

By Senator Montford

3-00339B-17

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1 A bill to be entitled  
2 An act relating to confidentiality of patient records;  
3 amending s. 400.611, F.S.; providing that a hospice  
4 may keep progress notes and consultation reports of a  
5 psychiatric nature separate from other records of  
6 care; requiring a hospice to maintain an  
7 interdisciplinary record of patient care for 6 years  
8 after termination of hospice services; revising the  
9 conditions under which a hospice may release patient  
10 records; prohibiting the release of patient records  
11 after the patient's death unless the hospice is  
12 provided with certain written informed consent or upon  
13 request in accordance with a court order or by  
14 specified individuals; clarifying what constitutes  
15 express written informed consent; authorizing a  
16 hospice to withhold or redact progress notes and  
17 consultation notes of a psychiatric nature in certain  
18 circumstances; providing that a patient may in certain  
19 circumstances restrict any person from receiving his  
20 or her interdisciplinary record of care, subject to  
21 certain requirements; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 400.611, Florida Statutes, is amended to  
26 read:

27 400.611 Interdisciplinary records of care;  
28 confidentiality.-

29 (1) A hospice shall maintain an up-to-date,

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30 interdisciplinary record of patient care being given and of  
31 patient and family status ~~shall be kept~~. Interdisciplinary  
32 records must ~~shall~~ contain pertinent past and current medical,  
33 nursing, social, and other therapeutic information and such  
34 other information as that is necessary for the safe and adequate  
35 care of the patient. Notations regarding all aspects of care for  
36 the patient and family shall be made in the record; however, a  
37 hospice may keep progress notes and consultation reports of a  
38 psychiatric nature separate from other records of care. When  
39 services are terminated, the record must ~~shall~~ show the date and  
40 reason for termination.

41 (2) Patient records shall be retained for a period of 6 ~~5~~  
42 years after termination of hospice services, unless otherwise  
43 provided by law. In the case of a patient who is a minor, the 6-  
44 year ~~5-year~~ period shall begin on the date the patient reaches  
45 or would have reached the age of majority.

46 (3) The interdisciplinary record of patient care, including  
47 records of care, care plans, and billing records, is ~~are~~  
48 confidential. A hospice may not release a patient's  
49 interdisciplinary record of care, or any portion thereof, except  
50 under one of the following circumstances unless:

51 (a) A patient, a ~~or~~ legal guardian, or an incapacitated  
52 patient's representative who is authorized to act on behalf of  
53 the patient has given express written informed consent. Express  
54 written informed consent includes an unrevoked oral statement of  
55 consent which was entered into the patient's interdisciplinary  
56 record of care. Express written informed consent given under  
57 this paragraph may authorize the release of the  
58 interdisciplinary record of patient care throughout the

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59 patient's life and after his or her death.

60 (b) After the patient's death, a request is made:

61 1. In accordance with an order by a court of competent  
62 jurisdiction to release the interdisciplinary record of patient  
63 care to the requestor or to the requestor's attorney or agent;

64 2. By a person appointed by a court of competent  
65 jurisdiction to act as the personal representative, executor,  
66 administrator, curator, or temporary administrator of the  
67 deceased patient's estate;

68 3. If a judicial appointment has not been made as provided  
69 in subparagraph 2., by a person whom the patient designated to  
70 act as his or her personal representative in a last will that is  
71 self-proved under s. 732.503 ~~so ordered~~; or

72 4. If no person qualifies under subparagraph 2. or  
73 subparagraph 3., by only the following individuals:

74 a. A surviving spouse;

75 b. If there is no surviving spouse, a surviving child of  
76 the patient; or

77 c. If there is no surviving spouse or child, a surviving  
78 parent of the patient.

79  
80 When providing an interdisciplinary record of patient care to a  
81 requestor authorized under subparagraph 4., a hospice may  
82 withhold or redact any progress notes or consultation reports of  
83 a psychiatric nature. A patient may, through express written  
84 direction, restrict any person from receiving any part of, or  
85 all of, his or her interdisciplinary record of care pursuant to  
86 subparagraph 4. For the purposes of any restriction a patient  
87 made for access to his or her interdisciplinary record of care,

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88 express written direction may include an unrevoked oral  
89 statement of consent that was entered into the patient's  
90 interdisciplinary record of care.

91 (c) A state or federal agency, acting under its statutory  
92 authority, requires submission of aggregate statistical data.  
93 Any information obtained from patient records by a state agency  
94 pursuant to its statutory authority is confidential and exempt  
95 from the provisions of s. 119.07(1).

96 Section 2. This act shall take effect July 1, 2017.