient with immediate access to their EHR. Specifically, it will not be considered information blocking under the Act if access is denied or limited for any of the following reasons:[11]

- Preventing Harm;
- Privacy;
- Security;
- Infeasibility;[12] and
- Health IT Performance and Maintenance.[13]

It will also not be considered to be information blocking under certain circumstances if an actor provides the EHI in a different manner than it was requested, charges a fee, requires a licensing agreement or limits access to only through TEFCA[14] (Trusted Exchange Framework and Common Agreement).

Medicare Requirements for Long-Term Care Facilities

Access to medical and clinical records by residents of a nursing home receiving federal Medicare funding to care for Medicare patients is controlled by federal medical records exception rules not HIPAA. Such nursing homes are required to provide residents with access to their records within 24 hours (excluding holidays and weekends) and a copy of any requested records within two working days of request.[15]

---

[9] Cures Act Overview. The Risk Management Foundation of the Harvard Medical Institutions, Inc., available at https://www.rmf.harvard.edu/Risk-Prevention-and-Education/Article-Catalog-Page/Articles/2021/Cures-Act-Overview (Last visited January 22, 2026).
[10] *Id.*
[11] Information Blocking. Office of the National Coordinator for Health IT., available at https://healthit.gov/information-blocking/ (Last visited on January 22, 2026).
[12] It is not information blocking if it is not feasible for the actor to provide access to the EHI in the manner requested by the patient.
[13] Health IT systems can be temporarily shut down for maintenance or to degrade the health IT's performance for the benefit of the overall performance of the health IT.
[14] TEFCA was created by the U.S. Department of Health & Human Services Assistant Secretary for Technology Policy to remove barriers for sharing health records electronically among healthcare providers, patients, public health agencies, and payers. The TEFCA framework directly supports nationwide health data sharing by connecting health information networks (HINs) across the country. Each of these existing networks supports health information sharing for specific states, regions and localities, or among customers using the same electronic health record (EHR) vendor.
[15] 42 CFR s. 483.10(2)(g).

Currently, all but two of the licensed nursing homes in this state are medical records exception-certified and would be subject to these federal requirements.[16] The Agency for Health Care Administration cited 13 nursing homes for failing to meet these requirements from 2023 to January 2026.[17]

Access to Health Care Records – Florida Law

Practitioners

Chapter 456, F.S., is the licensure act for all health care practitioners. Any requirement within this chapter applies to all health care practitioners.[18] Health care practitioners law has standardized records access requirements that apply to all practitioners. A practitioner must provide a copy of patient medical records to the patient if requested by the patient or his or her legal representative.[19] The patient's medical records must be released without delay for legal review.

Substance abuse service providers are subject to different requirements. A substance abuse service provider may only release records with the written consent of the individual whom they pertain.[20] However, under limited circumstances, such as a medical emergency, the service provider may release records without the consent of the individual whom they pertain.[21] There is no statutorily established timeframe for a substance abuse service provider to release requested records.

Facilities

Chapter 408, F.S., is the core licensure act for health care facilities. Any requirement contained within this chapter applies to all health care facilities, which includes:[22]

- Laboratories authorized to perform testing under the Drug-Free Workplace Act;
- Birth centers;
- Abortion clinics;
- Crisis stabilization units;
- Short-term residential treatment facilities;
- Residential treatment facilities;
- Residential treatment centers for children and adolescents;
- Hospitals;
- Ambulatory surgical centers;
- Nursing homes;
- Assisted living facilities;
- Home health agencies;

