

1 A bill to be entitled
2 An act relating to public records; creating s.
3 627.3111, F.S.; providing an exemption from
4 public records requirements for personal
5 identifying information contained in financial
6 records, patient records, and other medical
7 records, as well as bank account numbers,
8 debit, charge, and credit card numbers, held by
9 the Department of Insurance; providing for
10 future review and repeal; providing a finding
11 of public necessity; creating ss. 458.353 and
12 459.028, F.S.; providing exemptions from public
13 records requirements for information contained
14 in reports made by physicians and osteopathic
15 physicians of adverse incidents occurring in
16 office practice settings; providing for future
17 review and repeal; providing findings of public
18 necessity; providing an effective date.

19

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

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22 Section 1. Section 627.3111, Florida Statutes, is
23 created to read:24 627.3111 Public records exemption.--All bank account
25 numbers, and debit, charge, and credit card numbers; and, all
26 personal identifying information contained in financial
27 records, patient records, and other individual health records,
28 held by the Department of Insurance, or its service providers,
29 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution. The department, however, shall release such
31 information to any local, state, or federal law enforcement

1 agency as is necessary for the performance of such agency's
2 official duties and responsibilities, and in addition, this
3 exemption does not apply to any information regarding an
4 insured or other person who is the subject of a criminal
5 investigation. This exemption is subject to the Open
6 Government Sunset Review Act of 1995 in accordance with s.
7 119.15 and expires on October 2, 2006, unless reviewed and
8 reenacted by the Legislature.

9 Section 2. The Legislature finds that it is a public
10 necessity that bank account numbers, debit, charge, and credit
11 card numbers; and, personal identifying information contained
12 in financial records, held by the Department of Insurance or
13 its service providers be made exempt from public disclosure,
14 except as otherwise provided in this act, in order to protect
15 the financial interests of those persons about whom that
16 information pertains. Without the exemption, a person could
17 use that information to gain access to highly sensitive,
18 personal financial data that is not his or hers. In addition,
19 this information could easily be used for fraudulent and other
20 illegal purposes, including identify theft, and could result
21 in substantial financial harm. Accordingly, such information
22 is traditionally not disclosed to the public, as is evidenced
23 throughout the Florida Statutes. Furthermore, every person
24 has an expectation of and a right to privacy in all matters
25 concerning his or her personal financial matters. The
26 Legislature further finds that it is a public necessity that
27 personal identifying information contained in patient records
28 and other individual health records held by the Department of
29 Insurance or its service providers be held exempt from public
30 disclosure, except as otherwise provided in the act, because
31 of the sensitive personal nature of such medical information.

1 Matters of personal health are traditionally private concerns
2 between the patient and the health care provider, which
3 pervades both the public and private health care sectors. Such
4 information should not be open to public disclosure just
5 because the records come into the possession of a public
6 entity. Disclosure of such information could cause
7 unwarranted damage to the good name or reputation of such
8 individuals and could actually jeopardize their health and
9 safety.

10 Section 3. Section 458.353, Florida Statutes, is
11 created to read:

12 458.353 Notification of adverse incident; public
13 records exemption.--The information contained in the
14 notification of an adverse incident, which is required under
15 s. 458.351 and provided to the department by a physician
16 licensed under this chapter, is confidential and exempt from
17 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
18 The information may not be made available to the public as
19 part of the record of investigation or prosecution in a
20 disciplinary proceeding. This section is subject to the Open
21 Government Sunset Review Act of 1995 in accordance with s.
22 119.15 and shall stand repealed October 2, 2006, unless
23 reviewed and saved from repeal through reenactment by the
24 Legislature.

25 Section 4. Section 459.028, Florida Statutes, is
26 created to read:

27 459.028 Notification of adverse incident; public
28 records exemption.--The information contained in the
29 notification of an adverse incident, which is required under
30 s. 459.026 and provided to the department by an osteopathic
31 physician licensed under this chapter, is confidential and

1 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2 Constitution. The information may not be made available to
3 the public as part of the record of investigation or
4 prosecution in a disciplinary proceeding. This section is
5 subject to the Open Government Sunset Review Act of 1995 in
6 accordance with s. 119.15 and shall stand repealed October 2,
7 2006, unless reviewed and saved from repeal through
8 reenactment by the Legislature.

9 Section 5. The Legislature finds that the exemptions
10 from public records requirements provided in sections 458.353
11 and 459.028, Florida Statutes, are a public necessity, and
12 that it would be an invasion of a patient's privacy for
13 personal, sensitive information contained in the notification
14 of an adverse incident to be publicly available. Furthermore,
15 the Legislature finds that failure to protect the
16 confidentiality of any information submitted to or collected
17 by the Department of Health pursuant to section 458.351,
18 Florida Statutes, or section 459.026, Florida Statutes,
19 regarding an adverse incident, including, but not limited to,
20 the identity of the patient, the type of adverse incident, and
21 the fact that an investigation is being conducted, would deter
22 the collection and reporting of this information to the
23 department. This would prevent the department and the
24 appropriate regulatory boards from effectively carrying out
25 their responsibility to enforce safe patient care and take
26 necessary disciplinary action for practice violations. Release
27 of such information would deter physicians and osteopathic
28 physicians licensed in this state from reporting adverse
29 incidents. This could lead to the deterioration of services
30 and care rendered, all to the detriment of the health of those
31 served. These exemptions apply the same exemption accorded

1 under sections 395.0198 and 395.0193, Florida Statutes,
2 relating to the reporting of adverse incidents by facilities
3 licensed under chapter 395, Florida Statutes. The Legislature
4 has thus consistently and repeatedly acknowledged the public
5 necessity of these types of exemptions.

6 Section 6. This act shall take effect upon becoming a
7 law.

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