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	A	B	C	D	E
1	Florida Comparative Analysis Matrix (CAM)				
2		Citation/ Link	More Stringent than HIPAA for Patient Care?	More Stringent than HIPAA for Population Health?	References to Related State/ Federal Law & Legislative Proposals
3					
4	Subject Matter				
5					
6	Privacy Specific Provisions				
7	Comprehensive general privacy act				
8	Comprehensive medical privacy act				
9	Constitutional right to privacy	Art. I Sec 23; see also Art. X, Sec 22 (Parental Notice of Termination of a Minor's Pregnancy)	No - See 45 CFR 164.502(g)(3)(ii)(A) for Notice to parent	No	
10	Restrictions on use of Social Security number	119.071, (4)(a)(1), F.S., 817.568, F.S., also 817.5681, F.S. (See also 69O - 128.025(1)(i), F.A.C.)	No	No	5 U.S.C. 552a, 42 U.S.C. 405(c)(2), 15 U.S.C. 6801 - 6809
11					
12	HIPAA-Based and Other Federally-Based Provisions				
13	Provisions adopting HIPAA requirements	400.494, F.S., See also 381.028, F.S., relating to adverse medical incident reports which includes references to HIPAA	Yes* - More stringent on certain "sensitive" conditions.	Yes* - More stringent for sensitive conditions	Treatment of "sensitive conditions" - Florida Statutes §§ 381.004, 385.202, 392.65, 384.29, 394.4615, 395.404, 397.501 and 760.40; See also 381.028(3)(i), F.S., and 408.915, F.S.
14	Provisions adopting other federally-based provisions	397.501(7)(a), F.S., (Substance Abuse Service Providers), 626.9651, F.S., (Health Insurers and HMOs); 1002.22, F.S. & 1002.225, F.S., (School Health Records)	Yes - More Stringent than 45 CFR §164.506 (certain "sensitive conditions")	Yes - More Stringent than 45 CFR 164.512 (certain "sensitive conditions")	Substance Abuse - 42 CFR Part 2, Education - 20 U.S.C. 1232g, Health Insurance - Gramm-Leach-Bliley Act, 15 U.S.C. 6801 - 6809
15	Health Information Provisions				
16	Health information exchange specific provisions	163.62, F.S. (Limited - Collaborative Client Information Systems), 381.0022, F.S., (Authorizes DOH and DCF share confidential information on clients served by the respective agency); 402.115, F.S., (Authorizes DOH, DCF and APD to share confidential information on clients served by the respective agency).	No	No	ARRA §§ 13408, 13424
17	Electronic health/medical record specific provisions	456.43, F.S. (Limited to e-prescribing), 59A-3.270, F.A.C., (hospitals),	No	No	45 CFR §§164.302-318; ARRA §13400; 408.051(2)(a-c), F.S.
18	Breach of electronic security reporting - general	817.5681, F.S. (General),	No - (However, does provide greater privacy protections via required patient notification)	No - (However, does provide greater privacy protections via required patient notification)	Red Flag Rules (Identity Theft) - 16 CFR 681.2; 45 CFR Parts 160 and 164 Breach Notification for Unsecured Protected Health Information
19	Breach of electronic security reporting - health records	817.5681, F.S., while not specific to electronic health records the statute would have limited applicability to electronic health records.	No - (However, does provide greater privacy protections via required patient notification)	No - (However, does provide greater privacy protections via required patient notification)	ARRA §13402; §13405 (accounting for disclosures) ;45 CFR Parts 160 and 164 Breach Notification for Unsecured Protected Health Information
20	Telehealth/telemedicine provisions	458.3255, F.S., (Telemedicine Ordering Limitations); 64B8-9.014, F.A.C and 64B15-14.008, F.A.C., (Relating to Internet Prescribing)	No	No	
21	Electronic signatures	668.04, F.S.,	No	No	Federal E-Sign law - 15 U.S.C. 96
22	Personal health records				ARRA §§13400(11), 13407
23	Uniform Electronic Transactions Act	668.50, F.S.	No	No	
24	Technical security of electronic systems provisions	282.318, F.S., (Applies to State Government),	No	No	HIPAA - 45 CFR 164.312; ARRA §§13401, 13402
25					
26	Health/Medical Records in General				