[16] Correspondence from the Agency for Health Care Administration to committee staff dated January 25, 2026, on file with the Health Professions and Programs Subcommittee.
[17] Correspondence from the Agency for Health Care Administration to committee staff dated January 25, 2026, on file with the Health Professions and Programs Subcommittee.
[18] A health care practitioner is any person licensed under ch. 457, F.S., (acupuncture); ch. 458, F.S., (medical practice); ch. 459, F.S., (osteopathic medicine); ch. 460, F.S., (chiropractic medicine); ch. 461, F.S., (podiatric medicine); ch. 462, F.S., (naturopathy); ch. 463, F.S., (optometry); ch. 464, F.S., (nursing); ch. 465, F.S., (pharmacy); ch. 466, F.S., (dentistry, dental hygiene, and dental laboratories); ch. 467, F.S., (midwifery); part I, part II, part III, part V, part X, part XIII, or part XIV of ch. 468, F.S., (speech language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition practice, athletic trainers, or orthotics, prosthetics, and pedorthics); ch. 478, F.S., (electrolysis); ch. 480, F.S., (massage practice); part III or part IV of ch. 483, F.S., (clinical laboratory personnel or medical physicists); ch. 484, F.S., (dispensers of optical devices and hearing aids); ch. 486, F.S., (physical therapy practice); ch. 490, F.S., (psychological services); or ch. 491, F.S., (clinical, counseling, and psychotherapy services).
[19] S. 456.057, F.S. In lieu of copies of certain medical records related to psychiatric or psychological treatment, a practitioner may release a report of examination and treatment.
[20] S. 397.501(7)(a), F.S.
[21] *Id.*
[22] Ss. 408.803(11) F.S., and 408.802, F.S.

- Nurse registries;
- Companion services or homemaker services providers;
- Adult day care centers;
- Hospices;
- Adult family-care homes;
- Homes for special services;
- Transitional living facilities;
- Prescribed pediatric extended care centers;
- Home medical equipment providers;
- Intermediate care facilities for persons with developmental disabilities;
- Health care services pools;
- Health care clinics; and,
- Multiphasic health testing centers.

Currently, Chapter 408 does not establish standard requirements for health care facilities to produce, or allow inspection of, a patient's or resident's medical, clinical and interdisciplinary records. Rather, the requirements are in each facility licensure act and vary, sometimes greatly. Some health care facilities do not have statutory requirements related to a patient's access to records.

Hospitals, Ambulatory Surgical Centers, and Mobile Surgical Centers

After a patient has been discharged, a licensed hospital, ambulatory surgical center, and mobile surgical center (licensed facility) must, upon written request, timely provide patient records in its possession to the patient.[23] The records may also be released to the patient'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 the minor, or to any other person designated in writing by such patient.

A licensed facility must also allow a patient or their representative access to examine the records in its possession, but may establish reasonable terms to assure that the records will not be damaged, destroyed, or altered.[24] There is no statutorily established timeframe for when a licensed facility must provide this access.

Nursing Homes

Upon request, a nursing home must provide a competent resident with a copy of any paper and electronic records of the resident which it has in its possession.[25] Such records must include any medical records and records concerning the care and treatment of the resident performed by the nursing home, except for notes and report sections of a psychiatric nature.[26] A nursing home must provide these records within 14 days for a current resident and 30 days for a former resident.[27] A nursing home may refuse to furnish these records directly to a resident if it determines that disclosure would be detrimental to the resident's physical or mental health.[28] However, upon such a refusal, a resident may have his or her records furnished to a medical provider designated by the resident.[29]

A nursing home must also allow a resident's representative access to examine the records in its possession, but may establish reasonable terms to assure that the records will not be damaged, destroyed, or altered.[30] There is no statutorily established timeframe for when a nursing home must provide this access.

---

[23] S. 395.3025, F.S. This does not apply to facilities that primarily provide psychiatric care or certain clinical records created at any licensed facility concerning certain mental health or substance abuse services.
[24] S. 395.3025(1), F.S.
[25] S. 400.145(1), F.S.
[26] *Id.*
[27] *Id.*
[28] S. 400.145(5), F.S.
[29] *Id.*
[30] *Id.*

Mental Health Facilities

A clinical record is required for each patient receiving treatment for mental illness at a receiving facility[31] or treatment facility.[32] The treatment or receiving facility must release a patient's clinical records if requested by the patient, the patient's guardian or counsel or the Department of Corrections.[33] There is no statutorily timeframe for when a receiving or treatment facility must provide the requested clinical records.

Hospices

A hospice is required to release a patient's interdisciplinary record if requested by an individual authorized by the patient or by the court.[34] There is no statutorily established timeframe for when a hospice must release a patient's interdisciplinary record.

