

STORAGE NAME: h1995.hcr
DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS & REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1995
RELATING TO: Public Records/Practitioner Profiles/Exemption
SPONSOR(S): Representative Bloom
STATUTE(S) AFFECTED: None.
COMPANION BILL(S): HB 1993(c) and CS/SB 984(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The primary purpose of HB 1993 is to create a "practitioner profile" that will be available to the public. This bill (HB 1995) provides for patient records, patient names, and other data that is received by the department or its agent, for the purpose of compiling a practitioner profile is confidential and exempt from the provisions of ch. 119, F.S., and s. 24(a), Art. I of the State Constitution.

Other data received by the department or its agent as a result of its duty to compile and promulgate practitioner profiles are confidential until the profile into which the data are incorporated is made public.

In addition, any information or record that the Department of Health obtains from the Agency for Health Care Administration or any other governmental entity for the purpose of compiling a practitioner profile that was exempt does not lose that character by coming into the possession of the department, and such information or record continues to be exempt.

The bill contains the required statement of the public necessity that justifies the exemptions.

All exemptions provided by this bill shall stand repealed on October 2, 2002, unless reviewed and saved from repeal by reenactment of the Legislature.

This bill will have no fiscal impact on the state, local government, or the private sector.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Public Records Law, chapter 119, F.S., and the Public Meetings Law, s. 286.011, F.S., specify the conditions under which public access must be provided to governmental records and meetings of the executive branch and other governmental agencies. While the state constitution provides that records and meetings of public bodies are to be open to the public, it also provides that the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met. Article I, s. 24, Florida Constitution, governs the creation and expansion of exemptions to provide, in effect, that any legislation creating a new exemption or that substantially amends an existing exemption must also contain a statement of the public necessity that justifies the exemption. Article I, s. 24, Florida Constitution, provides that any bill containing an exemption may not contain other substantive provisions, although it may contain multiple exemptions.

Chapter 95-217, Laws of Florida, repealed the Open Government Sunset Review Act, contained in s. 119.14, F.S., and enacted in its place s. 119.15, F.S., the Open Government Sunset Review Act of 1995. The Open Government Sunset Review Act of 1995 provides for the repeal and prior review of any public records or public meetings exemptions that are created or substantially amended in 1996 and subsequently. The next review cycle will begin in 2001. The chapter defines the term "substantial amendment" for purposes of initiating a repeal and prior review of an exemption to include an amendment that expands the scope of the exemption to include more records or information or to include meetings as well as records. The law clarifies that an exemption is not substantially amended if an amendment limits or narrows the scope of an existing exemption.

HB 1993 provides for the gathering of specific information on medical, osteopathic, podiatric, and chiropractic physicians by the Department of Health. The information to be gathered relates to specified biographical and other data relating to the various physicians licensed and regulated by the department. Much of this information is currently gathered by the various professional boards and is in various stages of computerization. Some of the information is available to the public, and some is exempt from the public records law.

B. EFFECT OF PROPOSED CHANGES:

The primary purpose of HB 1993 is to create a "practitioner profile" that will be available to the public. This bill (HB 1995) provides for patient records, patient names, and other data that is received by the department or its agent, for the purpose of compiling a practitioner profile is confidential and exempt from the provisions of ch. 119, F.S., and s. 24(a), Art. I of the State Constitution.

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In addition, any information or record that the Department of Health obtains from the Agency for Health Care Administration or any other governmental entity for the purpose of compiling a practitioner profile that was exempt does not lose that character by coming into the possession of the department, and such information or record continues to be exempt.

The exemption provided by this bill shall stand repealed on October 2, 2002, unless reviewed and saved from repeal by reenactment of the Legislature. Also, the bill contains the required statement of the public necessity that justifies the exemption.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

Not Applicable.

(3) how is the new agency accountable to the people governed?

Not Applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Not Applicable.

- b. Does the bill require or authorize an increase in any fees?

Not Applicable.

- c. Does the bill reduce total taxes, both rates and revenues?

Not Applicable.

- d. Does the bill reduce total fees, both rates and revenues?

Not Applicable.

- e. Does the bill authorize any fee or tax increase by any local government?

Not Applicable.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not Applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not Applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not Applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not Applicable.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not Applicable.

(2) Who makes the decisions?

Not Applicable.

(3) Are private alternatives permitted?

Not Applicable.

(4) Are families required to participate in a program?

Not Applicable.

(5) Are families penalized for not participating in a program?

Not Applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

Not Applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Provides that patient records, patient names, and other data that is received by the department or its agent, for the purpose of compiling a practitioner profile is confidential and exempt from the provisions of ch. 119, F.S., and s. 24(a), Art. I of the State Constitution.

Other data received by the department or its agent as a result of its duty to compile and promulgate practitioner profiles are confidential until the profile into which the data are incorporated is made public.

In addition, any information or record that the Department of Health obtains from the Agency for Health Care Administration or any other governmental entity for the purpose of compiling a practitioner profile that was exempt does not lose that character by coming into the possession of the department, and such information or record continues to be exempt.

All exemptions provided by this bill shall stand repealed on October 2, 2002, unless reviewed and saved from repeal by reenactment of the Legislature. Also, the bill contains the required statement of the public necessity that justifies the exemption.

Section 2. Provides that the Legislature finds that public release of a patient's name, or any other information that identifies a patient in a record obtained by the department or its agent for purposes of compiling a practitioner profile may adversely affect the integrity and trust of the patient-physician relationship and may deter affected parties from seeking needed health care services; therefore it is a matter of public necessity to protect the confidentiality of such information. It is also found to be a matter of public necessity to protect the confidentiality of the data during the period of verification.

Section 3. Provides an effective date of upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM:

Prepared by:

Legislative Research Director:

Robert W. Coggins

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