

By the Committee on Health, Aging and Long-Term Care; and
Senator Campbell

317-1933-02

1 A bill to be entitled
2 An act relating to public records; exempting
3 from public-records requirements certain
4 adverse-incident reports of the Department of
5 Health which pertain to patients, pharmacies,
6 or related matters; providing guidelines for
7 the use of such information; providing a
8 finding of public necessity; providing an
9 effective date.

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

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13 Section 1. Notification of adverse incident;
14 public-records exemptions.--Information contained in the
15 notification of a pharmaceutical adverse incident which
16 identifies a patient, pharmacist, pharmacy, office, or entity
17 by name, location, or other identifier and which is provided
18 to the Department of Health, is confidential and exempt from
19 section 119.07(1), Florida Statutes, and Section 24(a),
20 Article I of the State Constitution until 10 days after
21 probable cause has been found that a violation of law
22 occurred. Such information may be used by the department or
23 the appropriate regulatory board only in a disciplinary
24 proceeding brought against the pharmacist or by the department
25 in any study of pharmaceutical adverse incidents without
26 identifying the patient, pharmacist, pharmacy, office, or
27 entity by name, location, or other identifier. This section is
28 subject to the Open Government Sunset Review Act of 1995 in
29 accordance with section 119.15, Florida Statutes, and shall
30 stand repealed October 2, 2007, unless reviewed and saved from
31 repeal through reenactment by the Legislature.

1 Section 2. The Legislature finds that the exemption
2 from public-records requirements provided in this act is a
3 public necessity, and that it would be an invasion of a
4 patient's privacy for personal, sensitive information
5 contained in the notification of a pharmaceutical adverse
6 incident to be publicly available. Furthermore, the
7 Legislature finds that failure to protect the confidentiality
8 of any information submitted to or collected by the Department
9 of Health pursuant to this act regarding a pharmaceutical
10 adverse incident, including the identity of the patient,
11 pharmacist, pharmacy, entity, or office, and the fact that an
12 investigation is being conducted, would deter the collection
13 and reporting of this information to the department and would
14 prevent the department and the appropriate regulatory boards
15 from effectively carrying out their responsibility to enforce
16 safe-patient care and take necessary disciplinary action for
17 practice violations. Release of such personal information
18 prior to the completion of the investigation and prior to a
19 finding of probable cause would deter pharmacists and other
20 health care practitioners licensed in this state from
21 reporting pharmaceutical adverse incidents, leading to the
22 deterioration of services and care rendered to the detriment
23 of the health of those served. These exemptions are the same
24 as those accorded under sections 395.0198 and 395.0193,
25 Florida Statutes, relating to the reporting of adverse
26 incidents by facilities licensed under chapter 395, Florida
27 Statutes. The Legislature has thus consistently and repeatedly
28 acknowledged the public necessity of these types of
29 exemptions.

30 Section 3. This act shall take effect July 1, 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1494

The CS for SB 1494 deletes provisions that make the information contained in the notification of a pharmaceutical adverse incident immune from discovery and inadmissible in any civil or administrative action.