1988

Session Law 88-208

Florida Senate & House of Representatives

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FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION

1987 Special Sessions B, C, D
1988 Regular Session
1988 Special Sessions E, F

prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826 — 488-4371
S 1077 (CONTINUED)
05/27/88 SENATE Extension of time granted Committee Health and Rehabilitation Services
06/07/88 SENATE Died in Committee on Health and Rehabilitation Services

S 1074 GENERAL BILL by Kirkpatrick (Similar H 472, CS/S 622, Compare CS/ENG/H 874)
Florida Education Finance Program, provides additional method for school districts to calculate full-time equivalent student membership for purposes of Fla. Education Finance Program Amends 136.081 Effective Date Upon becoming law
04/28/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Education, Appropriations
05/30/88 SENATE On Committee agenda—Education. 04/28/88, 2:00 pm, Room-A
05/16/88 HOUSE Placed on Calendar –SJ 212
06/08/88 SENATE Extension of time granted Committee Appropriations
06/07/88 SENATE Died in Committee on Appropriations

S 1075 GENERAL BILL/ENG by Kirkpatrick (Similar H 1542)
Aquaculture/Unsubmerged Land Leases: amends provisions re survey of submerged land leased for aquacultural activities & performance requirements for such lease, provides for issuance of certain shellfish leases, revises restrictions re restoration of seaways in aquatic preserves Amends 525.63, 71, 258.02 Effective Date: 05/29/88
04/08/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Natural Resources and Conservation—SJ 144
04/29/88 SENATE Extension of time granted Committee Natural Resources and Conservation
05/13/88 SENATE Extension of time granted Committee Natural Resources and Conservation
05/20/88 SENATE On Committee agenda—Natural Resources and Conservation, 05/24/88, 9:00 am, Room-H
05/24/88 SENATE Comm. Report: Favorable with 2 amendment(s) by Natural Resources and Conservation, placed on Calendar—SJ 976
05/30/88 SENATE Placed on Special Order Calendar—SJ 463, Passed as amended, YEAS 34 NAYS 0—SJ 515
06/30/88 HOUSE In Messages
06/31/88 HOUSE Enrolled, placed on Calendar—HJ 927, Substituted for HB 1542—HJ 1054, Read second time, Amendments adopted, Read third time, Passed as amended; YEAS 109 NAYS 0—HJ 1055
07/01/88 SENATE

S 1076 GENERAL BILL/CS/ENG by Judiciary-Civil; Malchon (Similar CS/H 496, Compare H 131. H 217, CS/S 879)
Patient Records/Copying Fees: provides limitation on copying fees charged by health care facilities & health care practitioners for providing copies of patient records; provides for confidentiality & provides exception. Amends 395.017, 455.241. Effective Date: 07/01/88
04/08/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Health and Rehabilitative Services, Judiciary-Civil—SJ 144
04/29/88 SENATE Extension of time granted Committee Health and Rehabilitative Services
05/10/88 SENATE Withdrawn from Health and Rehabilitative Services—SJ 252, Now in Judiciary-Civil
05/13/88 SENATE Extension of time granted Committee Judiciary-Civil
05/16/88 HOUSE Comm. Report: Case by Judiciary-Civil, 05/19/88, 9:15 am, Room-B—SJ 341
06/15/88 HOUSE Ordered engrossed, then enrolled—SJ 1088
07/01/88 HOUSE Approved by Governor; Chapter No. 88-207

S 1077 GENERAL BILL/ENG by Hat (Similar H 1053)
Credit Cards/Interest Rate: (By request) clarifies maximum interest rate that may be charged on credit card for overdraft financing arrangement, define terms “interest” & “billing cycle” for such purposes. Amends 655.05. Effective Date: 05/29/88
04/08/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Commerce—SJ 144
04/29/88 SENATE On Committee agenda—Commerce, 05/02/88, 2:00 pm, Room-A
05/09/88 SENATE Extension of time granted Committee Commerce
05/11/88 SENATE Placed on Special Order Calendar—SJ 267
05/12/88 SENATE Placed on Special Order Calendar—SJ 267, Passed as amended; YEAS 34 NAYS 0—SJ 269
05/17/88 SENATE Immediately certified—SJ 295
05/17/88 HOUSE In Messages
05/18/88 HOUSE Received, placed on Calendar—HJ 545, Substituted for HB 1083—HJ 559, Read second time, Read third time, Passed, YEAS 114 NAYS 0—HJ 559
05/19/88 HOUSE Ordered enrolled—SJ 356
05/23/88 Signed by Officers and presented to Governor—SJ 373
05/26/88 Approved by Governor; Chapter No 88-58—SJ 468

S 1079 GENERAL BILL by Ros-Lehtinen (Similar H 1358, Compare ENG/H 79, CS/S 1068)
School Bd/MA/Career/Trade Educ. Inspectors; authorizes H S M. Dept. to delegate authority to issue uniform traffic citations for violation of certain motor vehicle registration provisions to personnel of district school boards. Amends 320.58 Effective Date: Upon becoming law
05/30/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Transportation—SJ 144
05/29/88 SENATE Extension of time granted Committee Transportation
06/05/88 SENATE On Committee agenda—Transportation, 05/09/88, 2:00 pm, Room-C
05/09/88 SENATE Comm. Report: Favorable by Transportation, placed on Calendar—SJ 246
05/16/88 SENATE Placed on Consent Calendar—SJ 310; Passed. YEAS 35 NAYS 0—SJ 343
05/19/88 HOUSE In Messages
05/23/88 HOUSE Received, referred to Transportation—HJ 625
06/07/88 HOUSE Died in Committee on Transportation, 1den./Sm/Rule 21, Compare bill passed, refer to HB 79 (Ch 88-253)

S 1079 GENERAL BILL by Ros-Lehtinen (Identical H 1370, Compare ENG/H 1357, CS/ENG/S 1068, CS/S 1372)
Developmental Disabilities; revises provisions re involuntary admission to residential services provider,jurisdiction & diagnostic capability, provides for petitioning commission, requires notice, provides for appointment of diagnostic & evaluation teams of H S Dept., provides for appointment of examining committee with expertise in developmental disabilities, provides for examination & testimony, etc. Amends 393.11, 916.13 Effective Date Upon becoming law
04/08/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Health and Rehabilitative Services; Judiciary-Civil; Appropriations—SJ 144
05/29/88 SENATE Extension of time granted Committee Health and Rehabilitative Services
05/13/88 SENATE Extension of time granted Committee Health and Rehabilitative Services
06/07/88 SENATE Died in Committee on Health and Rehabilitative Services, 1den./Sm/RULE 21, Compare bill passed, refer to CS/SB 1068 (Ch. 88-398)

