

By the Committee on Health Regulation and Representatives  
Farkas, Sobel, Alexander, Ritter, Harrell and Wishner

1                                   A bill to be entitled  
2           An act relating to public records; creating ss.  
3           458.353 and 459.028, F.S.; providing exemptions  
4           from public records requirements for  
5           information contained in reports made by  
6           physicians and osteopathic physicians of  
7           adverse incidents occurring in office practice  
8           settings; providing for future review and  
9           repeal; providing findings of public necessity;  
10          providing an effective date.

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

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14           Section 1. Section 458.353, Florida Statutes, is  
15 created to read:

16           458.353 Notification of adverse incident; public  
17 records exemption.--Information contained in the notification  
18 of an adverse incident which identifies a patient,  
19 practitioner, or office by name, location, or other  
20 identifier, which is required under s. 458.351 and provided to  
21 the department by a physician licensed under this chapter, is  
22 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
23 of the State Constitution, until 10 days after probable cause  
24 is found that a violation of law occurred. This section is  
25 subject to the Open Government Sunset Review Act of 1995 in  
26 accordance with s. 119.15 and shall stand repealed October 2,  
27 2006, unless reviewed and saved from repeal through  
28 reenactment by the Legislature.

29           Section 2. Section 459.028, Florida Statutes, is  
30 created to read:

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1           459.028 Notification of adverse incident; public  
2 records exemption.--Information contained in the notification  
3 of an adverse incident which identifies a patient,  
4 practitioner, or office by name, location, or other  
5 identifier, which is required under s. 459.026 and provided to  
6 the department by an osteopathic physician licensed under this  
7 chapter, is confidential and exempt from s. 119.07(1) and s.  
8 24(a), Art. I of the State Constitution until 10 days after  
9 probable cause is found that a violation of law occurred. This  
10 section is subject to the Open Government Sunset Review Act of  
11 1995 in accordance with s. 119.15 and shall stand repealed  
12 October 2, 2006, unless reviewed and saved from repeal through  
13 reenactment by the Legislature.

14           Section 3. The Legislature finds that the exemptions  
15 from public records requirements provided in ss. 458.353 and  
16 459.028, Florida Statutes, are a public necessity, and that it  
17 would be an invasion of a patient's privacy for personal,  
18 sensitive information contained in the notification of an  
19 adverse incident to be publicly available. Furthermore, the  
20 Legislature finds that failure to protect the confidentiality  
21 of any information submitted to or collected by the Department  
22 of Health pursuant to s. 458.351, Florida Statutes, or s.  
23 459.026, Florida Statutes, regarding an adverse incident,  
24 including, but not limited to, the identity of the patient,  
25 practitioner, and office, and the fact that an investigation  
26 is being conducted, would deter the collection and reporting  
27 of this information to the department. This would prevent the  
28 department and the appropriate regulatory boards from  
29 effectively carrying out their responsibility to enforce safe  
30 patient care and take necessary disciplinary action for  
31 practice violations. Release of such personal information

1 prior to the completion of the investigation and prior to a  
2 finding of probable cause would deter physicians and  
3 osteopathic physicians licensed in this state from reporting  
4 adverse incidents. This could lead to the deterioration of  
5 services and care rendered, all to the detriment of the health  
6 of those served. These exemptions apply the same exemption  
7 accorded under ss. 395.0198 and 395.0193, Florida Statutes,  
8 relating to the reporting of adverse incidents by facilities  
9 licensed under chapter 395, Florida Statutes. The Legislature  
10 has thus consistently and repeatedly acknowledged the public  
11 necessity of these types of exemptions.

12           Section 4. This act shall take effect upon becoming a  
13 law.

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