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27	Records retention requirements	456.057(11), F.S. , (Health Care Providers); Implied, 395.3025, F.S., (Hospitals); See also regulations governing licensed health providers, 64B1-10.001, F.A.C., (Acupuncture); 64B8-10.001 - 10.004, F.A.C., (Medical Doctors); 64B15-15.001 - 15.006, F.A.C., (Osteopathic Doctors); 64B33-4.001, F.A.C., (Athletic Trainers); 64B2-17.0055 - 17.0065,F.A.C. (Chiropractors); 64B4 - 9.001 - 9.002, F.A.C.,(Licensed Clinical Social Workers, Marriage and Family Therapist and Mental Health Counselors); 64B4 - 17.002, F.A.C., (Dentists); 64B6 - 6.007, F.A.C., (Hearing Aid Specialists); 64B9 - 11.001 - 11.002, F.A.C., (Nurses); 64B13 - 3.003, F.A.C., (Optomotrist); 64B17-6.0042 - 6.005, F.A.C., (Physical Therapist); 64B18 - 15.002 - 15.002, F.A.C., (Podatrists); 64B19 - 19.002 - 19.006, F.A.C., (Psychologist); 64B20 - 9.006, F.A.C., (Speech-Language Pathologists); 64B24 - 7.014, F.A.C., (Licensed Midwife); 64J-1.014, F.A.C., (EMT).	No	No	42 CFR 482.24, (Medicare COP), 42 CFR 431.306, (Medicaid)
28	Patient access	456.057(6), F.S., 395.3025(1), F.S.,	No - (456.057(6), F.S.), No - (395.3025(1), F.S.)	No	Implied - 42 CFR 431.306(d), (Medicaid); Numerous Sections of Public Health Service Act - 42 CFR 51b.404, 42 CFR 51c.110, 42 CFR 59.11, 42 CFR 55a.104, 42 CFR 51a.6, 42 CFR 37.80(a) and ARRA §13405(e)
29	Ownership of medical records	456.057(1), F.S., 395.3025(Hospitals - implied), See also regulations governing licensed health providers, 64B1-10.001, F.A.C., (Acupuncture); 64B8-10.001 - 10.004, F.A.C., (Medical Doctors); 64B15-15.001 - 15.006, F.A.C., (Osteopathic Doctors); 64B33-4.001, F.A.C., (Athletic Trainers); 64B2-17.0055 - 17.0065,F.A.C. (Chiropractors); 64B4 - 9.001 - 9.002, F.A.C.,(Licensed Clinical Social Workers, Marriage and Family Therapist and Mental Health Counselors); 64B4 - 17.002, F.A.C., (Dentists); 64B6 - 6.007, F.A.C., (Hearing Aid Specialists); 64B9 - 11.001 - 11.002, F.A.C., (Nurses); 64B13 - 3.003, F.A.C., (Optomotrist); 64B17-6.0042 - 6.005, F.A.C., (Physical Therapist); 64B18 - 15.002 - 15.002, F.A.C., (Podatrists); 64B19 - 19.002 - 19.006, F.A.C., (Psychologist); 64B20 - 9.006, F.A.C., (Speech-Language Pathologists); 64B24 - 7.014, F.A.C., (Licensed Midwife)	No -(For all)	No - (No for All)	

