

(3) Clinical records shall be kept confidential in accordance with s. 455.241 and exempt from the provisions of s. 119.07(1). A client's clinical records shall be open to inspection only under the following conditions:

(a) A consent to release information has been signed by the client; or

(b) The review is made by the department for a licensure survey or complaint investigation.

(4)(a) Clinical records shall be audited periodically, but no less frequently than every 3 months, to evaluate the process and outcome of care.

(b) Statistics on maternal and perinatal morbidity and mortality, maternal risk, consultant referrals, and transfers of care shall be analyzed at least semiannually.

(c) The governing body shall examine the results of the record audits and statistical analyses and shall make such reports available for inspection by the public and licensing authorities.

History.—ss. 12, 21, 22, 27, ch. 84-283; s. 33, ch. 87-225; s. 1, ch. 90-3; s. 4, ch. 91-429; s. 195, ch. 96-406.

383.325 Inspection reports.—

(1) Each licensed facility shall maintain as public information, available upon request, records of all inspection reports pertaining to that facility which have been filed with, or issued by, any governmental agency. Copies of such reports shall be retained in the records of the facility for no less than 5 years from the date the reports are filed and issued.

(2) Any record, report, or document which, by state or federal law or regulation, is deemed confidential shall be exempt from the provisions of s. 119.07(1) and shall not be distributed or made available for purposes of compliance with this section unless or until such confidential status expires, except as described in s. 383.32(2)(c).

(3) A licensed facility shall, upon the request of any person who has completed a written application with intent to be admitted to such facility or any person who is a patient of such facility, or any relative, spouse, or guardian of any such person, furnish to the requester a copy of the last inspection report issued by the department or an accrediting organization, whichever is most recent, pertaining to the licensed facility, as provided in subsection (1), provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

History.—ss. 25, 27, ch. 84-283; s. 34, ch. 87-225; s. 1, ch. 90-5; s. 4, ch. 91-429; s. 196, ch. 96-406.

CHAPTER 384

SEXUALLY TRANSMISSIBLE DISEASES

- 384.25 Reporting required.
- 384.26 Contact investigation.
- 384.282 Naming of parties.
- 384.29 Confidentiality.
- 384.30 Minors' consent to treatment.
- 384.31 Serological testing of pregnant women; duty of the attendant.
- 384.34 Penalties.

384.25 Reporting required.—

(1) Each person who makes a diagnosis of or treats a person with a sexually transmissible disease and each laboratory that performs a test for a sexually transmissible disease which concludes with a positive result shall report such facts as may be required by the department by rule, within a time period as specified by rule of the department, but in no case to exceed 2 weeks.

(2) The department shall adopt rules specifying the information required in and a minimum time period for reporting a sexually transmissible disease. In adopting such rules, the department shall consider the need for information, protections for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. To ensure the confidentiality of persons infected with the human immunodeficiency virus (HIV), reporting of HIV infection and acquired immune deficiency syndrome (AIDS) must be conducted using the HIV/AIDS Reporting System (HARS) developed by the Centers for Disease Control and Prevention of the United States Public Health Service.

(3) The department shall require reporting of physician diagnosed cases of AIDS based upon diagnostic criteria from the Centers for Disease Control and Prevention.

(4) The department may require physician and laboratory reporting of HIV infection. However, only reports of HIV infection identified on or after the effective date of the rule developed by the department pursuant to this subsection shall be accepted. The reporting may not affect or relate to anonymous HIV testing programs conducted pursuant to s. 381.004(4) or to university-based medical research protocols as determined by the department.

(5) After notification of the test subject under subsection (4), the department may, with the consent of the test subject, notify school superintendents of students and school personnel whose HIV tests are positive.

(6) The department shall by February 1 of each year submit to the Legislature an annual report relating to all information obtained pursuant to this section.

(7) The rules adopted by the department pursuant to this section shall specify the protocols for the reporting required or permitted by subsection (3) or subsection (4). The protocol developed for implementation of subsection (4) shall include, but need not be limited to, information to be given to a test subject during pretest counseling, including:

(a) The fact that a positive HIV test result may be reported to the county public health unit with sufficient information to identify the test subject and the availability and location of anonymous testing sites; and

(b) The partner notification services available through the county public health units, the benefits of such services, and the confidentiality protections available as part of such services.

(8) Each person who violates the provisions of this section or the rules adopted hereunder may be fined by the department up to \$500 for each offense. The department shall report each violation of this section to the regulatory agency responsible for licensing each health care professional and each laboratory to which these provisions apply.

History.—s. 90, ch. 86-220; s. 28, ch. 88-380; s. 8, ch. 89-350; s. 1, ch. 93-264; s. 675, ch. 95-148; s. 2, ch. 96-179; s. 5, ch. 96-221.

