

By the Committee on Elder Affairs & Long-Term Care and Representative Argenziano

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A bill to be entitled
An act relating to public records; creating s.
400.1185, F.S.; providing an exemption from
public records requirements for information
contained in records of nursing home
quality-of-care monitors; providing for review
and repeal; providing a statement of public
necessity; providing a contingent effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 400.1185, Florida Statutes, is
created to read:

400.1185 Access to records of nursing home
quality-of-care monitors; confidentiality.--The information
contained in any agency record of a quality-of-care monitoring
visit to a nursing home facility as required under s.
400.118(2), except for specific exclusions provided in s.
400.118(2)(b) and (c) pertaining to the reporting by a
quality-of-care monitor of conditions which threaten the
health or safety of a resident, is confidential and exempt
from s. 119.07(1) and s. 24(a), Art. I of the State
Constitution. This section is subject to the Open Government
Sunset Review Act of 1995 in accordance with s. 119.15, and
shall stand repealed on October 2, 2004, unless reviewed and
saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that the health and
safety of persons residing in nursing home facilities
necessitates that agency quality-of-care monitors have access
to all areas of resident care and that residents, staff, and

1 licenseholders of such facilities be assured that information
2 they provide is secure and will be held in confidence. Such
3 assurance will benefit the public because persons who are
4 interviewed by, or who provide information by other means to,
5 the quality-of-care monitors will be encouraged to provide
6 essential, accurate information. In particular, family
7 members, guardians, guests of residents, facility volunteers,
8 other regulatory staff, and representatives of the long-term
9 care ombudsman councils and human rights advocacy committees
10 may be encouraged to share information that otherwise they may
11 withhold for fear that their relative, friend, or
12 acquaintance, who is a resident in the monitored facility, may
13 experience intimidation, retaliation, or retribution if it
14 were readily known that they were the source of information on
15 which a quality-of-care monitor based an adverse finding or
16 recommendation. The Legislature further finds that the
17 exemption from the public records law provided for in section
18 1 is a public necessity because failure to protect the
19 confidentiality of information collected by the agency
20 pursuant to s. 400.118, Florida Statutes, would deter the
21 collection and reporting of this information to the agency.
22 The public disclosure of sensitive information concerning
23 residents of nursing facilities and their care would lead to a
24 reluctance on the part of residents and staff of nursing
25 facilities, as well as others, to provide accurate information
26 which may serve as a basis for identifying and improving
27 quality-of-care concerns before they develop into health or
28 safety violations.

29 Section 3. This act shall take effect on the same date
30 that House Bill 1971 or similar legislation creating s.
31 400.118, Florida Statutes, relating to the nursing home

1 quality-of-care monitoring program, takes effect, if such
2 legislation is adopted in the same legislative session, or an
3 extension thereof.

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6 HOUSE SUMMARY

7 Provides an exemption from public records requirements
8 for information contained in records of nursing home
9 quality-of-care monitors. Provides for future review and
10 repeal.

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