

By the Committee on Health Policy; and Senator Grimsley

588-02952A-17

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1                   A bill to be entitled  
2       An act relating to hospice care; amending s.  
3       400.60501, F.S.; requiring the Department of Elderly  
4       Affairs, in conjunction with the Agency for Health  
5       Care Administration, to adopt national hospice outcome  
6       measures by a specified date and to make such measures  
7       available to the public; creating s. 400.6096, F.S.;  
8       authorizing certain hospice personnel to assist in the  
9       disposal of certain prescribed controlled substances;  
10      requiring a hospice that chooses to assist in the  
11      disposal of certain prescribed controlled substances  
12      to establish policies, procedures, and systems for the  
13      disposal; authorizing a hospice physician, nurse, or  
14      social worker to assist in the disposals of certain  
15      prescribed controlled substances; providing  
16      requirements for such disposals; amending s. 400.611,  
17      F.S.; requiring a hospice to maintain an up-to-date  
18      interdisciplinary record of care; revising the patient  
19      records retention period; providing for the  
20      confidentiality of the interdisciplinary record of  
21      patient care; specifying to whom and under what  
22      conditions a hospice may release a patient's  
23      interdisciplinary record of care; defining a term;  
24      requiring a hospice to release patient statistical  
25      data to certain agencies; specifying that information  
26      from patient records is confidential and exempt from  
27      certain provisions; providing an effective date.

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

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Section 1. 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 the national hospice ~~develop~~ outcome measures in 42 C.F.R. part 418 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) Make available to the public the national hospice outcome measures in a format that is comprehensible by a layperson and that allows a consumer to compare such measures of one or more hospices ~~Consider and adopt national initiatives, such as those developed by the national hospice and Palliative Care Organization, to set benchmarks for measuring the quality of hospice care provided in the state.~~

(b) 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 2. Section 400.6096, Florida Statutes, is created to read:

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59           400.6096 Disposal of prescribed controlled substances  
60 following the death of a patient in the home.-

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

65           (2) A hospice that assists in the disposal of a prescribed  
66 controlled substance found in the patient's home at the time of  
67 the patient's death must establish a written policy, procedure,  
68 or system for acceptable disposal methods.

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

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

79           Section 3. Section 400.611, Florida Statutes, is amended to  
80 read:

81           400.611 Interdisciplinary records of care; confidentiality;  
82 release of records.-

83           (1) A hospice shall maintain an up-to-date,  
84 interdisciplinary record of care being given and patient and  
85 family status ~~shall be kept~~. Records shall contain pertinent  
86 past and current medical, nursing, social, and other therapeutic  
87 information and such other information that is necessary for the

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88 safe and adequate care of the patient. Notations regarding all  
89 aspects of care for the patient and family shall be made in the  
90 record. When services are terminated, the record shall show the  
91 date and reason for termination.

92 (2) Patient records shall be retained for a period of ~~5~~ 6  
93 years after termination of hospice services, unless otherwise  
94 provided by law. In the case of a patient who is a minor, the ~~5~~  
95 6-year period shall begin on the date the patient reaches or  
96 would have reached the age of majority.

97 (3) The interdisciplinary record of patient records of care  
98 and billing records are confidential.

99 (4) A hospice may not release a patient's interdisciplinary  
100 record or any portion thereof, unless the person requesting the  
101 information provides to the hospice:

102 (a) A patient authorization executed by the patient; ~~or~~  
103 ~~legal guardian has given express written informed consent;~~

104 (b) If the patient is incapacitated, a patient  
105 authorization executed before the patient's death by the  
106 patient's then acting legal guardian, health care surrogate,  
107 health care proxy, or agent under power of attorney;

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

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

116 (e) An order by a court of competent jurisdiction to

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117 release the interdisciplinary record to the person ~~has so~~  
118 ~~ordered; or~~

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

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

133 (6) A hospice must release requested aggregate patient  
134 statistical data to a state or federal agency acting under its  
135 statutory authority. Any information obtained from patient  
136 records by a state agency pursuant to its statutory authority is  
137 confidential and exempt from s. 119.07(1).

138 Section 4. This act shall take effect July 1, 2017.