S 1080 GENERAL BILL by Johnson (Compare CS/ENG/H 74)
Law Enf, Officer/Alcoholic Beverages; removes prohibition on employment of certain certified law enforcement officers at certain business establishments licensed under Beverage Law under certain circumstances Amends 561.25. Effective Date: 10/01/88
04/08/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Commerce, Economic, Community and Consumer Affairs—SJ 144
06/04/88 SENATE On Committee agenda—Commerce, 05/02/88, 2:00 pm, Room-A—Not considered
04/29/88 SENATE Extension of time granted Committee Commerce
05/13/88 SENATE Extension of time granted Committee Commerce
05/27/88 SENATE Extension of time granted Committee Commerce
06/07/88 SENATE Died in Committee on Commerce, 1den./Sm/Compare bill passed, refer to CS/SB 1065, Compare bill passed, refer to CS/BB 74 (Ch 88-444)

S 1081 GENERAL BILL by Crawford (Similar H 1209)
Service Associations: provides circumstances under which association may invest in bonds or other obligations that are unrated or rated lower than otherwise required Amends 665.070. Effective Date: Upon becoming law
04/08/88 SENATE Filed
04/21/88 SENATE Introduced, referred to Commerce—SJ 144
04/29/88 SENATE Extension of time granted Committee Commerce
(CONTINUED ON NEXT PAGE)
H 496 (CONTINUED)

Par-mutuel Wagering Division Creates 550 1625 Effective Date 10/01/88.

03/04/88 HOUSE Prefiled

03/17/88 HOUSE Referred to Regulated Industries & Licensing; Appropriations

04/05/88 HOUSE Introduced, referred to Regulated Industries & Licensing; Appropriations - HJ 50. Subreferred to Subcommittee on Par-mutuels and the Lottery; On Committee agenda - Regulated Industries & Licensing, 04/06/88, 8:30 am, 413C - For ratification of subreferral

04/11/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable


04/26/88 HOUSE On Committee agenda - Appropriations, 04/26/88, 3:30 pm, Morris Hall

05/02/88 HOUSE Comm. Report Favorable by Appropriations, placed on Calendar - HJ 302

06/01/88 HOUSE Placed on Calendar Calendar - Read second time, Read third time, Passed, YEAS 113 NAYS 0 - HJ 1141

06/07/88 SENATE In Messages

06/07/88 SENATE Died in Committee

H 497 GENERAL BILL by Smith, Renke; and others

School Fundraiser/Adult Students, provides for annual allocation to school districts for transportation to school programs of certain adult students Amends 236 083

Effective Date 07/01/88

03/04/88 HOUSE Prefiled

03/17/88 HOUSE Referred to Education, K - 12, Appropriations

04/05/88 HOUSE Introduced, referred to Education, K - 12, Appropriations - HJ 50

04/11/88 HOUSE Subreferred to Subcommittee on Administration and Finance, On Committee agenda - Education, K - 12, 04/13/88, 3:30 pm, 214C - For ratification of subreferral

06/07/88 HOUSE Died in Committee on Education, K - 12

H 498 GENERAL BILL/CS by Health Care; Smith; Renke; and others (Similar CS/ENG/S 1076, Compare H 131, H 217)

Patient Records/Copy Fees, provides limitation on copying fees charged by health care facilities & health care practitioners for providing copies of patient records, provides for confidentiality & provides exception Amends 395 017, 455 241. Effective Date: Upon becoming law

03/04/88 HOUSE Prefiled

03/17/88 HOUSE Referred to Health Care, Appropriations

04/05/88 HOUSE Introduced, rehashed to Health Care, Appropriations - HJ 50

04/07/88 HOUSE On subcommittee agenda - Health Care, 04/11/88, 1:15 pm, 317C

04/11/88 HOUSE Subcommittee Recommendation pending ratification by full Committee Favorable with 1 amendment, On Committee agenda - Health Care, 04/13/88, 3:30 pm, 317C - Not considered

04/18/88 HOUSE Subreferred to Subcommittee on Health Regulation

04/19/88 HOUSE On Committee agenda - Health Care, 04/21/88, 8:00 am, 317C - Temporarily Passed

04/22/88 HOUSE On Committee agenda - Health Care, 04/26/88, 1:15 pm, 317C

04/26/88 HOUSE Preliminary Committee Action by Health Care: Favorable as a Committee Substitute

05/03/88 HOUSE Comm. Report, CS by Health Care - HJ 317; CS read first time - HJ 317, Now in Appropriations - HJ 317

05/18/88 HOUSE Withdrawn from Appropriations - HJ 317, Placed on Calendar

05/21/88 HOUSE Placed on Special Order Calendar

06/01/88 HOUSE Retained on Special Order Calendar

06/07/88 HOUSE Died on Calendar, Iden./Sim/Compare Bill passed, refer to CS/SB 1076 (Ch. 95-206)

H 499 GENERAL BILL/CS by Regulated Industries & Licensing; Smith; Mackey and others (Similar S 365, Compare CS/S 888)

Greyhound Dog Race/Owner Awards, provides program for greyhound owner awards, creates Fl Greyhound Owner's Awards Trust Fund, authorizes Greyhound Breeders Assoc to submit plan for payment of awards, increases purse payments to dog track promoters. Creates 550 1655, amend S 550 162 Effective Date. 10/01/88

03/04/88 HOUSE Prefiled

03/17/88 HOUSE Referred to Regulated Industries & Licensing; Appropriations

03/21/88 HOUSE Subreferred to Subcommittee on Pan-mutuels and the Lottery

(Continued on next page)
Journal
of the
Senate
State of Florida

Twentieth Regular Session
Under the Constitution as Revised in 1968
April 5 through June 7, 1988
JOURNAL OF THE SENATE 773

June 2, 1988

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<td>Girardeau</td>
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<td>Nays—None</td>
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Vote after roll call—

Yea—Crawford, Stuart

CS for CS for SB 295—A bill to be entitled An act relating to transportation; amending s. 339.175, F.S., providing for two additional voting members, appointed by the Governor, to an M.P.O which is contained within any constitutional charter county as defined in s. 125.011, F.S.; providing for the termination of public official members of an M.P.O. under certain circumstances; providing an effective date.

was read the second time by title

Senator Lehtinen moved the following amendments which were adopted:

Amendment 1—On page 2, lines 25 and 26, insert:

Section 2 Section 125.01(1)(n) is amended as follows:

(n) License and regulate taxis, jitneys, limousines for hire, rental cars and other passenger vehicles for hire that operate in the unincorporated areas of the county, except what any constitutional charter county as defined in s. 125.011(1) shall on July 1, 1988, have issued a number of permits to operate taxis which is no less than the ratio of one permit for each 1,000 residents of said county, and any such new permits issued after June 4, 1988, shall be issued by lottery among individuals with such experience as a tax driver as the county may determine.

