

By the Committees on Governmental Operations, Health Care Standards & Regulatory Reform and Representative Saunders

1 A bill to be entitled
2 An act relating to public records; providing an
3 exemption from public records requirements for
4 information contained in a notification of an
5 adverse incident provided to the Agency for
6 Health Care Administration by a facility
7 licensed under ch. 395, F.S.; providing that
8 such information is not discoverable or
9 admissible in a civil action or administrative
10 proceeding unless such action or proceeding is
11 a disciplinary proceeding conducted by the
12 agency or a regulatory board; providing for
13 future review and repeal; providing a finding
14 of public necessity; providing a contingent
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:
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19 Section 1. The information contained in the
20 notification of an adverse incident, which is required under
21 s. 395.0197(7), Florida Statutes, and provided to the Agency
22 for Health Care Administration by a facility licensed under
23 chapter 395, Florida Statutes, is confidential and exempt from
24 s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the
25 State Constitution. In addition, the information is not
26 discoverable or admissible in a civil or administrative
27 action, unless the action is a disciplinary proceeding by the
28 Agency for Health Care Administration or the appropriate
29 regulatory board. The information may not be made available to
30 the public as part of the record of investigation or
31 prosecution in a disciplinary proceeding which is made

1 available by the Agency for Health Care Administration or a
2 regulatory board. This exemption is subject to the Open
3 Government Sunset Review Act of 1995 in accordance with s.
4 119.15, Florida Statutes, and shall stand repealed on October
5 2, 2003, unless reviewed and saved from repeal through
6 reenactment by the Legislature.

7 Section 2. The Legislature finds that the exemption
8 from public disclosure provided for in section 1 of this act
9 is a public necessity because it would be an invasion of a
10 patient's privacy for such personal, sensitive information
11 contained in the notification of an adverse incident to be
12 publicly available. Furthermore, the Legislature finds that
13 failure to protect the confidentiality of any information
14 submitted to or collected by the Agency for Health Care
15 Administration pursuant to s. 395.0197(7), Florida Statutes,
16 regarding an adverse incident, including, but not limited to,
17 the identity of the patient, the type of adverse incident,
18 potential risk to other patients, and the fact that an
19 investigation is being conducted, would deter the collection
20 and reporting of this information to the agency. This would
21 prevent the agency from effectively carrying out its
22 responsibility to enforce corrective measures by a facility
23 regarding the occurrence of an adverse incident. Release of
24 such information would deter licensed facilities from
25 internally reporting and correcting situations resulting in
26 adverse incidents. This could lead to the deterioration of
27 services rendered, all to the detriment of the health of those
28 served. This exemption simply extends existing exemptions
29 already in s. 395.0197, Florida Statutes, regarding the same
30 information to the new, earlier reporting requirement. The

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1 Legislature has thus consistently and repeatedly acknowledged
2 the public necessity of these types of exemptions.

3 Section 3. This act shall take effect on the effective
4 date of the amendment to s. 395.0197, Florida Statutes,
5 contained in Committee Substitute for Senate Bill 314 or
6 Committee Substitute for Committee Substitute for Committee
7 Substitute for House Bill 349, relating to the regulation of
8 health care facilities, or similar legislation, if such
9 legislation is adopted in the same legislative session or an
10 extension thereof.

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