

## Notice of Development of Rulemaking

### AGENCY FOR HEALTH CARE ADMINISTRATION Cost Management and Control

RULE NO: RULE TITLE

[59B-16.001](#): Definitions

[59B-16.002](#): Universal Patient Authorization Forms

[59B-16.003](#): Rebuttable Presumption and Civil Liability

PURPOSE AND EFFECT: The proposed rule development will establish universal patient authorization forms in both paper and electronic formats which may be used by a health care provider to document patient permission for the disclosure and use, in any form or medium, of an identifiable health record. The universal patient authorization forms must be accepted by a provider as valid authorization to release an identifiable health record if the form is completed according to the instructions accompanying the form. The proposed rule development will incorporate by reference a universal patient authorization form for the purpose of treatment and quality of care and a universal patient form that may be used for treatment or certain non-treatment purposes.

SUBJECT AREA TO BE ADDRESSED: The agency is proposing a rule development that will establish new Rules 59B-16.001 and 59B-16.003, F.A.C., providing for the incorporation by reference of the Universal Patient Authorization Form for Full Health Information Disclosure in Treatment and Quality of Care form, the Universal Patient Authorization for Limited Disclosure of Health Information and accompanying instructions. The rules provide instructions for the completion of the form that must be met to create the rebuttable presumption that the release of identifiable health record was appropriate.

SPECIFIC AUTHORITY: [408.15\(8\) FS.](#)

LAW IMPLEMENTED: [408.051\(4\) FS.](#)

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: February 5, 2010, 10:00 a.m.

PLACE: Agency for Health Care Administration, Building 3, First Floor Conference Rooms A, 2727 Mahan Drive, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Carolyn H. Turner at (850)922-5861. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Carolyn H. Turner, Florida Center for Health Information and Policy Analysis, Building 3, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59B-16.001 Definitions.

As used in Rules 59B-16.001 through 59B-16.003, F.A.C.:

(1) "Health care provider" means any other person or organization that furnishes, bills, or is paid for health care services in the normal course of business.

(2) "Electronic format" means a form as provided in 59B-16.002 that is completed, signed electronically and transmitted electronically to the health care provider if the signature is validated by the provider or third party on

behalf of the provider through an authentication process consistent with national standards recognized by the Office of the National Coordinator for Health Information Technology.

Rulemaking Authority 408.15(8) FS. Law Implemented 408.051(4) FS. History–New \_\_\_\_\_.

#### 59B-16.002 Universal Patient Authorization Forms

(1) The Universal Patient Authorization for Full Information Disclosure in Treatment and Quality of Care form including instructions for completing the form is posted at: [www.FHIN.net](http://www.FHIN.net). The Universal Patient Authorization for Full Information Disclosure in Treatment and Quality of Care form dated 1.1.10 is incorporated by reference as AHCA Form FC4200-004.

(2) The Universal Patient Authorization for Limited Disclosure of Health Information form including instructions for completing the form is posted at: [www.FHIN.net](http://www.FHIN.net). The Universal Patient Authorization for Limited Disclosure of Health Information form dated 1.1.10 is incorporated by reference as AHCA Form FC4200-005.  
Rulemaking Authority 408.15(8) FS. Law Implemented 408.051(4) FS. History–New \_\_\_\_\_.

#### 59B-16.003 Rebuttable Presumption and Immunity from Civil Liability.

(1) The exchange by a health care provider of an identifiable health record upon receipt of a form in either paper or electronic format completed and submitted in accordance with agency instructions as provided in Rule 59B-16.002, F.A.C. creates a rebuttable presumption that the release of the identifiable health record was appropriate.

(2) A health care provider that discloses or uses an identifiable health record in reliance on the information provided to the health care provider on a properly completed authorization form that may be on paper or in an electronic format does not violate any right of confidentiality and is immune from civil liability for accessing or releasing an identifiable health record.

Rulemaking Authority 408.15(8) FS. Law Implemented 408.051(4) FS. History–New \_\_\_\_\_.