Note.—Pursuant to s. 26, ch. 96-403, legislation will be submitted for introduction at a subsequent session of the Legislature to substitute the term "county health department" for the term "county public health unit" wherever found in the Florida Statutes.

384.26 Contact investigation.—

(1) The department and its authorized representatives may interview, or cause to be interviewed, all persons infected or suspected of being infected with a sexually transmissible disease for the purpose of investigating the source and spread of the disease and for the purpose of ordering a person to submit to examination and treatment as necessary.

(2) All information gathered in the course of contact investigation shall be confidential and exempt from the provisions of s. 119.07(1), and subject to the provisions of s. 384.29.

(3) No person who is infected with a sexually transmissible disease, or suspected of an infection, who reveals the name or names of sexual contacts during the course of an investigation shall be held liable in a civil action for such revelation, unless the revelation is made falsely or with reckless disregard for the truth.

History.—s. 90, ch. 86-220; s. 5, ch. 90-344; s. 12, ch. 93-227; s. 197, ch. 96-406.

384.282 Naming of parties.—

(1) When requesting an order from a circuit court under the provisions of s. 384.27, s. 384.28, or s. 384.281, the department shall substitute a pseudonym for the true name of the person to whom the order pertains. The actual name of the person shall be revealed to the court only in camera, and the court shall seal such name from further revelation.

(2) All court decisions, orders, petitions, and other formal documents shall be styled in a manner to protect the name of the party from public revelation.

(3) The department and its authorized representatives, the court, and other parties to the lawsuit shall not reveal the name of any person subject to these proceedings except as permitted in s. 384.29. Except as provided in this section, the name of any person subject to these proceedings is confidential and exempt from the provisions of s. 119.07(1).

History.—s. 32, ch. 88-380; s. 6, ch. 90-344; s. 12, ch. 93-227; s. 198, ch. 96-406.

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(a) When made with the consent of all persons to which the information applies;

(b) When made for statistical purposes, and medical or epidemiologic information is summarized so that no person can be identified and no names are revealed;

(c) When made to medical personnel, appropriate state agencies, public health agencies, or courts of appropriate jurisdiction, to enforce the provisions of this chapter or s. 775.0877 and related rules;

(d) When made in a medical emergency, but only to the extent necessary to protect the health or life of a named party, or an injured officer, firefighter, paramedic, or emergency medical technician, as provided in s. 796.08(6); or

(e) When made to the proper authorities as required by chapter 415.

(2) When disclosure is made pursuant to a subpoena, the court shall seal such information from further disclosure, except as deemed necessary by the court to reach a decision, unless otherwise agreed to by all parties. Except as provided in this section, such information that is disclosed pursuant to a subpoena is confidential and exempt from the provisions of s. 119.07(1).

(3) No employee of the department or its authorized representatives shall be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of a person examined or treated for a sexually transmissible disease by the department or its authorized representatives, or of the existence or contents of such reports received from a private physician or private health facility, without the consent of the person examined and treated for such diseases, except in proceedings under ss. 384.27 and 384.28 or involving offenders pursuant to s. 775.0877.

History.—s. 90, ch. 86-220; s. 5, ch. 90-292; s. 7, ch. 90-344; s. 11, ch. 93-227; s. 17, ch. 96-322; s. 199, ch. 96-406.

Note.—Repealed by s. 2, ch. 94-205.

384.30 Minors' consent to treatment.—

(1) The department and its authorized representatives, each physician licensed to practice medicine under the provisions of chapter 458 or chapter 459, each health care professional licensed under the provisions of chapter 464 who is acting pursuant to the scope of his or her license, and each public or private hospital, clinic, or other health facility may examine and provide treatment for sexually transmissible diseases to any minor, if the physician, health care professional, or facility is qualified to provide such treatment. The consent of the parents or guardians of a minor is not a prerequisite for an examination or treatment.

(2) The fact of consultation, examination, and treatment of a minor for a sexually transmissible disease is confidential and exempt from the provisions of s. 119.07(1) and shall not be divulged in any direct or indirect manner, such as sending a bill for services rendered to a parent or guardian, except as provided in s. 384.29.

History.—s. 90, ch. 86-220; s. 8, ch. 90-344; s. 12, ch. 93-227; s. 682, ch. 95-148; s. 200, ch. 96-406.

384.31 Serological testing of pregnant women; duty of the attendant.—

(1) Every person, including every physician licensed under chapter 458 or chapter 459 or midwife licensed under chapter 464 or chapter 467, attending a pregnant woman for conditions relating to pregnancy during the period of gestation and delivery shall take or cause to be taken a sample of venous blood at a time or times specified by the department. Each sample of blood shall be tested by a laboratory approved for such purposes under part I of chapter 483 for sexually transmissible diseases as required by rule of the department.

