A bill to be entitled
An act relating to hospice care; amending s. 400.6005, F.S.; revising legislative findings and intent; amending s. 400.601, F.S.; redefining the term "hospice"; defining the terms "hospice program" and "seriously ill"; amending s. 400.60501, F.S.; requiring the Department of Elderly Affairs, in conjunction with the Agency for Health Care Administration, to adopt by rule certain outcome measures by a specified date; requiring the department, in conjunction with the agency, to adopt national hospice outcome measures and make such measures available to the public; amending s. 400.609, F.S.; revising provisions to specify that a continuum of hospice care be provided to terminally ill patients and their families; creating s. 400.6093, F.S.; authorizing hospices, or providers operating under contract with a hospice, to provide palliative care to seriously ill patients and their family members; providing construction; amending s. 400.6095, F.S.; making technical changes; creating s. 400.6096, F.S.; authorizing a hospice to assist in the disposal of certain prescribed controlled substances; requiring a hospice that assists in the disposal of certain prescribed controlled substances to have an
established policy, procedure, or system for such disposal; authorizing a hospice physician, nurse, or social worker to assist in the disposal of certain prescribed controlled substances in a patient's home under certain conditions; providing requirements for such disposal; amending s. 400.611, F.S.; expanding access to confidential interdisciplinary patient care and billing records; increasing the period of time such records must be retained by a hospice; specifying to whom a hospice may release a patient's interdisciplinary record of care; providing an effective date.

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

Section 1. Section 400.6005, Florida Statutes, is amended to read:

400.6005 Legislative findings and intent.—The Legislature finds that a terminally ill patient individuals and their families, who are no longer pursuing curative medical treatment and the patient's family should have the opportunity to select a support system that permits the patient to exercise maximum independence and dignity during the final days of life. The Legislature also finds that a seriously ill patient and the patient's family should have the opportunity to select a
support system that provides palliative care and supportive care and allows the patient to exercise maximum independence while receiving such care. The Legislature finds that hospice care provides a cost-effective and less intrusive form of medical care while meeting the social, psychological, and spiritual needs of terminally ill and seriously ill patients and their families. The intent of this part is to provide for the development, establishment, and enforcement of basic standards to ensure the safe and adequate care of persons receiving hospice services.

Section 2. Section 400.601, Florida Statutes, is amended to read:

400.601 Definitions.—As used in this part, the term:

(1) "Agency" means the Agency for Health Care Administration.

(2) "Department" means the Department of Elderly Affairs.

(3) "Hospice" means a centrally administered corporation or a limited liability company that provides a continuum of palliative and supportive care for a terminally or seriously ill patient and his or her family.

(4) "Hospice care team" means an interdisciplinary team of qualified professionals and volunteers who, in consultation with a patient, the patient's family, and the patient's primary or attending physician, collectively assess, coordinate, and provide the appropriate palliative care and supportive care to
hospice patients and their families.

(5) "Hospice program" means a continuum of palliative and supportive care for a terminally ill patient and his or her family offered by a hospice.

(6) "Hospice residential unit" means a homelike living facility, other than a facility licensed under other parts of this chapter, under chapter 395, or under chapter 429, which is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his or her primary residence.

(7) "Hospice services" means items and services furnished to a terminally ill patient and family by a hospice, or by others under arrangements with such a program, in a place of temporary or permanent residence used as the patient's home for the purpose of maintaining the patient at home; or, if the patient needs short-term institutionalization, the services shall be furnished in cooperation with those contracted institutions or in the hospice inpatient facility.

(8) "Palliative care" means services or interventions furnished to a patient that are not curative but are provided for the reduction or abatement of pain and human suffering.

(9) "Patient" means the terminally or seriously ill individual receiving hospice services.

(10) "Plan of care" means a written assessment by the
hospice of each patient's and family's needs and preferences, and the services to be provided by the hospice to meet those needs.

(11) "Seriously ill" means that the patient has a life-threatening medical condition which may be irreversible and which may continue indefinitely and such condition may be managed through palliative care.

(12) "Terminally ill" means that the patient has a medical prognosis that his or her life expectancy is 1 year or less if the illness runs its normal course.

Section 3. Section 400.60501, Florida Statutes, is amended to read:

400.60501 Outcome measures; adoption of federal quality measures; public reporting national initiatives; annual report.—

(1) No later than December 31, 2019 2007, the department of Elderly Affairs, in conjunction with the agency for Health Care Administration, shall adopt develop outcome measures to determine the quality and effectiveness of hospice care for hospices licensed in the state. At a minimum, these outcome measures shall include a requirement that 50 percent of patients who report severe pain on a 0-to-10 scale must report a reduction to 5 or less by the end of the 4th day of care on the hospice program.

