

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
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, 429.294,
43 440.185, 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
59 requested records in the manner chosen by the requester,
60 including, but not limited to, an electronic format, submission
61 through a patient's electronic personal health record, or access
62 through a web-based patient portal if the service provider
63 maintains a patient portal.

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

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

72 ~~(1) Any licensed facility shall, upon written request, and~~
73 ~~only after discharge of the patient, furnish, in a timely~~
74 ~~manner, without delays for legal review, to any person admitted~~
75 ~~therein for care and treatment or treated thereat, or to any~~

76 ~~such person's guardian, curator, or personal representative, or~~
77 ~~in the absence of one of those persons, to the next of kin of a~~
78 ~~decedent or the parent of a minor, or to anyone designated by~~
79 ~~such person in writing, a true and correct copy of all patient~~
80 ~~records, including X rays, and insurance information concerning~~
81 ~~such person, which records are in the possession of the licensed~~
82 ~~facility, provided the person requesting such records agrees to~~
83 ~~pay a charge.~~ The exclusive charge for copies of patient records
84 may include sales tax and actual postage, and, except for
85 nonpaper records that are subject to a charge not to exceed \$2,
86 may not exceed \$1 per page. A fee of up to \$1 may be charged for
87 each year of records requested. These charges shall apply to all
88 records furnished, whether directly from the facility or from a
89 copy service providing these services on behalf of the facility.
90 However, a patient whose records are copied or searched for the
91 purpose of continuing to receive medical care is not required to
92 pay a charge for copying or for the search. ~~The licensed~~
93 ~~facility shall further allow any such person to examine the~~
94 ~~original records in its possession, or microforms or other~~
95 ~~suitable reproductions of the records, upon such reasonable~~
96 ~~terms as shall be imposed to assure that the records will not be~~
97 ~~damaged, destroyed, or altered.~~

98 ~~(2) This section does not apply to records maintained at~~
99 ~~any licensed facility the primary function of which is to~~
100 ~~provide psychiatric care to its patients, or to records of~~

101 ~~treatment for any mental or emotional condition at any other~~
102 ~~licensed facility which are governed by the provisions of s.~~
103 ~~394.4615.~~

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

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

110 (e) The Department of Health ~~agency~~ upon subpoena issued
111 pursuant to s. 456.071, but the records obtained thereby must be
112 used solely for the purpose of the department ~~agency~~ and the
113 appropriate professional board in its investigation,
114 prosecution, and appeal of disciplinary proceedings. If the
115 department ~~agency~~ requests copies of the records, the facility
116 shall charge no more than its actual copying costs, including
117 reasonable staff time. The records must be sealed and must not
118 be available to the public pursuant to s. 119.07(1) or any other
119 statute providing access to records, nor may they be available
120 to the public as part of the record of investigation for and
121 prosecution in disciplinary proceedings made available to the
122 public by the department ~~agency~~ or the appropriate regulatory
123 board. However, the department ~~agency~~ must make available, upon
124 written request by a practitioner against whom probable cause
125 has been found, any such records that form the basis of the

determination of probable cause.

(5)~~(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)~~~~(5)~~.

Section 3. Paragraphs (a) through (j) of subsection (7) of section 397.501, Florida Statutes, are redesignated as paragraphs (c) through (1), respectively, and new paragraphs (a) and (b) are added to that subsection, to read:

397.501 Rights of individuals.—Individuals receiving substance abuse services from any service provider are 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 ACCESS AND CONFIDENTIALITY OF INDIVIDUAL

151 RECORDS.—

152 (a) Within 14 working days after receiving a written
153 request from an individual or an individual's legal
154 representative, a service provider shall furnish a true and
155 correct copy of all records in the possession of the service
156 provider. The service provider may furnish the requested records
157 in paper form or, upon request, in an electronic format. A
158 service provider that maintains an electronic health record
159 system shall furnish the requested records in the manner chosen
160 by the requester, including, but not limited to, an electronic
161 format, submission through a patient's electronic personal
162 health record, or access through a web-based patient portal if
163 the service provider maintains a patient portal. For purposes of
164 this section, the term "legal representative" has the same
165 meaning as provided in s. 408.833(1).

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

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

175 400.145 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 ~~14~~ working days after receipt of a request relating to a current resident or within 30 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) For purposes of this section, the term "legal representative" means an attorney who has been designated by a client to receive copies of the client's medical, care and treatment, or interdisciplinary records; a legally recognized

guardian of the client; a court-appointed representative of the client; or a person designated by the client or by a court of competent jurisdiction to receive copies of the client's medical, care and treatment, or interdisciplinary records.

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

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

(4) This section does not apply to:

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

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

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

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

236 456.057 Ownership and control of patient records; report
237 or copies of records to be furnished; disclosure of
238 information.—

239 (6) (a) Any health care practitioner licensed by the
240 department or a board within the department who makes a physical
241 or mental examination of, or administers treatment or dispenses
242 legend drugs to, any patient ~~person~~ shall, upon request of such
243 patient ~~person~~ or the patient's ~~person's~~ legal representative,
244 furnish, within 14 working days after such request ~~in a timely~~
245 ~~manner, without delays for legal review,~~ copies of all reports
246 and records relating to such examination or treatment, including
247 X rays and insurance information. A health care practitioner may
248 furnish the requested reports and records in paper form or, upon
249 request, in an electronic format. A health care practitioner who
250 maintains an electronic health record system shall furnish the

251 requested reports and records in the manner chosen by the
252 requester, including, but not limited to, an electronic format,
253 submission through a patient's electronic personal health
254 record, or access through a web-based patient portal if the
255 service provider maintains a patient portal. For purposes of
256 this section, the term "legal representative" means a patient's
257 attorney who has been designated by the patient to receive
258 copies of the patient's medical records, a legally recognized
259 guardian of the patient, a court-appointed representative of the
260 patient, or any other person designated by the patient or by a
261 court of competent jurisdiction to receive copies of the
262 patient's medical records.