Amendment 2—In title, on page 1, insert: amending 125.01(1)(n); restricting regulation of taxis in certain constitutional charter counties

Further consideration of CS for SB 295 as amended was deferred.

Motions

On motion by Senator Barron, time of adjournment was extended until completion of the consent and local bill calendars.

On motion by Senator Barron, by two-thirds vote the special order calendar for Friday, June 3, was set to include all bills remaining on today’s special order and the following additional bills. CS for SB 522, CS for SB 600, SB 675, CS for CS for SB 854, SB 975, CS for SB 983, SB 1018, CS for SB 1038, CS for SB 1068, CS for SB 1100, CS for SB 1308, SB 1313, CS for SB 1326, SB 1429, HB 173, HB 1445, CS for HB 1574, HB 1711 and HB 1504.

CS for SB 1076—A bill to be entitled An act relating to patient records, amending ss. 395.017, 465.241, F.S., providing a limitation on copying fees charged by health care facilities and health care practitioners for providing copies of patient records, providing for confidentiality; providing an exception, providing an effective date.

was read the second time by title

Senator Malchon moved the following amendments which were adopted:

Amendment 1—On page 1, strike line 27 and insert: to pay a charge. The charge, except for X-rays, may not exceed the fee charged

Amendment 2—On page 3, strike all of lines 17-31 and insert: seeking such records Except in a medical negligence action when a health care provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care or treatment of the patient or permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given The Department of Professional Regulation may

On motion by Senator Malchon, by two-thirds vote CS for SB 1076 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was

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Vote after roll call—

Yea—Crawford, Deratany

On motion by Senator Malchon, the rules were waived and the Senate reverted to—
The Committee on Health Care offered the following amendment:

Amendment

On page 1, lines 11-31, and on page 2, lines 1-2, strike all of said lines and insert:

Section 1. Section 395.017, Florida Statutes, as amended by section 5 of chapter 88-1, Laws of Florida, is amended to read:

395.017 Patient records; copies; examination.--

(1) Any licensed facility shall, upon request, and only after discharge of the patient, furnish to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, concerning such person, which records are in the possession of the licensed facility, except progress notes and consultation report sections of a psychiatric nature concerning the care and treatment performed by the licensed facility, provided the person requesting such records agrees to pay a charge. The charge shall not exceed the fee charged per page for copying records by the clerk of the county court.
of the county in which the licensed facility is located not-to exceed-the-actual-cost-of-copying-the-records—-including
reasonable-staff-time. The licensed facility shall further
allow any such person to examine the original records in its possession, or microfilms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed to assure that the records will not be damaged, destroyed, or altered.
Representative Frankel offered the following amendment:

Amendment

On page 2, lines 3-19, strike all of said lines and insert:

Section 2. Subsections (1) and (2) of section 455.241, Florida Statutes, as amended by section 9 of chapter 88-1, Laws of Florida, are amended to read:

455.241 Patient records; report or copies of records to be furnished.--

(1) Any health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 466, or chapter 474 who makes a physical or mental examination of, or administers treatment to, any person shall, upon request of such person or his legal representative, furnish copies of all reports and records relating to or records made of such examination or treatment, including X rays; except that when a patient's psychiatric records are requested by him or his legal representative, the practitioner may provide a report of examination and treatment in lieu of copies of records.

However, upon a patient's written request, complete copies of
the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a disputed fee for services rendered. However, if a fee is required, the person requesting such records shall pay a fee not to exceed the fee charged, per page, for copying records by the clerk of the county court of the county in which the health care practitioner's office is located.

(2) Such records shall not be furnished to and the medical condition of a patient may not be discussed with any person other than the patient or his legal representative or other health care providers involved in the care and/or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation which has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical record shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative by the party seeking such records. Information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care and/or treatment of the patient or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper
MEMBER AMENDMENT (in computer)

Bill No. HB 498

notice has been given. However, a health care provider who is

or expects to be named as a defendant in a health care

negligence case may discuss with his own attorney the records

and other information relating to the patient without being in

violation of this section; provided, any such attorney may

not, without the consent of the patient, further disseminate

such information prior to a claim being filed against that

provider. The Department of Professional Regulation may

obtain patient records pursuant to a subpoena without written

authorization from the patient if the department and the

probable cause panel of the appropriate board, if any, find

reasonable cause to believe that a practitioner has

excessively or inappropriately prescribed any controlled

substance specified in chapter 893 in violation of s.

458.331(1)(q), s. 459.015(1)(q), s. 461.013(1)(p), s.

462.14(1), s. 466.028(1)(q), or s. 474.214(1)(x) or (y) or

that a practitioner has practiced his profession below that

level of care, skill, and treatment required as defined by s.

458.331(1)(t), s. 459.015(1)(t), s. 460.413(1)(s), s.

461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(g), s.

464.018(1)(f), s. 466.028(1)(y), or s. 474.214(1)(g); but the

patient record obtained by the department pursuant to this

subsection shall be used solely for the purpose of the

department and board in disciplinary proceedings. The record

shall otherwise be sealed and shall not be available to the

public pursuant to the provisions of s. 119.07 or any other

statute providing access to public records. Nothing in this

section shall be construed to limit the assertion of the

psychotherapist-patient privilege under s. 90.503 in regard to

records of treatment for mental or nervous disorders by a

medical practitioner licensed pursuant to chapter 458 or
chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.
Representative Frankel offered the following title amendment:

Amendment
On page 1, line 6, strike the semi-colon and insert:
, providing for the confidentiality of certain health care information;

Submit original and five copies
A bill to be entitled
An act relating to patient records; amending
ss. 395.017 and 455.241, F.S., providing a
limitation on copying fees charged by health
care facilities and health care practitioners
for providing copies of patient records;
providing an effective date.