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30	Accounting for disclosures	456.057(12), F.S., 59A -3.270(1), F.A.C., (Hospitals)	Yes- 456.057(12), F.S., would require an accounting of "all" disclosures whereas 45 CFR 164.528 is not quite as expansive,limiting for example, accounting for disclosures related to treatment, payment and health care operations.	Yes- 456.057(12), F.S., would require an accounting of "all" disclosures whereas 45 CFR 164.528 is not quite as expansive,limiting for example, accounting for disclosures related to treatment, payment and health care operations.	ARRA §13405©
31	Specific redisclosure prohibitions	456.057(12), F.S., 395.3025(7)(a), F.S.,	Yes - (45 CFR 160.102 only applies to Covered Entities - 456.057(12), F.S., would provide greater privacy protection. 395.3025(7)(a), F.S, more stringent)	Yes - (45 CFR 160.102 only applies to Covered Entities - 456.057(12), F.S., would provide greater privacy protection. 395.3025(7)(a), F.S, more stringent)	42 C.F.R. 2.32
32	Redisclosure statement required	381.004(3)(f), F.S., (HIV Test Results); 397.501(7)(a), F.S.,(Substance Abuse Service Provider Records),	Yes - (45 CFR 164.508 only requires a redisclosure statement on authorizations for disclosures other than TPO)	Yes - (45 CFR 164.508 only requires a redisclosure statement on authorizations for disclosures other than TPO)	42 C.F.R. 2.32
33	Disposition/destruction of records	456.057(13-15), F.S., See also regulations relating to licensed health care providers, 64B1-10.001, F.A.C., (Acupuncture); 64B8-10.001 - 10.004, F.A.C., (Medical Doctors); 64B15-15.001 - 15.006, F.A.C., (Osteopathic Doctors); 64B33-4.001, F.A.C., (Athletic Trainers); 64B2-17.0055 - 17.0065,F.A.C. (Chiropractors); 64B4 9.001 - 9.002, F.A.C.,(Licensed Clinical Social Workers, Marriage and Family Therapist and Mental Health Counselors); 64B4 - 17.002, F.A.C., (Dentists); 64B6 - 6.007, F.A.C., (Hearing Aid Specialists); 64B9 - 11.001 - 11.002, F.A.C., (Nurses); 64B13 - 3.003, F.A.C., (Optomotrist); 64B17-6.0042 - 6.005, F.A.C., (Physical Therapist); 64B18 - 15.002 - 15.002, F.A.C., (Podatrists); 64B19 - 19.002 - 19.006, F.A.C., (Psychologist); 64B20 - 9.006, F.A.C., (Speech-Language Pathologists); 64B24 - 7.014, F.A.C., (Licensed Midwife)	No - Records retention policy is not applicable to the release of PHI for treatment or population health	No - Records retention policy is not applicable to the release of PHI for treatment or population health	
34					
35	Consent/Authorizations				
36	Patient consent requirements	456.057(7)(a), F.S., 395.3025(4), F.S., and 408.051(3), F.S. See also enhanced consent requirements for "sensitive conditions" including Florida Statutes§§ 381.004, 385.202, 392.65, 384.29, 394.4615, 395.404, 397.501 and 760.40	Yes*- for "sensitive conditions".	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b)	42 CFR 431.306(d), (Medicaid); Numerous Sections of Public Health Service Act - 42 CFR 51b.404, 42 CFR 51c.110, 42 CFR 59.11, 42 CFR 55a.104, 42 CFR 51a.6, 42 CFR 37.80(a)and ARRA §13406(relatiing to certain marketing communications)