(2) At the time the venous blood sample is taken, testing for human immunodeficiency virus (HIV) infec-

tion shall be offered to each pregnant woman. The prevailing professional standard of care in this state requires each health care provider and midwife who attends a pregnant woman to counsel the woman to be tested for human immunodeficiency virus (HIV). Counseling shall include a discussion of the availability of treatment if the pregnant woman tests HIV positive. If a pregnant woman objects to HIV testing, reasonable steps shall be taken to obtain a written statement of such objection, signed by the patient, which shall be placed in the patient's medical record. Every person, including every physician licensed under chapter 458 or chapter 459 or midwife licensed under chapter 464 or chapter 467, who attends a pregnant woman who has been offered and objects to HIV testing shall be immune from liability arising out of or related to the contracting of HIV infection or acquired immune deficiency syndrome (AIDS) by the child from the mother.

History.—s. 90, ch. 86-220; s. 3, ch. 96-179.

384.34 Penalties.—

(1) Any person who violates the provisions of s. 384.24 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who violates the provisions of s. 384.26 or s. 384.29 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who maliciously disseminates any false information or report concerning the existence of any sexually transmissible disease is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who violates the provisions of the department's rules pertaining to sexually transmissible diseases may be punished by a fine not to exceed \$500 for each violation. Any penalties enforced under this subsection shall be in addition to other penalties provided by this act.

History.—s. 90, ch. 86-220; s. 38, ch. 88-380; s. 63, ch. 91-224; s. 4, ch. 96-179.

CHAPTER 385

CHRONIC DISEASES

385.202 Statewide cancer registry.

385.202 Statewide cancer registry.—

(1) Each hospital licensed pursuant to chapter 395 shall report to the Department of Health and Rehabilitative Services such information, specified by the department, by rule, as will indicate diagnosis, stage of disease, medical history, laboratory data, tissue diagnosis, and radiation, surgical, or other methods of treatment on each cancer patient treated by the hospital. Failure to comply with this requirement may be cause for suspension or revocation of the license of any such hospital.

(2) The department shall establish, or cause to have established, by contract with a recognized medical organization in this state and its affiliated institutions, a statewide cancer registry program to ensure that cancer reports as required in subsection (1) shall be maintained

and shall be available for use in the course of any study for the purpose of reducing morbidity or mortality; and no liability of any kind or character for damages or other relief shall arise or be enforced against any hospital by reason of having provided such information or material to the department.

(3) The department or a contractual designee operating the statewide cancer registry program required by this act shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released for general publication. Information which discloses or could lead to the disclosure of the identity of any person whose condition or treatment has been reported and studied shall be confidential and exempt from the provisions of s. 119.07(1), except that:

(a) Release may be made with the written consent of all persons to whom the information applies;

(b) The department or a contractual designee may contact individuals for the purpose of epidemiologic investigation and monitoring, provided information that is confidential under this section is not further disclosed; or

(c) The department may exchange personal data with any other governmental agency or a contractual designee for the purpose of medical or scientific research, provided such governmental agency or contractual designee shall not further disclose information that is confidential under this section.

(4) Funds appropriated for this act shall be utilized for the purposes of establishing, administering, compiling, processing, and providing suitable biometric and statistical analyses to the reporting hospitals and shall be utilized to help defray the expenses incurred by the reporting hospitals in providing information to the cancer registry. Such reporting hospitals shall be reimbursed for reasonable costs.

(5) The provisions of this act shall not apply to any hospital whose primary function is to provide psychiatric care to its patients.

History.—ss. 2, 3, 4, 9, ch. 78-171; s. 5, ch. 82-213; s. 2, ch. 83-234; s. 96, ch. 86-220; s. 1, ch. 90-6; s. 3, ch. 95-188; s. 201, ch. 96-406.

Note.—The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, ch. 96-403. Pursuant to s. 26, ch. 96-403, legislation will be submitted for introduction at a subsequent session of the Legislature to substitute references to the Department of Health for references to the Department of Health and Rehabilitative Services, wherever they appear, in chapters 153, 154, 381, 382, 383, 384, 385, 386, 387, 388, 390, 391, and 392.

Note.—Former s. 381.3812.

CHAPTER 386

PARTICULAR CONDITIONS AFFECTING PUBLIC HEALTH

PART II

INDOOR AIR; TOBACCO SMOKE

386.212 Smoking prohibited near school property; penalty.

386.212 Smoking prohibited near school property; penalty.—