

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1206

INTRODUCER: Health Policy Committee and Senator Montford

SUBJECT: Rights and Responsibilities of Patients

DATE: April 24, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Looke | Stovall | HP | Fav/CS |
| 2. | Brown | Cibula | JU | Favorable |
| 3. | Looke | Phelps | RC | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1206 amends the Florida Patient's Bill of Rights to add as a right the right of a patient to bring a person of his or her choice to the patient-accessible areas of a health care facility or provider's office while the patient receives inpatient or outpatient treatment or consults with his or her health care provider unless:

- The health of the patient, other patients, or staff of the facility or office would be at risk.
- The facility or provider cannot reasonably accommodate the other person being present.

The right of a patient to bring another patient with him or her must be included in the summary of rights and responsibilities provided by health care providers to patients.

II. Present Situation:

Florida Patient's Bill of Rights and Responsibilities

The Patient's Bill of Rights and Responsibilities¹ (Bill of Rights) establishes a list of rights that each patient has when seeking health care in specified settings. The Bill of Rights requires health care facilities² and providers³ to ensure:

¹ Section 381.026(4), F.S.

² Defined as hospitals and ambulatory surgical centers licensed under ch. 395, F.S., in s. 381.026(2)(b), F.S.

³ Defined as physicians licensed under chs. 458, 459, and 461, F.S., in s. 381.026(2)(c), F.S.

- The patient's dignity is respected through protecting the patient has the right to privacy, with some exceptions; the right to a prompt and reasonable response to a question; and the right to retain and use personal clothing and possessions as space permits.
- The patient has access to pertinent information including, but not limited to, information on services offered by the provider; the patient's diagnosis, planned course of treatment, alternatives, risks, and prognosis with some exceptions; and the right to express grievances with the healthcare provider; and information on facility rules and regulations.
- The patient has access to financial information including, but not limited to, information on financial resources for the patient's healthcare, a reasonable estimate of charges, and a link to financial information disseminated by the Agency for Health Care Administration.⁴
- The patient has access to health care including impartial access to medical treatment regardless of race, national origin, religion, handicap, or source of payment; treatment for any emergency medical condition that will deteriorate from failure to provide such treatment; and access to any mode of treatment that is, in the patient's judgement and the judgement of his or her health care practitioner, in the best interests of the patient.
- That the patient knows whether the treatment he or she is receiving is for purposes of experimental research.

The Bill of Rights requires health care providers and health care facilities to provide patients with a written summary of the Florida Patient's Bill of Rights. Included in the summary along with a listing of a patient's rights are a patient's responsibilities. Each patient must respect the health care provider's and health care facility's right to expect behavior that is reasonable and responsible. Additionally, a patient is responsible for:

- Providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.
- Reporting unexpected changes in his or her condition to the health care provider.
- Reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.
- Following the treatment plan recommended by the health care provider.
- Keeping appointments and, when unable to do so, notifying the health care provider or health care facility.
- Accepting the consequences if he or she refuses treatment or does not follow the health care provider's instructions.
- Assuring that the financial obligations of his or her health care are fulfilled as promptly as possible.
- Following health care facility rules and regulations affecting patient care and conduct.⁵

III. Effect of Proposed Changes:

CS/SB 1206 amends the Florida Patient's Bill of Rights to add as a right the right of a patient to bring a person of his or her choice to the patient-accessible areas of a health care facility or provider's office while the patient receives inpatient or outpatient treatment or consults with his or her health care provider unless:

⁴ Pursuant to s. 408.05(3), F.S.

⁵ Section 381.026(5) and (6), F.S.

- The health of the patient, other patients, or staff of the facility or office would be at risk; or
 - The facility or provider cannot reasonably accommodate the other person being present.
- The right of a patient to bring another patient with him or her must be included in the summary of rights and responsibilities provided by health care providers to patients.

A potential effect of the bill may be to resolve a statutory restriction on discussing a patient's condition with others present in the room, addressed in s. 456.057(7)(a) and (c), F.S., related to the ownership and control of patient records. This section of law prohibits a health care practitioner from discussing the medical condition of a patient with any person other than the patient, the patient's legal representative, or other health care practitioners and providers involved in the patient's care or treatment, except upon written authorization from the patient. This restriction may be more restrictive than that provided in the federal Health Insurance Portability and Accountability Act (HIPAA), which allows a provider to share or discuss information if the patient is present and does not object.⁶ The new right established in this bill appears to clarify that the physician may discuss the patient's condition and treatment while a person of the patient's choosing is in the room.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

⁶ Department of Health and Human Services, *Summary of the HIPAA Privacy Rule, Permitted Uses and Disclosures* (pg. 5); available at: <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations> (last visited Mar. 30, 2017).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term “patient-accessible areas” is not defined in the bill. As the bill does not include rulemaking authority clarifying the meaning of the term may be difficult.

VIII. Statutes Affected:

This bill substantially amends section 381.026, Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 26, 2017:

The CS clarifies that a patient does not have the right to bring a person with him or her to a consultation or in-patient or out-patient surgery if doing so would risk the health and safety of the patient, other patients, or facility or office staff or if the health care facility or provider cannot reasonably accommodate the person. Additionally, the amendment removes language restricting any person or entity with a fiduciary interest in the patient’s treatment from attending the patient’s consultations or attempting to change the course of the patient’s treatment.

- B. **Amendments:**

None.