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

Section 1. Subsection (1) of section 395.017, Florida
Statutes, is amended to read:

395.017 Patient records; copies; examination.—
(1) Any licensed facility shall, upon request, and
only after discharge of the patient, furnish to any person
admitted therein for care and treatment or treated thereat, or
to any such person's guardian, curator, or personal
representative, or to anyone designated by such person in
writing, a true and correct copy of all patient records,
including X rays, concerning such person, which records are in
the possession of the licensed facility, except progress notes
and consultation report sections of a psychiatric nature
concerning the care and treatment performed by the licensed
facility, provided the person requesting such records agrees
to pay a reasonable charge for copying the records. The
charge shall not exceed the fee charged per page for copying
records by the clerk of the county court of the county in
which the licensed facility is located. The licensed facility
shall further allow any such person to examine the original
records in its possession, or microfilms or other suitable
reproductions of the records, upon such reasonable terms as
shall be imposed to assure that the records will not be
damaged, destroyed, or altered.

Section 2. Subsection (1) of section 455.241, Florida
Statutes, is amended to read:

455.241 Patient records; copies of records to be
furnished.--

(1) Any health care practitioner licensed pursuant to
chapter 458, chapter 459, chapter 460, chapter 461, chapter
462, chapter 463, chapter 464, chapter 466, or chapter 474 who
makes a physical or mental examination of, or administers
treatment to, any person shall, upon request of such person or
his legal representative, furnish copies of all reports made
of such examination or treatment, including X rays. However,
if a fee is required the person requesting such records shall
pay a fee not to exceed the fee charged, per page, for copying
records by the clerk of the county court of the county in
which the health care practitioner's office is located. The
furnishing of such copies shall not be conditioned upon
payment of a disputed fee for services rendered.

Section 3. This act shall take effect upon becoming a
law.

******************************************************************************

HOUSE SUMMARY

Provides that fees for copying charges for providing
patient records charged by health care facilities and
health care practitioners shall not exceed the fee
charged by the clerk of the county court for duplicating
records.
This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

A. PRESENT SITUATION:

Section 395.017, Florida Statutes, requires any hospital or ambulatory surgical center to furnish a patient with a copy of the patient's medical records or x-rays. The law places a limit on how much a patient may be charged for the record at the actual cost of copying the document.

Chapter 455.241, Florida Statutes, relates to patient records for patients treated by medical doctors, osteopathic medical doctors, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, and veterinarians. The law requires that any of these health care practitioners must provide a copy of a patient's records, including x-rays, to the patient. No mention is made in this law of the price which the practitioner may charge for copying the record.

B. EFFECT OF PROPOSED CHANGES:

House Bill 498 amends ss. 395.017 and 455.241, Florida Statutes, to establish a maximum fee which a hospital, ambulatory surgical center, or a health care practitioner may charge for copying a patient record or x-ray when supplying the record or x-ray to the patient. The maximum fee specified in the bill may not exceed the fee charged per page for copying records by the clerk of the county court of the county in which the hospital, ambulatory surgical center or health care practitioner's office is located.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

None.
B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
This bill could result in the loss of revenues to hospitals, ambulatory surgical centers and health care practitioners who are currently charging more than the fee charged by the clerk of their county court for copying patient records. Patients would be the recipients of the savings.

D. FISCAL COMMENTS:
In conducting this staff analysis, two hospitals were contacted to inquire about the cost of copying patient medical records. Tallahassee Memorial in Tallahassee indicated their copying charges to be $10.50 for up to 10 pages, unless it had to be sent out to a copying service in which case it was $2.50 per page. Broward General indicated their charge was $10 for up to 7 pages and then 60 cents a page after that.

Two clerks of county courts were contacted also. The clerk in Leon County indicated a charge of $1 per page, as did the clerk in Broward county.

The Board of Medicine, which regulates medical doctors, has adopted an administrative rule which limits the charges on copying a patient medical record to $1 per page for the first 25 pages and 25 cents per page thereafter. The rule limits the cost of copying x-rays and other kinds of special records to the actual cost, which includes the cost of material and supplies used to duplicate the record, as well as the labor costs and overhead costs associated with such duplication (See 21M-26.003, Florida Administrative Code).

The Florida Medical Association, Florida Hospital Association, and the Florida Dental Association were asked for their positions on this bill. All three indicated neutrality on the bill; however, the Florida Dental Association indicated a concern that limiting the cost of x-rays and patient molds and models to the cost of a xerox copy would result in a financial loss to dentists.

III. LONG RANGE CONSEQUENCES:
Long range consequences consist of improvement to access by a patient to his medical records.
IV. COMMENTS:

The section of statutes amended by section 1 of this act was amended by Ch. 88-1, Laws of Florida, (the medical malpractice bill) and a technical amendment is needed to correct this error (the amendment is attached).

Prior to the change made to the law by Ch. 88-1, Laws of Florida, the law required that the fee had to be "reasonable". That language was changed by Ch. 88-1, Laws of Florida, to read "providing the person requesting such records agrees to pay a charge not to exceed the actual cost of copying the records, including reasonable staff time."

V. AMENDMENTS:

None.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:  
Prepared by: Mike Hansen  
Staff Director: Mike Hansen

FINANCE & TAXATION:  
Prepared by:  
Staff Director:

APPROPRIATIONS:  
Prepared by:  
Staff Director:
STORAGE NAME: HB498a.hc/mh/a
Date: April 12, 1988

HOUSE OF REPRESENTATIVES
HEALTH CARE COMMITTEE
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: House Bill 498

RELATING TO: Patient Records

SPONSOR(S): Representatives Smith, Renke, Kelly, Mackey, Holland

EFFECTIVE DATE: Upon Becoming Law

COMPANION BILL(S): 

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
                                      (2) 

I. SUMMARY:

A. PRESENT SITUATION:

Section 395.017, Florida Statutes, requires any hospital or ambulatory surgical center to furnish a patient with a copy of the patient's medical records or x-rays. The law places a limit on how much a patient may be charged for the record at the actual cost of copying the document.

Chapter 455.241, Florida Statutes, relates to patient records for patients treated by medical doctors, osteopathic medical doctors, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, and veterinarians. The law requires that any of these health care practitioners must provide a copy of a patient's records, including x-rays, to the patient. No mention is made in this law of the price which the practitioner may charge for copying the record.