Electronic Medical Records Patient Portals

Patient portals are health care provider-owned and -operated electronic applications which give patients secure access to protected health information and allow secure methods for communicating and sharing information with health care providers.[35] These portals are typically connected to the electronic health records of a particular health care provider, practice group or institution.[36]

Portals vary in sophistication ranging from those which only allow patients to view medical records to those which allow patients to access specific-patient educational materials, schedule appointments and request prescription refills.[37] Improved access to records and health care providers can promote better informed health care decision-making and patient engagement.[38]

One of the drawbacks to patient portals is the inability of patients to have a centralized repository of their health care records. Patient portals are owned by health care providers, rather than by patients, and may not be interoperable with the electronic health records of another provider. A patient who receives treatment or services from multiple health care providers or facilities could feasibly have his or her records dispersed between multiple patient portals.

Electronic Personal Health Record

---

[31] A "receiving facility" is a public or private facility or hospital designated by the Department of Children and Families to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider. S. 394.455(39), F.S.

[32] S. 394.4615(1), F.S.; A "treatment facility" is a state-owned, state-operated, or state-supported hospital, center, or clinic designated by the Department of Children and Families for extended treatment and hospitalization, beyond that provided for by a receiving facility, of persons who have a mental illness, including facilities of the United States Government, and any private facility designated by the Department of Children and Families when rendering such services. S. 394.455(47), F.S.

[33] S. 394.4615(2), F.S.

[34] S. 400.611(3), F.S.

[35] Kooij, Groen, van Harten, *Barriers and Facilitators Affecting Patient Portal Implementation from an Organizational Perspective: Qualitative Study*, J Med Internet Res. 2018 May; 20(5): e183, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5970285/ (last viewed on January 23, 2026).

[36] *Id.*

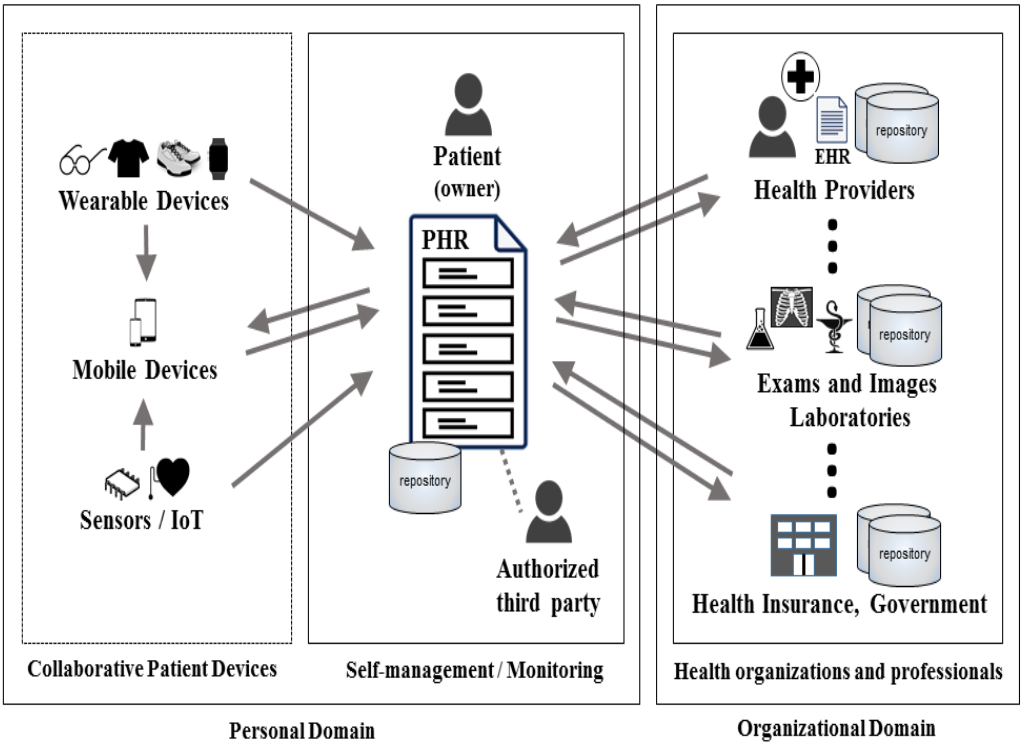
[37] Griffin, Skinner, Thornhill, Weinberger, *Patient Portals: Who uses them? What features do they use? And do they reduce hospital readmissions?*, Appl Clin Inform. 2016; 7(2): 489–501, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4941855/ (last visited on January 23, 2026).

