

By Senator Clary

7-828-02

1 A bill to be entitled
 2 An act relating to public records; creating ss.
 3 458.353, 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.--The information contained in the
 18 notification of an adverse incident, which is required under
 19 s. 458.351 and provided to the department by a physician
 20 licensed under this chapter, is confidential and exempt from
 21 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
 22 The information may not be made available to the public as
 23 part of the record of investigation or prosecution in a
 24 disciplinary proceeding. This section is subject to the Open
 25 Government Sunset Review Act of 1995 in accordance with s.
 26 119.15 and shall stand repealed October 2, 2007, unless
 27 reviewed and saved from repeal through reenactment by the
 28 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.--The information contained in the
3 notification of an adverse incident, which is required under
4 s. 459.026 and provided to the department by an osteopathic
5 physician licensed under this chapter, is confidential and
6 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
7 Constitution. The information may not be made available to
8 the public as part of the record of investigation or
9 prosecution in a disciplinary proceeding. This section is
10 subject to the Open Government Sunset Review Act of 1995 in
11 accordance with s. 119.15 and shall stand repealed October 2,
12 2007, 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 sections 458.353
16 and 459.028, Florida Statutes, are a public necessity, and
17 that it would be an invasion of a patient's privacy for
18 personal, sensitive information contained in the notification
19 of an adverse incident to be publicly available. Furthermore,
20 the Legislature finds that failure to protect the
21 confidentiality of any information submitted to or collected
22 by the Department of Health pursuant to section 458.351,
23 Florida Statutes, or section 459.026, Florida Statutes,
24 regarding an adverse incident, including, but not limited to,
25 the identity of the patient, the type of adverse incident, and
26 the fact that an investigation is being conducted, would deter
27 the collection and reporting of this information to the
28 department. This would prevent the department and the
29 appropriate regulatory boards from effectively carrying out
30 their responsibility to enforce safe patient care and take
31 necessary disciplinary action for practice violations. Release

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

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

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15 SENATE SUMMARY

16 Provides exemptions from public-records requirements for
17 information contained in reports made by physicians and
18 osteopathic physicians of adverse incidents occurring in
19 office practice settings. Provides for future review and
20 repeal. Provides findings of public necessity.
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