B. EFFECT OF PROPOSED CHANGES:

House Bill 498 amends ss. 395.017 and 455.241, Florida Statutes, to establish a maximum fee which a hospital, ambulatory surgical center, or a health care practitioner may charge for copying a patient record or x-ray when supplying the record or x-ray to the patient. The maximum fee specified in the bill may not exceed the fee charged per page for copying records by the clerk of the county court of the county in which the hospital, ambulatory surgical center or health care practitioner's office is located.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

None.
B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could result in the loss of revenues to hospitals, ambulatory surgical centers and health care practitioners who are currently charging more than the fee charged by the clerk of their county court for copying patient records. Patients would be the recipients of the savings.

D. FISCAL COMMENTS:

In conducting this staff analysis, two hospitals were contacted to inquire about the cost of copying patient medical records. Tallahassee Memorial in Tallahassee indicated their copying charges to be $10.50 for up to 10 pages, unless it had to be sent out to a copying service in which case it was $2.50 per page. Broward General indicated their charge was $10 for up to 7 pages and then 60 cents a page after that.

Two clerks of county courts were contacted also. The clerk in Leon County indicated a charge of $1 per page, as did the clerk in Broward county.

The Board of Medicine, which regulates medical doctors, has adopted an administrative rule which limits the charges on copying a patient medical record to $1 per page for the first 25 pages and 25 cents per page thereafter. The rule limits the cost of copying x-rays and other kinds of special records to the actual cost, which includes the cost of material and supplies used to duplicate the record, as well as the labor costs and overhead costs associated with such duplication (See 21M-26.003, Florida Administrative Code)

The Florida Medical Association, Florida Hospital Association, and the Florida Dental Association were asked for their positions on this bill. All three indicated neutrality on the bill; however, the Florida Dental Association indicated a concern that limiting the cost of x-rays and patient molds and models to the cost of a xerox copy would result in a financial loss to dentists.

III. LONG RANGE CONSEQUENCES:

Long range consequences consist of improvement to access by a patient to his medical records.
IV. COMMENTS:

The section of statutes amended by section 1 of this act was amended by Ch. 88-1, Laws of Florida, (the medical malpractice bill) and a technical amendment is needed to correct this error (the amendment is attached).

Prior to the change made to the law by Ch. 88-1, Laws of Florida, the law required that the fee had to be "reasonable". That language was changed by Ch. 88-1, Laws of Florida, to read "providing the person requesting such records agrees to pay a charge not to exceed the actual cost of copying the records, including reasonable staff time."

V. AMENDMENTS:

A technical amendment was adopted in subcommittee to correct statutory language which was amended in Chapter 88-1, Laws of Florida.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Mike Hansen
Staff Director: Mike Hansen

FINANCE & TAXATION:
Prepared by: 
Staff Director:

APPROPRIATIONS:
Prepared by: 
Staff Director:
A bill to be entitled

An act relating to patient records; amending ss. 395.017 and 455.241, F.S., providing a limitation on copying fees charged by health care facilities and health care practitioners for providing copies of patient records; providing for confidentiality; providing an exception; providing an effective date.

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

Section 1. Section 395.017, Florida Statutes, as amended by section 5 of chapter 88-1, Laws of Florida, is amended to read:

395.017 Patient records; copies; examination.--

(1) Any licensed facility shall, upon request, and only after discharge of the patient, furnish to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, concerning such person, which records are in the possession of the licensed facility, except progress notes and consultation report sections of a psychiatric nature concerning the care and treatment performed by the licensed facility, provided the person requesting such records agrees to pay a charge. The charge shall not exceed the fee charged per page for copying records by the clerk of the county court of the county in which the licensed facility is located not-to exceed-the-actual-cost-of-copying-the-records—including reasonable-staff-time. The licensed facility shall further

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allow any such person to examine the original records in its 
possession, or microfilms or other suitable reproductions of 
the records, upon such reasonable terms as shall be imposed to 
assure that the records will not be damaged, destroyed, or 
altered.

Section 2. Subsections (1) and (2) of section 455.241, 
Florida Statutes, as amended by section 9 of chapter 88-1, 
Laws of Florida, are amended to read:

455.241 Patient records; report or copies of records 
to be furnished.--

(1) Any health care practitioner licensed pursuant to 
chapter 458, chapter 459, chapter 460, chapter 461, chapter 
462, chapter 463, chapter 464, chapter 466, or chapter 474 who 
makes a physical or mental examination of, or administers 
treatment to, any person shall, upon request of such person or 
his legal representative, furnish copies of all reports and 
records relating to or(records made of such examination or 
treatment, including X rays; except that when a patient's 
psychiatric records are requested by him or his legal 
representative, the practitioner may provide a report of 
examination and treatment in lieu of copies of records.

However, upon a patient's written request, complete copies of 
the patient's psychiatric records shall be provided directly 
to a subsequent treating psychiatrist. The furnishing of such 
report or copies shall not be conditioned upon payment of a 
disputed fee for services rendered. However, if a fee is 
required, the person requesting such records shall pay a fee 
not to exceed the fee charged, per page, for copying records 
by the clerk of the county court of the county in which the 
health care practitioner's office is located.

CODING: Words stricken are deletions; words underlined are additions.
Such records shall not be furnished to and the medical condition of a patient may not be discussed with any person other than the patient or his legal representative or other health care providers involved in the care and/or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation which has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical record shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative by the party seeking such records. Information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care and/or treatment of the patient or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given. However, a health care provider who is or expects to be named as a defendant in a health care negligence case may discuss with his own attorney the records and other information relating to the patient without being in violation of this section; provided, any such attorney may not, without the consent of the patient, further disseminate such information prior to a claim being filed against that provider. The Department of Professional Regulation may

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obtain patient records pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of s. 458.331(1)(q), s. 459.0151(1)(q), s. 461.013(1)(p), s. 462.14(1), s. 466.028(1)(q), or s. 474.214(1)(x) or (y) or that a practitioner has practiced his profession below that level of care, skill, and treatment required as defined by s. 458.331(1)(t), s. 459.0151(1)(t), s. 460.4131(1)(s), s. 461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(g), s. 464.0181(1)(f), s. 466.0281(1)(y), or s. 474.214(1)(g); but the patient record obtained by the department pursuant to this subsection shall be used solely for the purpose of the department and board in disciplinary proceedings. The record shall otherwise be sealed and shall not be available to the public pursuant to the provisions of s. 119.07 or any other statute providing access to public records. Nothing in this section shall be construed to limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court.