[38] *Id.*

An electronic personal health record (PHR) is a patient owned electronic application through which individuals can access, manage and share health information in a private, secure and confidential environment.[39] PHRs that are offered by health plans or health care providers are subject to the HIPAA privacy rule. [40] PHRs that are offered by vendors, employers and other non-covered entities are not subject to the HIPAA privacy rule. These entities have contractual privacy policies, which may vary, but are required under federal law to notify customers in the event of a security breach.[41]

A PHR can be stand-alone or integrated. In a stand-alone PHR, the individual enters all information into the record.[42] This can be done manually by entering the medical data or by uploading medical records into the PHR. In an integrated PHR, information is submitted directly through electronic health care devices and through health care provider's electronic health records system.[43]

Integrated Personal Health Record[44]



Potential benefits of the use of a PHR, for patients, health care providers, and health care systems include:[45]

- **Empowerment of patients**. PHRs let patients verify the information in their medical record and monitor health data about themselves (very useful in chronic disease management). PHRs also provide scheduling reminders for health maintenance services.

---

[39] Tang, Ash, Bates, Overhage, and Sands, *Personal Health Records: Definitions, Benefits, and Strategies for Overcoming Barriers to Adoption*, J Am Med Inform Assoc., 2006 Mar-Apr; 13(2): 121-126, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447551/pdf/121.pdf (last visited January 23, 2026).

[40] *Personal Health Records and the HIPAA Privacy Rule*, U.S. Department of Health and Human Services, Office for Civil Rights, available at https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/healthit/phrs.pdf (last visited on January 23, 2026).

[41] 16 CFR § 318.3.

[42] *Id.*

[43] *Id.*

[44] Roehrs A, da Costa CA, da Rosa Righi R, de Oliveira KSF, *Personal Health Records: A Systematic Literature Review*, J Med Internet Res 2017;19(1):e13, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5251169/ (last visited on January 23, 2026)

[45] Endsley, Kibbe, Linares, MD, Colorafi, *An Introduction to Personal Health Records*, Fam Pract Manag. 2006 May;13(5):57-62, https://www.aafp.org/fpm/2006/0500/p57.html (last visited on January 23, 2026).

- **Improved patient-provider relationships**. PHRs improve communication between patients and clinicians, allow documentation of interactions with patients and convey timely explanations of test results.
- **Increased patient safety**. PHRs provide drug alerts, help identify missed procedures and services, and get important test results to patients rapidly. PHRs also give patients timely access to updated care plans.
- **Improved quality of care**. PHRs enable continuous, comprehensive care with better coordination between patients, physicians and other providers.
- **More efficient delivery of care**. PHRs help avoid duplicative testing and unnecessary services. They provide more efficient communication between patients and physicians (e.g., avoiding congested office phones).
- **Better safeguards on health information privacy**. By giving patients control of access to their records, PHRs offer more selectivity in sharing of personal health information.
- **Bigger cost savings**. Improved documentation brought about by PHRs can decrease malpractice costs. PHRs' ability to reduce duplicative tests and services is a factor here, too.

PHRs can also potentially be beneficial in ensuring continuity of care in mass evacuations situations, such as hurricanes and brushfires.[46]

There are numerous potential barriers to the adoption and use of PHRs. These include privacy and security concerns, costs, integrity, accountability, health literacy and legal and liability risk.[47]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Health Professions & Programs Subcommittee	17 Y, 1 N	1/29/2026	McElroy	Aderibigbe
Health & Human Services Committee	21 Y, 5 N	2/10/2026	Calamas	Aderibigbe

[46] *Supra*, FN 35.
[47] Vance, Tomblin, Studney, Coustasse, *Benefits and Barriers for Adoption of Personal Health Records*, 2015, https://mds.marshall.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1135&context=mgmt_faculty (last visited on January 23, 2026).