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37	Patient authorization requirements	456.057(7)(a), F.S., 395.3025(4), F.S., and 408.051(3), F.S. See also enhanced consent requirements for "sensitive conditions" including Florida Statutes §§ 381.004, 385.202, 392.65, 384.29, 394.4615, 395.404, 397.501 and 760.40	Yes*- for "sensitive conditions".	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR 431.306(d), (Medicaid); Numerous Sections of Public Health Service Act - 42 CFR 51b.404, 42 CFR 51c.110, 42 CFR 59.11, 42 CFR 55a.104, 42 CFR 51a.6 and 42 CFR 37.80(a) and ARRA §13406(relating to certain marketing communications)
38	Disclosure for emergency situations	456.057(7)(a), F.S., (Implied), 397.501(7)(a)(1), F.S. (Substance Abuse Providers), 408.051(3), F.S.	No	Yes - Disclosures for emergency situations are probably not applicable in a population health context. However while 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally not allow such disclosure; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR 431.306(d), (Medicaid)
39					
40	Minors				
41	Age of majority	743.07(1), F.S.,	No	No	
42	Emancipated minors	743.015 - 095, F.S.,	No	No	
43	Age consent requirements - mental health	397.501(7)(e)(1), F.S.,	No	No	
44	Age Consent requirements - other conditions	743.06,F.S. (Blood Donation), 743.065,F.S. (Care of minor child),	No	No	
45					
46	Patient Proxies				
47	Personal Representatives/Executors	731.201(27), F.S.,	No	No	
48	Guardians	Ch. 744 F.S.,	No	No	
49	Health Care Power of Attorney	Ch. 765 F.S.,	No	No	
50	Health Care Power of Attorney - mental health	765.202(5), F.S.	No	No	
51					
52	Health Condition/Situation Specific Provisions				
53	Genetic information	760.40-.60, F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	Genetic Information Non-discrimination Act of 2008

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54	HIV/AIDS information	381.004, F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
55	Sexually transmitted disease information	384.29, F.S., 384.25, F.S., (Reporting), 384.30, F.S. (Minors)	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
56	Hepatitis C information	381.003, F.S., 64D-3.029 FAC.	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
57	Adult mental health	394.4615, F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
58	Children's mental health	394.4615, F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	

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59	Communicable disease information	381.003, F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR part 70
60	Alcohol addiction	397.501(7), F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR part 2
61	Drug addiction	397.501(7), F.S.,	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR part 2
62	Reproductive rights	743.065(1), F.S. (Medical services during pregnancy), 390.01114, F.S. (parental Notice - Abortions),	No - See 45 CFR 164.502(g)(3)(i)	No - See 45 CFR 164.502(g)(3)(i)	
63	Minor wards of the state	39.407, F.S.,	No	No	
64	Adult wards of the state	410.037, F.S., (Disabled Adults - Home Care), 410.605, F.S., (Disabled Adults - Community Care),	No	No	
65	Reporting of abortions	390.0112, F.S., See also 59A-9.031, F.A.C., (Reporting obligations of abortion clinics)	No - See 45 CFR 164.512(a)(1) & (b)(1)	No - See 45 CFR 164.512(a)(1) & (b)(1)	
66	Victims (domestic violence, sex assault, etc.)	741.29, F.S. , (Investigation of Domestic Violence), 39.201, F.S., (Child Abuse Reporting), 794.027, F.S., (Sexual Battery Reporting), 415.1034, F.S., (Mandatory Abuse Reporting - VulnerableAdults),	No	No	
67	Futile Care Provisions	765.302, F.S.,	No	No	
68	Other proxies				
69					
70	Provider Specific Provisions				
71	Pharmacy records	Ch. 465 F.S., See also 64B16-27.800, F.A.C.	No	No	