(2) For hospices licensed in the state, the department of Elderly Affairs, in conjunction with the agency for Health Care
Administration, shall:

(a) Consider and Adopt national initiatives, such as those developed by the national hospice outcome measures found in 42 C.F.R. part 418 and Palliative Care Organization, to set benchmarks for measuring the quality of hospice care provided in the state.

(b) Make available to the public the national hospice outcome measures in a format that is comprehensible by a layperson and allows a consumer to compare such measures for one or more hospices.

(c) Develop an annual report that analyzes and evaluates the information collected under this act and any other data collection or reporting provisions of law.

Section 4. Section 400.609, Florida Statutes, is amended to read:

400.609 Hospice services.—Each hospice shall provide a continuum of hospice services which afford the terminally ill patient and his or her family of the patient a range of service delivery which can be tailored to specific needs and preferences of the terminally ill patient and his or her family at any point in time throughout the length of care for the terminally ill patient and during the bereavement period. These services must be available 24 hours a day, 7 days a week, and must include:

(1) SERVICES.—
(a) The hospice care team shall directly provide the following core services: nursing services, social work services, pastoral or counseling services, dietary counseling, and bereavement counseling services. Physician services may be provided by the hospice directly or through contract. A hospice may also use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances.

(b) Each hospice must also provide or arrange for such additional services as are needed to meet the palliative and support needs of the patient and family. These services may include, but are not limited to, physical therapy, occupational therapy, speech therapy, massage therapy, home health aide services, infusion therapy, provision of medical supplies and durable medical equipment, day care, homemaker and chore services, and funeral services.

(2) HOSPICE HOME CARE.—Hospice care and services provided in a private home shall be the primary form of care. The goal of hospice home care shall be to provide adequate training and support to encourage self-sufficiency and allow patients and families to maintain the patient comfortably at home for as long as possible. The services of the hospice home care program shall be of the highest quality and shall be provided by the hospice care team.

(3) HOSPICE RESIDENTIAL CARE.—Hospice care and services,
to the extent practicable and compatible with the needs and preferences of the patient, may be provided by the hospice care team to a patient living in an assisted living facility, adult family-care home, nursing home, hospice residential unit or facility, or other nondomestic place of permanent or temporary residence. A resident or patient living in an assisted living facility, adult family-care home, nursing home, or other facility subject to state licensing who has been admitted to a hospice program shall be considered a hospice patient, and the hospice program shall be responsible for coordinating and ensuring the delivery of hospice care and services to such person pursuant to the standards and requirements of this part and rules adopted under this part.

(4) HOSPICE INPATIENT CARE.—The inpatient component of care is a short-term adjunct to hospice home care and hospice residential care and shall be used only for pain control, symptom management, or respite care. The total number of inpatient days for all hospice patients in any 12-month period may not exceed 20 percent of the total number of hospice days for all the hospice patients of the licensed hospice. Hospice inpatient care shall be under the direct administration of the hospice, whether the inpatient facility is a freestanding hospice facility or part of a facility licensed pursuant to chapter 395 or part II of this chapter. The facility or rooms within a facility used for the hospice inpatient component of care shall be under the direct administration of the hospice.
care shall be arranged, administered, and managed in such a
manner as to provide privacy, dignity, comfort, warmth, and
safety for the terminally ill patient and the family. Every
possible accommodation must be made to create as homelike an
atmosphere as practicable. To facilitate overnight family
visitation within the facility, rooms must be limited to no more
than double occupancy; and, whenever possible, both occupants
must be hospice patients. There must be a continuum of care and
a continuity of caregivers between the hospice home program and
the inpatient aspect of care to the extent practicable and
compatible with the preferences of the patient and his or her
family. Fees charged for hospice inpatient care, whether
provided directly by the hospice or through contract, must be
made available upon request to the Agency for Health Care
Administration. The hours for daily operation and the location
of the place where the services are provided must be determined,
to the extent practicable, by the accessibility of such services
to the patients and families served by the hospice.

(5) BEREAVEMENT COUNSELING.—The hospice bereavement
program must be a comprehensive program, under professional
supervision, that provides a continuum of formal and informal
supportive services to the family for a minimum of 1 year after
the patient's death. This subsection does not constitute an
additional exemption from chapter 490 or chapter 491.