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court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

Section 3. This act shall take effect upon becoming a law.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

A. PRESENT SITUATION:

Section 395.017, Florida Statutes, requires any hospital or ambulatory surgical center to furnish a patient with a copy of the patient's medical records or x-rays. The law places a limit on how much a patient may be charged for the record at the actual cost of copying the document.

Chapter 455.241, Florida Statutes, relates to patient records for patients treated by medical doctors, osteopathic medical doctors, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, and veterinarians. The law requires that any of these health care practitioners must provide a copy of a patient's records, including x-rays, to the patient. No mention is made in this law of the price which the practitioner may charge for copying the record. This law also specifies that a patient's medical records may not be furnished to any person other than the patient or his legal representative, except by written authorization of the patient.

B. EFFECT OF PROPOSED CHANGES:

House Bill 498 amends ss. 395.017 and 455.241, Florida Statutes, to establish a maximum fee which a hospital, ambulatory surgical center, or a health care practitioner may charge for copying a patient record or x-ray when supplying the record or x-ray to the patient. The maximum fee specified in the bill may not exceed the fee charged per page for copying records by the clerk of the county court of the county in which the hospital, ambulatory surgical center or health care practitioner's office is located.

Also, this bill amends s. 455.241, Florida Statutes, to specify that in addition to medical records, the medical condition of a patient may not be disclosed to any person other than the patient or the patient's legal representative, except upon the written
II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could result in the loss of revenues to hospitals, ambulatory surgical centers and health care practitioners who are currently charging more than the fee charged by the clerk of their county court for copying patient records. Patients would be the recipients of the savings.

D. FISCAL COMMENTS:

In conducting this staff analysis, two hospitals were contacted to inquire about the cost of copying patient medical records. Tallahassee Memorial in Tallahassee indicated their copying charges to be $10.50 for up to 10 pages, unless it had to be sent out to a copying service in which case it was $2.50 per page. Broward General indicated their charge was $10 for up to 7 pages and then 60 cents a page after that.

Two clerks of county courts were contacted also. The clerk in Leon County indicated a charge of $1 per page, as did the clerk in Broward county.

The Board of Medicine, which regulates medical doctors, has adopted an administrative rule which limits the charges on copying a patient medical record to $1 per page for the first 25 pages and 25 cents per page thereafter. The rule limits the cost of copying x-rays and other kinds of special records to the actual cost, which includes the cost of material and supplies used to duplicate the record, as well as the labor costs and overhead costs associated with such duplication (See 21M-26.003, Florida Administrative Code)

The Florida Medical Association, Florida Hospital Association, and the Florida Dental Association were asked for their positions on this bill. All three indicated neutrality on the bill;
however, the Florida Dental Association indicated a concern that limiting the cost of x-rays and patient molds and models to the cost of a xerox copy would result in a financial loss to dentists.

III. LONG RANGE CONSEQUENCES:

Long range consequences consist of improvement to access by a patient to his medical records.

IV. COMMENTS:

None.

V. AMENDMENTS:

None.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Mike Hansen

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: Mike Hansen
I. SUMMARY:

A. PRESENT SITUATION:

Section 395.017, Florida Statutes, requires any hospital or ambulatory surgical center to furnish a patient with a copy of the patient's medical records or x-rays. The law places a limit on how much a patient may be charged for the record at the actual cost of copying the document.

Chapter 455.241, Florida Statutes, relates to patient records for patients treated by medical doctors, osteopathic medical doctors, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, and veterinarians. The law requires that any of these health care practitioners must provide a copy of a patient's records, including x-rays, to the patient. No mention is made in this law of the price which the practitioner may charge for copying the record. This law also specifies that a patient's medical records may not be furnished to any person other than the patient or his legal representative, except by written authorization of the patient.

B. EFFECT OF PROPOSED CHANGES:

House Bill 498 amends ss. 395.017 and 455.241, Florida Statutes, to establish a maximum fee which a hospital, ambulatory surgical center, or a health care practitioner may charge for copying a patient record when supplying the record to the patient. The maximum fee specified in the bill may not exceed the fee charged...
per page for copying records by the clerk of the county court of
the county in which the hospital, ambulatory surgical center or
health care practitioner's office is located. This limit of
fees does not apply to x-rays.

Also, this bill amends s. 455.241, Florida Statutes, to specify
that in addition to medical records, the medical condition of a
patient may not be disclosed to any person other than the
patient or the patient's legal representative, except upon the
written consent of the patient. Further, the bill specifies
that information disclosed to a health care practitioner by a
patient is confidential and may be disclosed only to other
health care providers involved in the care of the patient or by
written authorization of the patient or by subpoena. In
addition, this information may be disclosed by a health care
provider to his attorney if the provider expects to be named as
a defendant in a negligence case.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could result in the loss of revenues to hospitals, ambulatory
surgical centers and health care practitioners who are currently charging
more than the fee charged by the clerk of their county court for copying
patient records. Patients would be the recipients of the savings.

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

Long range consequences consist of improvement to access by a
patient to his medical records.

IV. COMMENTS:

In conducting this staff analysis, two hospitals were contacted to
inquire about the cost of copying patient medical records.
Tallahassee Memorial in Tallahassee indicated their copying charges
to be $10.50 for up to 10 pages, unless it had to be sent out to a
copying service in which case it was $2.50 per page. Broward
General indicated their charge was $10 for up to 7 pages and then 60
cents a page after that.
Two clerks of county courts were contacted also. The clerk in Leon County indicated a charge of $1 per page, as did the clerk in Broward County.

The Board of Medicine, which regulates medical doctors, has adopted an administrative rule which limits the charges on copying a patient medical record to $1 per page for the first 25 pages and 25 cents per page thereafter. The rule limits the cost of copying x-rays and other kinds of special records to the actual cost, which includes the cost of material and supplies used to duplicate the record, as well as the labor costs and overhead costs associated with such duplication (See 21M-26.003, Florida Administrative Code).

The Florida Medical Association, Florida Hospital Association, and the Florida Dental Association were asked for their positions on this bill. All three indicated neutrality on the bill.