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72	Emergency services (ambulance/EMT)	401.30, F.S., 64J-1.014, F.A.C.	Yes* - Only allows for disclosure w/o consent to hospital personnel	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
73	Health professional licensing	Ch. 456 F.S.,(Generally); 64B1-10.001, F.A.C., (Acupuncture); 64B8-10.001 - 10.004, F.A.C., (Medical Doctors); 64B15-15.001 - 15.006, F.A.C., (Osteopathic Doctors); 64B33-4.001, F.A.C., (Athletic Trainers); 64B2-17.0055 - 17.0065, F.A.C. (Chiropractors); 64B4 - 9.001 - 9.002, F.A.C.,(Licensed Clinical Social Workers, Marriage and Family Therapist and Mental Health Counselors); 64B4 - 17.002, F.A.C., (Dentists); 64B6 - 6.007, F.A.C., (Hearing Aid Specialists); 64B9 - 11.001 - 11.002, F.A.C., (Nurses); 64B13 - 3.003, F.A.C., (Optomotrist); 64B17-6.0042 - 6.005, F.A.C., (Physical Therapist); 64B18 - 15.002 - 15.002, F.A.C., (Podatrists); 64B19 - 19.002 - 19.006, F.A.C., (Psychologist); 64B20 - 9.006, F.A.C., (Speech-Language Pathologists); 64B24 - 7.014, F.A.C., (Licensed Midwife)	No	No	
74	Health professional accreditation				
75	Professional counselors	Ch. 456 F.S.,(Generally); 491.0148,F.S., 64B4 - 9.001 - 9.002, F.A.C.,(Licensed Clinical Social Workers, Marriage and Family Therapist and Mental Health Counselors); 64B19 - 19.002 - 19.006, F.A.C., (Psychologist)	No	No	
76	Utilization, peer & quality review	Art. X §25 Fla. Const., 766.101, F.S., (Medical Review Committee), 395.0193, F.S., (Hospital Peer Review), 383.336, F.S., (C-Section Peer Review), 397.419, F.S., (Substance Abuse QA), 394.907, F.S., (Community Mental Health Centers QA),	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent,individually identifiable health information would not appear to be able to be disclosed for certain population health purposed such as research; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
77					
78	Facility-Specific Provisions				

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79	Hospitals	395.3025, F.S. (Hospitals and ASC), See also 59A-3.270, F.A.C. (Hospitals) and 59A-5.012, F.A.C., (Ambulatory Surgery Centers). (revised 2009)	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR 482.24, (Medicare COP - Hospitals); 42 CFR 416.47, (Medicare COP - ASC)
80	School based clinics	381.0056, F.S.; 1002.22, F.S.(revised in 2009) and 1002.225, F.S.	No* - 1002.22(2)(c)(4), F.S., generally exempts certain specific treatment records from being classified as educational records. Care should be used in reviewing such records. If the records can be classified as "education records" then FERPA and not HIPAA will be applicable.	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	20 U.S.C. 1232g
81	Imaging labs and centers				
82	Testing and clinical labs	483.181(2), F.S. (clinical labs)(revised 2009)	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR 493
83	Assisted living facilities, nursing homes, and skilled nursing facilities	400.022, F.S. (Nursing Homes - Resident Rights), 59A-4.118, F.A.C., (Nursing Home - Medical Records); 429.28, F.S. (Assisted Living Resident Rights),	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
84	Drug & alcohol treatment facilities	397.501(7), F.S.	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR part 2
85	Rehabilitation facilities				

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86	Home health agencies	400.491, F.S., 59A-8.022, F.A.C.; (See also 59A-18.012, F.A.C., - Nurse Registries)	Yes* - More stringent on certain "sensitive" conditions.	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR 484.48 (Medicare - COP)

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87	Hospice	400.611, F.S.	Yes - 45 CFR 164.506 would allow disclosure w/o consent	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	42 CFR 418.74, (Medicare - COP)
88	<u>Payers/Insurance Company Provisions</u>				
89	Health insurance related provisions	624.23, F.S., 626.9651, F.S., 627.429, F.S., 627.4195, F.S., 627.668, F.S., (See also 69O-128.001-035, F.A.C., for detailed regulations on privacy related matters)	No	No	Health Insurance - Gramm-Leach-Bliley Act, 15 U.S.C. 6801 - 6809
90	HMO provisions	641.3007, F.S., 641.27, F.S., 641.515, F.S., 641.55, F.S., 641.59, F.S., (See also 69O-128.001-035, F.A.C., for detailed regulations on privacy related matters)	No	No	Health Insurance - Gramm-Leach-Bliley Act, 15 U.S.C. 6801 - 6809
91	Medicaid/Medicare related provisions	409.907(3)(d), F.S.,	Yes* - Consent required to disclose information to non-Medicaid providers (excepting emergencies)	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
92					
93	<u>Employer Specific Provisions</u>				
94	EHR				
95	Provisions related to employers				
96	Preemployment screenings	448.076, F.S. (Sickle Cell Screening),	No	No	
97	Employee Assistance Programs	166.0444, F.S., 110.1091, F.S., 125.585, F.S.	No	No	
98					
99	<u>Public Health Reporting</u>				
100	Newborn screening	383.14, F.S.	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	

