

By Senator Brown-Waite

10-1078A-01

1 A bill to be entitled
2 An act relating to public records and meetings;
3 providing an exemption from the public records
4 law for certain records relating to internal
5 risk-management programs in nursing homes and
6 assisted living facilities; providing for
7 release of such information under certain
8 circumstances; providing an exemption from the
9 public meetings law for meetings of internal
10 risk-management and quality-assurance
11 committees in nursing homes and assisted living
12 facilities; providing for future legislative
13 review and repeal; providing a statement of
14 public necessity; providing a contingent
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Confidentiality of records and meetings of
20 risk-management and quality-assurance committees.--

21 (1) Records of meetings of the risk-management and
22 quality-assurance committee of a long-term care facility
23 licensed under part II or part III of chapter 400, Florida
24 Statutes, as well as incident reports filed with the
25 facility's risk manager and administrator, notifications of
26 the occurrence of an adverse incident, and adverse-incident
27 reports from the facility are confidential and exempt from
28 section 119.07(1), Florida Statutes, and Section 24(a) of
29 Article I of the State Constitution. However, if the Agency
30 for Health Care Administration has a reasonable belief that
31 conduct by a staff member or employee of a facility is

1 criminal activity or grounds for disciplinary action by a
2 regulatory board, the agency may disclose such records to the
3 appropriate law enforcement agency or regulatory board.

4 (2) Records that are confidential and exempt under
5 subsection (1) and that are obtained by a regulatory board are
6 not available to the public as part of the record of
7 investigation and prosecution in a disciplinary proceeding
8 made available to the public by the agency or the appropriate
9 regulatory board. However, the agency or the appropriate
10 regulatory board shall make available, upon request by a
11 health care professional against whom probable cause has been
12 found, any such records that form the basis of the
13 determination of probable cause.

14 (3) Records disclosed to a law enforcement agency
15 pursuant to subsection (1) remain confidential and exempt
16 until criminal charges are filed.

17 (4) The meetings of an internal risk-management and
18 quality-assurance committee of a long-term care facility
19 licensed under part II or part III of chapter 400, Florida
20 Statutes, are exempt from section 286.011, Florida Statutes,
21 and Section 24(b) of Article I of the State Constitution and
22 are not open to the public.

23 (5) This section is subject to the Open Government
24 Sunset Review Act of 1995 in accordance with section 119.15,
25 Florida Statutes, and shall stand repealed on October 1, 2006,
26 unless reviewed and saved from repeal through reenactment by
27 the Legislature.

28 Section 2. The Legislature finds that it is a public
29 necessity that information pertaining to the operation of
30 internal risk-management and quality-assurance programs in
31 long-term care facilities licensed under part II or part III

1 of chapter 400, Florida Statutes, be confidential and exempt
2 from public records requirements, and that meetings of
3 quality-assurance committees be closed to the public. The
4 Legislature finds that it is in the interests of the health
5 and safety of the public to require long-term care facilities
6 to operate internal risk-management programs and for the
7 Agency for Health Care Administration to review the operation
8 of these programs. The Legislature finds that these programs
9 are effective in reducing risk to residents and improving
10 quality when facility staff have frank and open internal
11 communication regarding potential resident risks and
12 quality-assurance problems and that public access to these
13 discussions or agency records of these discussions will
14 inhibit this frank and open internal communication.

15 Section 3. This act shall take effect on the same date
16 that Senate Bill ____ or similar legislation creating internal
17 risk-management and quality-assurance programs in long-term
18 care facilities licensed under part II or part III of chapter
19 400, Florida Statutes, takes effect, if such legislation is
20 adopted in the same legislative session or an extension
21 thereof.

22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides an exemption from the public records and public meetings law for records and meetings of internal risk-management programs in nursing homes and assisted living facilities. Provides for certain information to be released to a health care professional against whom probable cause has been found. Provides that records disclosed to a law enforcement agency remain confidential until criminal charges are filed. Provides for future review and repeal.