

By Representative Bilirakis

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.--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 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
22 State Constitution. The information may not be made available
23 to the public as part of the record of investigation or
24 prosecution in a disciplinary proceeding. 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26 accordance with s. 119.15 and shall stand repealed on October
27 2, 2007, 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.--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 the provisions of s. 119.07(1) and s. 24(a), Art.
7 I of the State Constitution. The information may not be made
8 available to the public as part of the record of investigation
9 or 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11 accordance with s. 119.15 and shall stand repealed on October
12 2, 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 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 the type of adverse incident, and the fact that an
26 investigation is being conducted, would deter the collection
27 and reporting of this information to the department. This
28 would prevent the department and the appropriate regulatory
29 boards from effectively carrying out their responsibility to
30 enforce safe patient care and take necessary disciplinary
31 action for practice violations. Release of such information

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

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

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14 HOUSE SUMMARY

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

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