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101	Vital records (birth/death certificates)	Ch. 382.025, F.S., See also 382.008, F.S., (Death Certificates)	Yes*, 45 CFR 164.506 would allow disclosure for treatment, however, F.S., does not exempt a treating provider from obtaining consent. Would not be applicable for Death Certificates	Yes*, 45 CFR 164.512 would allow disclosure w/o consent for certain population health purposes however birth certificates would not be disclosed for population health services w/o consent; 382.025 would allow certain information contained within a death certificate to be disclosed.	
102	State Department of Health reporting (reporting certain conditions to state)	Ch. 381, F.S.(generally); 381.0031, F.S., 384.25, F.S., 385.202, F.S., 395.1025, F.S.	Yes*, 45 CFR 164.506 would allow disclosure for treatment, however, F.S., does not exempt a treating provider from obtaining consent. Would not be applicable for Death Certificates	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b)	
103	Reports to other state agencies	456.057(7)(a)(5), F.S., allowing for the reporting of patient information, without consent, to regional poison control centers. See also 395.3025(4)(f-m), F.S.	No	No	
104	Immunization reporting	381.003, F.S.	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b)	
105	Registries	381.0011, F.S., (General Authority of Dept. of Health), 381.0031(1)(e), F.S., (Immunizations), 385.202, F.S., (Cancer), 381.0031, F.S., (Diseases of Public Significance), 395.404, F.S. (Trauma Registry Data)	Yes*, 45 CFR 164.506 would allow disclosure for treatment, however, F.S., does not exempt a treating provider from obtaining consent. Would not be applicable for Death Certificates	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b)	
106	Information sharing in public emergencies	163.62, F.S. (Limited - Collaborative Client Information Systems), 381.00315, F.S., (Public Health Advisories), 402.115, F.S., (Authorizes DOH, DCF and APD to share confidential information on clients served by the respective agency).	No	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b)	
107					
108	State Facilities/Medical Records				
109	Other state facilities				

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110	Public health clinics	456.057, (7)(a) F.S., (County Health Departments - Treatment Purposes), Also 64F-10.008, F.A.C.	No - Treatment Only	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
111	Correctional facilities (adult)	945.10(1), F.S.,	No - Treatment Only	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
112	Correctional facilities (minors)	985.18, F.S.	No - Treatment Only	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
113	State hospitals	392.62, F.S., (Allows State to operate a hospital, pursuant to Ch. 395, for tuberculosis patients.	Yes - 45 CFR 164.506 would allow for disclosures to all treating providers	Yes - While 45 CFR 164.512 would allow certain population health disclosures w/o consent, Florida law would generally require consent; (Would not be considered more stringent for traditional "Public Health" disclosures required under state law and allowed pursuant to 45 CFR 164.512(a-b))	
114	State Freedom of Information Act	Ch. 119, F.S., (Public Records - Generally),	No - Treatment Only	No	
115					
116	Penalties/Remedies				
117	Statutory right to sue for damages related to health information				

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118	Common law right to sue for damages related to health information	Yes, Florida would allow for claims for common law intentional torts such, as "Intentional Infliction of Emotional Distress" and "Invasion of Privacy" , (See, Southern Baptist Hospital of Florida v. Welker, 908 So.2d 317, (2005)); Additionally, relatively recent Florida Supreme Court decisions would also seem to allow claims for unintentional torts such as "Negligent Infliction of Emotional Distress" and "Breach of Fiduciary Duty" (See, Florida Department of Corrections v. Abril, 969 So.2d 201(2007) and Gracey v. Eaker, 837 So.2d 348 (2002))	N/A	N/A	