V. BILL HISTORY:

4/5/88 - Introduced, referred to Health Care; Appropriations
4/11/88 - Health Regulation Subcommittee, passed with one amendment
4/26/88 - Health Care Full Committee, passed as a committee substitute
5/18/88 - Withdrawn from Appropriations
6/3/88 - Was substituted by CS/SB 1076; passed 112, yeas, 0 nays; ordered enrolled

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Mike Hansen
Staff Director: Mike Hansén

FINANCE & TAXATION:
Prepared by:
Staff Director:

APPROPRIATIONS:
Prepared by:
Staff Director:
A bill to be entitled
An act relating to patient records and communications; amending s. 455.241, F.S.;
requiring specified health care practitioners
to furnish copies of a person's medical reports
and records to such person's spouse or guardian
upon request; providing that the furnishing of
such records may not be conditioned upon the
execution of an assignment or letter of
protection or the creation of a lien; requiring
a practitioner to obtain certain written
authorization prior to discussing a patient's
medical condition with persons other than the
patient or his spouse, guardian, or legal
representative, except as otherwise permitted;
requiring practitioners to maintain the
confidentiality of patient communications
except under specified circumstances; providing
an effective date.

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

Section 1. Section 455.241, Florida Statutes, as
amended by section 9 of chapter 88-1, Laws of Florida, is
amended to read:

455.241 Patient records; report or copies of records
to be furnished.--

(1) Any health care practitioner licensed pursuant to
chapter 458, chapter 459, chapter 460, chapter 461, chapter
462, chapter 463, chapter 464, chapter 466, or chapter 474 who
makes a physical or mental examination of, or administers

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treatment to, any person shall, upon request of such person or
his spouse, guardian, or legal representative, furnish copies
of all reports or records made of and records relating to such
examination or treatment, including X rays; except that when a
patient's psychiatric records are requested by him or his
legal representative, the practitioner may provide a report of
examination and treatment in lieu of copies of records.

However, upon a patient's written request, complete copies of
the patient's psychiatric records shall be provided directly
to a subsequent treating psychiatrist. The furnishing of such
report or copies shall not be conditioned upon payment of a
disputed fee for services rendered, upon the execution of an
assignment for the benefit of a creditor, or upon the signing
of any letter of protection or instrument creating a lien on
real or personal property.

(2) Such records shall not be furnished to and the
medical condition of a patient may not be discussed with any
person other than the patient or his spouse, guardian, or
legal representative, except upon written authorization of the
patient. However, such records may be furnished without
written authorization to any person, firm, or corporation
which has procured or furnished such examination or treatment
with the patient's consent or when compulsory physical
examination is made pursuant to Rule 1.360, Florida Rules of
Civil Procedure, in which case copies of the medical record
shall be furnished to both the defendant and the plaintiff.
Such records may be furnished in any civil or criminal action,
unless otherwise prohibited by law, upon the issuance of a
subpoena from a court of competent jurisdiction and proper
notice to the patient or his legal representative by the party
seeking such records.

CODING: Words struck are deletions; words underlined are additions.
(3) Information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.

(4) The Department of Professional Regulation may obtain patient records pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of s. 458.331(1)(q), s. 459.015(1)(q), s. 461.013(1)(p), s. 462.14(1), s. 466.028(1)(q), or s. 474.214(1)(x) or (y) or that a practitioner has practiced his profession below that level of care, skill, and treatment required as defined by s. 458.331(1)(t), s. 459.015(1)(t), s. 460.413(1)(s), s. 461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(g), s. 464.018(1)(f), s. 466.028(1)(y), or s. 474.214(1)(g); but the patient record obtained by the department pursuant to this subsection shall be used solely for the purpose of the department and board in disciplinary proceedings. The record shall otherwise be sealed and shall not be available to the public pursuant to the provisions of s. 119.07 or any other statute providing access to public records. Nothing in this section shall be construed to limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and

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nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(5) All patient records obtained by the Department of Professional Regulation and any other documents identifying the patient by name shall be used solely for the purpose of the Department of Professional Regulation and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall be sealed and shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the Department of Professional Regulation or the appropriate regulatory board.

(6) A health care practitioner furnishing copies of reports or records pursuant to this section shall charge no more than the actual cost of copying, including reasonable staff time, or the amount specified in administrative rule by the appropriate regulatory board.

Section 2. This act shall take effect upon becoming a law.
SENATE SUMMARY

Requires health care practitioners to furnish copies of a person's medical records and reports to such person's spouse or guardian upon request. Prohibits making the payment of a disputed fee or the execution of an assignment or the signing of a letter of protection or instrument creating a lien a condition for furnishing such copies. Prohibits a health care practitioner from discussing a person's medical condition with any person other than the patient or his spouse, guardian, or legal representative. Provides that the information disclosed to a health care practitioner by a patient in the course of care and treatment by such practitioner is confidential except under specified circumstances.

CODING: Words struck are deletions; words underlined are additions.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

I. SUMMARY:
A. Present Situation:

Section 455.241, F.S., relates to patient records for patients treated by medical doctors, osteopathic medical doctors, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, and veterinarians. Upon request, these health care practitioners must provide a copy of a patient’s records, including x-rays, to the patient or his legal representative. The furnishing of the copies cannot be conditioned on payment of a disputed fee. A patient’s medical records cannot be furnished to anyone other than the patient or his legal representative except by written authorization of the patient.

B. Effect of Proposed Changes:

The bill provides that, upon proper request, the health care practitioner is to provide copies of all reports made of and records relating to the examination. The bill also provides that the patient’s spouse or guardian can request such copies. Furnishing of the copies could not be conditioned on payment of a disputed fee, on execution of an assignment for the benefit of a creditor, or on signing a letter of protection or instrument creating a lien on real or personal property. The bill would prohibit furnishing a patient’s records to, or discussing the patient’s medical condition with, any person other than the patient, his spouse, his guardian, or his legal representative.

Information disclosed to a health care practitioner by a patient in the course of his care would be confidential and could be disclosed only if permitted by written authorization of the patient or if compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.

II. ECONOMIC IMPACT AND FISCAL NOTE:
A. Public:

None

B. Government:

None

III. COMMENTS:

None

IV. AMENDMENTS:

None
A bill to be entitled
An act relating to patient records; amending
ss. 395.017, 455.241, F.S.; providing a
limitation on copying fees charged by health
care facilities and health care practitioners
for providing copies of patient records;
providing for confidentiality; providing an
exception; providing an effective date.