Section 5. Section 400.6093, Florida Statutes, is created
400.6093 Community palliative care services.—A hospice may provide palliative care to a seriously ill patient and his or her family members. Such palliative care may be provided to manage the side effects of treatment for a progressive disease or medical or surgical condition. Such care may also be provided directly by the hospice or by other providers under contract with the hospice. This section does not preclude the provision of palliative care to seriously ill patients by any other health care provider or health care facility that is otherwise authorized to provide such care. This section does not mandate or prescribe additional Medicaid coverage.

Section 6. Subsections (1) and (2) of section 400.6095, Florida Statutes, are amended to read:

400.6095 Patient admission; assessment; plan of care; discharge; death.—

(1) Each hospice shall make its services available to all terminally ill patients and their families without regard to age, gender, national origin, sexual orientation, disability, diagnosis, cost of therapy, ability to pay, or life circumstances. A hospice may not impose any value or belief system on its patients or their families and shall respect the values and belief systems of its patients and their families.

(2) Admission of a terminally ill patient to a hospice
program shall be made upon a diagnosis and prognosis of terminal illness by a physician licensed pursuant to chapter 458 or chapter 459 and must shall be dependent on the expressed request and informed consent of the patient.

Section 7. Section 400.6096, Florida Statutes, is created to read:

400.6096 Disposal of prescribed controlled substances following the death of a patient in the home.—

(1) A hospice physician, nurse, or social worker is authorized to assist in the disposal of a controlled substance prescribed to a patient at the time of the patient's death pursuant to 21 C.F.R. s. 1317.

(2) A hospice that assists in the disposal of a prescribed controlled substance in the patient's home at the time of the patient's death must have an established written policy, procedure, or system for prescribed controlled substance disposal.

(3) A hospice physician, nurse, or social worker, upon the patient's death and with the permission of a family member or a caregiver of the patient, is authorized to assist in the disposal of an unused controlled substance prescribed to the patient pursuant to the written policy, procedure, or system established under subsection (2).

(4) The prescribed controlled substance disposal procedure must be carried out in the patient's home. Hospice staff and
volunteers are not authorized to remove a prescribed controlled
substance from the patient's home.

Section 8. Section 400.611, Florida Statutes, is amended
to read:

400.611 Interdisciplinary records of care;
confidentiality; release of records.—
(1) A hospice shall maintain an up-to-date,
interdisciplinary record of care being given and patient and
family status shall be kept. Records shall contain pertinent
past and current medical, nursing, social, and other therapeutic
information and such other information that is necessary for the
safe and adequate care of the patient. Notations regarding all
aspects of care for the patient and family shall be made in the
record. When services are terminated, the record shall show the
date and reason for termination.
(2) Patient records shall be retained for a period of 6
years after termination of hospice services, unless otherwise
provided by law. In the case of a patient who is a minor, the 6-
year period shall begin on the date the patient reaches
or would have reached the age of majority.
(3) The interdisciplinary record of patient care and
billing records are confidential.
(4) A hospice may not release a patient's
interdisciplinary record, or any portion thereof, unless the
person requesting the information provides to the hospice:
(a) A patient authorization executed by the patient prior to death;

(b) In the case of an incapacitated patient, a patient authorization executed prior to the patient's death by the patient's then acting legal guardian, health care surrogate as defined in s. 765.101(21), health care proxy as defined in s. 765.101(19), or agent under power of attorney;

(c) A court order appointing the person as the administrator, curator, executor, or personal representative of the patient's estate with authority to obtain the patient's medical records;

(d) If a judicial appointment has not been made pursuant to paragraph (c), a last will that is self-proved under s. 732.503 and designates the person to act as the patient's personal representative; or

(e) An order by a court of competent jurisdiction to release the interdisciplinary record to the person.

(5) For purposes of this section, the term "patient authorization" means an unrevoked written statement by the patient, an oral statement made by the patient that has been reduced to writing in the patient's interdisciplinary record of care, or, in the case of an incapacitated patient, a written authorization to release the interdisciplinary record to a person requesting the record by the patient's then acting legal
guardian, health care surrogate, agent under a power of attorney, or health care proxy.

(6) A hospice shall release requested aggregate patient statistical data to a state or federal agency acting under its statutory authority. Any information obtained from patient records by a state agency pursuant to its statutory authority is confidential and exempt from the provisions of s. 119.07(1).

(3) Patient records of care are confidential. A hospice may not release a record or any portion thereof, unless:

(a) A patient or legal guardian has given express written informed consent;

(b) A court of competent jurisdiction has so ordered; or

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

Section 9. This act shall take effect July 1, 2017.