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119	Criminal provisions - wrongful access	760.40(2)(a), F.S., (Genetic Information), 381.004(6), F.S., (HIV and STD), 817.568(2)(a), F.S., (Criminal Use of Personal Identification),	No	No	ARRA §13409
120	Administrative penalties for wrongful disclosure	456.072(1)(k), F.S., allows for the imposition of fines and penalties by professional licensing boards for the failure to comply with any statutory obligation.408.051(5), F.S.	No	No	ARRA §13410
121					
122	Litigation Related Provisions				
123	Medical record subpoenas	Rule 1.351 Fla.R.Civ.P, allows for the production of records, including medical records in a civil suit. The individual whose records are to be disclosed is provided an opportunity to object; and Rule 1.360 Fla.R.Civ.P. when the physical or mental condition of a party to a suit is in issue the opposing party may request an examination of the other party.	No	No	45 CFR 164.512(e)
124	Patient/provider privilege	90.503, F.S., (Patient-Psychotherapist), See Also 456.057(7), F.S., and 395.3025(4), F.S.	Yes* 90.503, F.S. , would be treated similarly to mental health information under 394.4615, F.S.	Yes* 90.503, F.S. , would be treated similarly to mental health information under 394.4615, F.S.	
125	Workers comp disclosures	440.13(4)(c) , F.S.,	No	No	
126					
127	Law Enforcement				
128	DUI test results	316.1932, F.S., and 316.1933, F.S.	No	Yes - While 45 CFR 164.512 would allow certain disclosures population health disclosures w/o consent, Florida law would prohibit such release unless required by law.	

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129	Abuse & neglect	741.29, F.S. , (Investigation of Domestic Violence), http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0741/SEC29.HTM&Title=->2008->Ch0741->Section%2029#0741.29; 39.201, F.S., (Child Abuse Reporting), http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0039/SEC201.HTM&Title=->2008->Ch0039->Section%20201#0039.201; 794.027, F.S., (Sexual Battery Reporting), http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0794/SEC027.HTM&Title=->2008->Ch0794->Section%20027#0794.027; 415.1034, F.S., (Mandatory Abuse Reporting - VulnerableAdults), http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0415/SEC1034.HTM&Title=->2008->Ch0415->Section%201034#0415.1034, Also - 415.107, F.S., (Confidentiality of Records), http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0415/SEC107.HTM&Title=->2008->Ch0415->Section%20107#0415.107; 395.1023, F.S.	No	No	
130	Other disclosures to law enforcement	790.24, F.S., (Gun shot wounds or life threatening Injuries), 415.1034(2), F.S., (suspected Abuse to Vulnerable Adult), 39.201(1), F.S., (Suspected Child Abuse), 794.027, F.S., (Sexual Battery Reporting), h 406.12, F.S. (Report of Certain Deaths to Coroner),	No	No	
131					
132	Research				
133	Disclosures for research	Ch. 405, F.S., 408.061(10), F.S.	No	Yes - 408.061(10), F.S., would be considered to be more stringent than HIPAA.	Generally - 45 CFR Part 46 and 21 CFR Parts 50 and 56
134					
135	Statutory Definitions	Unless otherwise indicated the defintions listed below are not formally address in Florida law			
136	Electronic Medical Record				
137	Electronic Health Record	408.051(2)(a-c), F.S.			ARRA §13400(5)
138	Health Information Exchange				
139	Health Information Organization				
140	Personal Health Record				ARRA §13400(11)
141	Consent	Term consent is used in a number of Florida statutes and is often interchanged with the term "Authorization"			
142	Authorization	Term authorization is used in some Florida statutes and is often interchanged with the term "Consent"			

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143	Privacy	Art. I Sec 23; see also Art. X, Sec 22 (Parental Notice of Termination of a Minor's Pregnancy)			
144	Confidentiality				