

## CHAPTER 2017-119

### Committee Substitute for Committee Substitute for Senate Bill No. 474

An act relating to hospice care; amending s. 400.60501, F.S.; requiring the Department of Elderly Affairs, in conjunction with the Agency for Health Care Administration, to adopt national hospice outcome measures and survey data by a specified date and to make such measures available to the public; creating s. 400.6096, F.S.; authorizing certain hospice personnel to assist in the disposal of certain prescribed controlled substances; requiring a hospice that chooses to assist in the disposal of certain prescribed controlled substances to establish policies, procedures, and systems for the disposal; authorizing a hospice physician, nurse, or social worker to assist in the disposals of certain prescribed controlled substances; providing requirements for such disposals; amending s. 400.611, F.S.; requiring a hospice to maintain an up-to-date interdisciplinary record of care; revising the patient records retention period; providing for the confidentiality of the interdisciplinary record of patient care; specifying to whom and under what conditions a hospice may release a patient's interdisciplinary record of care; defining a term; requiring a hospice to release patient statistical data to certain agencies; specifying that information from patient records is confidential and exempt from certain provisions; providing an effective date.

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

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~~ adopt outcome measures and survey data 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 and survey data 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:

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 the disposal regulations in 21 C.F.R. s. 1317.

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

(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, may 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 3. 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 ~~5~~ years after termination of hospice services, unless otherwise provided by law. In the case of a patient who is a minor, the 6-year ~~5-year~~ period shall begin on the date the patient reaches or would have reached the age of majority.

(3) The interdisciplinary record of patient records of 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; or legal guardian has given express written informed consent;~~

(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 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).~~

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

(6) A hospice must 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 s. 119.07(1).

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

Approved by the Governor June 16, 2017.

Filed in Office Secretary of State June 16, 2017.