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

Section 1. Section 395.017, Florida Statutes, as
amended by section 5 of chapter 88-1, Laws of Florida, is
amended to read:

395.017 Patient records; copies; examination.--
(1) Any licensed facility shall, upon request, and
only after discharge of the patient, furnish to any person
admitted therein for care and treatment or treated thereat, or
to any such person's guardian, curator, or personal
representative, or to anyone designated by such person in
writing, a true and correct copy of all patient records,
including X rays, concerning such person, which records are in
the possession of the licensed facility, except progress notes
and consultation report sections of a psychiatric nature
concerning the care and treatment performed by the licensed
facility, provided the person requesting such records agrees
to pay a charge. The charge shall not exceed the fee charged
per page for copying records by the clerk of the county court
of the county in which the licensed facility is located not to
exceed the actual cost of copying the records, including
reasonable staff time. The licensed facility shall further
allow any such person to examine the original records in its possession, or microfilms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed to assure that the records will not be damaged, destroyed, or altered.

Section 2. Subsections (1) and (2) of section 455.241, Florida Statutes, as amended by section 9 of chapter 88-1, Laws of Florida, are amended to read:

455.241 Patient records; report or copies of records to be furnished.--

(1) Any health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 466, or chapter 474 who makes a physical or mental examination of, or administers treatment to, any person shall, upon request of such person or his legal representative, furnish copies of all reports and records relating to or records made of such examination or treatment, including X rays; except that when a patient's psychiatric records are requested by him or his legal representative, the practitioner may provide a report of examination and treatment in lieu of copies of records. However, upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a disputed fee for services rendered. However, if a fee is required, the person requesting such records shall pay a fee not to exceed the fee charged, per page, for copying records by the clerk of the county court of the county in which the health care practitioner's office is located.
(2) Such records shall not be furnished to and the medical condition of a patient may not be discussed with any person other than the patient or his legal representative or other health care providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation which has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical record shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative by the party seeking such records. Information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care or treatment of the patient or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given. However, a health care provider who is or expects to be named as a defendant in a health care negligence case may discuss with his own attorney the records and other information relating to the patient without being in violation of this section; provided, any such attorney may not, without the consent of the patient, further disseminate such information prior to a claim being filed against that provider. The Department of Professional Regulation may
obtain patient records pursuant to a subpoena without written
authorization from the patient if the department and the
probable cause panel of the appropriate board, if any, find
reasonable cause to believe that a practitioner has
excessively or inappropriately prescribed any controlled
substance specified in chapter 893 in violation of s.
458.331(1)(q), s. 459.015(1)(q), s. 461.013(1)(p), s.
462.14(1), s. 466.028(1)(q), or s. 474.214(1)(x) or (y) or
that a practitioner has practiced his profession below that
level of care, skill, and treatment required as defined by s.
458.331(1)(t), s. 459.015(1)(t), s. 460.413(1)(s), s.
461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(g), s.
464.018(1)(f), s. 466.028(1)(y), or s. 474.214(1)(g); but the
patient record obtained by the department pursuant to this
subsection shall be used solely for the purpose of the
department and board in disciplinary proceedings. The record
shall otherwise be sealed and shall not be available to the
public pursuant to the provisions of s. 119.07 or any other
statute providing access to public records. Nothing in this
section shall be construed to limit the assertion of the
psychotherapist-patient privilege under s. 90.503 in regard to
records of treatment for mental or nervous disorders by a
medical practitioner licensed pursuant to chapter 458 or
chapter 459 who has primarily diagnosed and treated mental and
nervous disorders for a period of not less than 3 years,
inclusive of psychiatric residency. However, the practitioner
shall release records of treatment for medical conditions even
if the practitioner has also treated the patient for mental or
nervous disorders. If the department has found reasonable
cause under this section and the psychotherapist-patient
privilege is asserted, the department may petition the circuit
court for an in camera review of the records by expert medical
practitioners appointed by the court to determine if the
records or any part thereof are protected under the
psychiatrist-patient privilege.

Section 3. This act shall take effect upon becoming a
law.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1076

1. The committee substitute establishes that the maximum fee
that can be charged for copying patient records is the fee
charged per page for copying records by the county court
clerk in that county.

2. The committee substitute deletes the prohibition against
conditioning the furnishing of the copies on the execution of
an assignment for the benefit of a creditor or on the signing
of a letter of protection or instrument creating a lien on
real or personal property.

3. The committee substitute provides that a health care
provider who is or expects to be a defendant in a health care
negligence case can discuss the records or other information
with his attorney.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

A. Present Situation:

Section 395.017, F.S., requires any hospital or ambulatory surgical center to furnish a patient with a copy of the patient's medical records or x-rays. The law places a limit on how much a patient may be charged for the record at the actual cost of copying the document.

Section 455.241, F.S., relates to patient records for patients treated by medical doctors, osteopathic medical doctors, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, and veterinarians. Upon request, these health care practitioners must provide a copy of a patient's records, including x-rays, to the patient or his legal representative. The furnishing of the copies cannot be conditioned on payment of a disputed fee. A patient's medical records cannot be furnished to anyone other than the patient or his legal representative except by written authorization of the patient.

B. Effect of Proposed Changes:

The bill amends ss. 395.017 and 455.241, F.S., to establish a maximum fee which a hospital, ambulatory surgical center, or health care practitioner may charge for copying a patient record or x-ray when supplying the record or x-ray to the patient. The maximum fee specified in the bill may not exceed the fee charged per page for copying records by the clerk of the county court of the county in which the hospital, ambulatory surgical center or health care practitioner's office is located.

The bill amends s. 455.241, F.S., to specify that, in addition to medical records, the medical condition of a patient may not be disclosed to any person other than the patient, the patient's legal representative, or other health care providers involved in the treatment of the patient, except upon written consent of the patient. Further, the bill specifies that information disclosed to a health care practitioner by a patient is confidential and may be disclosed only to other health care providers involved in the care of the patient or by written authorization of the patient or by subpoena. In addition, this information may be disclosed by a health care provider to his attorney if the provider expects to be named as a defendant in a negligence case.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None

B. Government:
None

III. COMMENTS:

None

IV. AMENDMENTS:

None
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2. The committee substitute deletes the prohibition against conditioning the furnishing of the copies on the execution of an assignment for the benefit of a creditor or on the signing of a letter of protection or instrument creating a lien on real or personal property.

3. The committee substitute provides that a health care provider who is or expects to be a defendant in a health care negligence case can discuss the records or other information with his attorney.

Committee on Judiciary-Civil

Staff Director

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