

By Representative Cusack

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 an adverse incident which identifies a
16 patient, pharmacist, pharmacy, office, or entity by name,
17 location, or other identifier and which is provided to the
18 Department of Health, is confidential and exempt from Section
19 119.07(1), Florida Statutes, and section 24(a), Article I of
20 the State Constitution until 10 days after probable cause has
21 been found that a violation of law occurred. In addition, the
22 information is not discoverable or admissible in a civil or
23 administrative action. Such information may be used by the
24 department or the appropriate regulatory board only in a
25 disciplinary proceeding brought against the pharmacist or by
26 the department in any study of adverse incidents without
27 identifying the patient, pharmacist, pharmacy, office, or
28 entity by name, location, or other identifier. This section is
29 subject to the Open Government Sunset Review Act of 1995 in
30 accordance with section 119.15, Florida Statutes, and shall

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1 stand repealed October 2, 2007, unless reviewed and saved from
2 repeal through reenactment by the Legislature.

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

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

Exempts from public-records requirements certain
adverse-incident report information held by the
Department of Health which relates to patients and
pharmacies.