

Bill No. CS for SB 904

Amendment No. Barcode 702356

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Clary moved the following amendment:

Senate Amendment (with title amendment)

On page 3, between lines 7 and 8,

insert:

Section 4. Section 458.353, Florida Statutes, is created to read:

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 This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

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1 Section 5. Section 459.028, Florida Statutes, is
2 created to read:

3 459.028 Notification of adverse incident; public
4 records exemption.--The information contained in the
5 notification of an adverse incident, which is required under
6 s. 459.026 and provided to the department by an osteopathic
7 physician licensed under this chapter, is confidential and
8 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
9 Constitution. The information may not be made available to
10 the public as part of the record of investigation or
11 prosecution in a disciplinary proceeding. This section is
12 subject to the Open Government Sunset Review Act of 1995 in
13 accordance with s. 119.15 and shall stand repealed October 2,
14 2006, unless reviewed and saved from repeal through
15 reenactment by the Legislature.

16 Section 6. The Legislature finds that the exemptions
17 from public records requirements provided in sections 458.353
18 and 459.028, Florida Statutes, are a public necessity, and
19 that it would be an invasion of a patient's privacy for
20 personal, sensitive information contained in the notification
21 of an adverse incident to be publicly available. Furthermore,
22 the Legislature finds that failure to protect the
23 confidentiality of any information submitted to or collected
24 by the Department of Health pursuant to section 458.351,
25 Florida Statutes, or section 459.026, Florida Statutes,
26 regarding an adverse incident, including, but not limited to,
27 the identity of the patient, the type of adverse incident, and
28 the fact that an investigation is being conducted, would deter
29 the collection and reporting of this information to the
30 department. This would prevent the department and the
31 appropriate regulatory boards from effectively carrying out

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1 their responsibility to enforce safe patient care and take
2 necessary disciplinary action for practice violations. Release
3 of such information would deter physicians and osteopathic
4 physicians licensed in this state from reporting adverse
5 incidents. This could lead to the deterioration of services
6 and care rendered, all to the detriment of the health of those
7 served. These exemptions apply the same exemption accorded
8 under sections 395.0198 and 395.0193, Florida Statutes,
9 relating to the reporting of adverse incidents by facilities
10 licensed under chapter 395, Florida Statutes. The Legislature
11 has thus consistently and repeatedly acknowledged the public
12 necessity of these types of exemptions.

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14 (Redesignate subsequent sections.)

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17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 1, line 11, after the semicolon,

20

21 insert:

22 creating ss. 458.353 and 459.028, F.S.;

23 providing exemptions from public records

24 requirements for information contained in

25 reports made by physicians and osteopathic

26 physicians of adverse incidents occurring in

27 office practice settings; providing for future

28 review and repeal; providing findings of public

29 necessity;

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