263 (b) Within 10 working days after receiving a written
264 request by a patient or a patient's legal representative, a
265 healthcare practitioner must provide access to examine the
266 original reports and records, or microforms or other suitable
267 reproductions of the reports and records in the healthcare
268 practitioner's possession. The healthcare practitioner may
269 impose any reasonable terms necessary to ensure that the reports
270 and records will not be damaged, destroyed, or altered.

271 (c) ~~However,~~ When a patient's psychiatric, chapter 490
272 psychological, or chapter 491 psychotherapeutic records are
273 requested by the patient or the patient's legal representative,
274 the health care practitioner may provide a report of examination
275 and treatment in lieu of copies of records. Upon a patient's

276 written request, complete copies of the patient's psychiatric
277 records shall be provided directly to a subsequent treating
278 psychiatrist. The furnishing of such report or copies may ~~shall~~
279 not be conditioned upon payment of a fee for services rendered.

280 **Section 7. Paragraph (f) of subsection (1) of section**
281 **316.1932, Florida Statutes, is amended to read:**

282 316.1932 Tests for alcohol, chemical substances, or
283 controlled substances; implied consent; refusal.-

284 (1)

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

296 2.a. Only a physician, certified paramedic, registered
297 nurse, licensed practical nurse, other personnel authorized by a
298 hospital to draw blood, or duly licensed clinical laboratory
299 director, supervisor, technologist, or technician, acting at the
300 request of a law enforcement officer, may withdraw blood for the

301 purpose of determining its alcoholic content or the presence of
302 chemical substances or controlled substances therein. However,
303 the failure of a law enforcement officer to request the
304 withdrawal of blood does not affect the admissibility of a test
305 of blood withdrawn for medical purposes.

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

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

324 d. Nothing contained in s. 395.3025(2) ~~s. 395.3025(4)~~, s.
325 456.057, or any applicable practice act affects the authority to

326 provide notice under this section, and the health care provider
327 is not considered to have breached any duty owed to the person
328 under s. 395.3025(2) ~~s. 395.3025(4)~~, s. 456.057, or any
329 applicable practice act by providing notice or failing to
330 provide notice. It shall not be a breach of any ethical, moral,
331 or legal duty for a health care provider to provide notice or
332 fail to provide notice.

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

345 3. The person tested may, at his or her own expense, have
346 a physician, registered nurse, other personnel authorized by a
347 hospital to draw blood, or duly licensed clinical laboratory
348 director, supervisor, technologist, or technician, or other
349 person of his or her own choosing administer an independent test
350 in addition to the test administered at the direction of the law

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

364 4. Upon the request of the person tested, full information
365 concerning the results of the test taken at the direction of the
366 law enforcement officer shall be made available to the person or
367 his or her attorney. Full information is limited to the
368 following:

369 a. The type of test administered and the procedures
370 followed.

371 b. The time of the collection of the blood or breath
372 sample analyzed.

373 c. The numerical results of the test indicating the
374 alcohol content of the blood and breath.

375 d. The type and status of any permit issued by the

Department of Law Enforcement which was held by the person who performed the test.

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:

401 316.1933 Blood test for impairment or intoxication in
402 cases of death or serious bodily injury; right to use reasonable
403 force.—

404 (2)(a) Only a physician, certified paramedic, registered
405 nurse, licensed practical nurse, other personnel authorized by a
406 hospital to draw blood, or duly licensed clinical laboratory
407 director, supervisor, technologist, or technician, acting at the
408 request of a law enforcement officer, may withdraw blood for the
409 purpose of determining the alcoholic content thereof or the
410 presence of chemical substances or controlled substances
411 therein. However, the failure of a law enforcement officer to
412 request the withdrawal of blood shall not affect the
413 admissibility of a test of blood withdrawn for medical purposes.

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

426 with reasonable cause to request the withdrawal of a blood
427 sample pursuant to this section.

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

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

441 4. A civil, criminal, or administrative action may not be
442 brought against any person or health care provider participating
443 in good faith in the provision of notice or failure to provide
444 notice as provided in this section. Any person or health care
445 provider participating in the provision of notice or failure to
446 provide notice as provided in this section shall be immune from
447 any civil or criminal liability and from any professional
448 disciplinary action with respect to the provision of notice or
449 failure to provide notice under this section. Any such
450 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 obtained or made pursuant to these sections are not subject to discovery or introduction into evidence in any civil or administrative action.

Section 10. 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 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 11. 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 the provisions of ss. 90.503 and 395.3025(2) ~~395.3025(4)~~.

Section 12. 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,

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501 or other records generated as a result of providing such
502 services, are confidential pursuant to ss. 395.3025(2) and
503 456.057 ~~ss. 395.3025(4) and 456.057.~~

504 **Section 13.** This act shall take effect January 1, 2027.