

By Representative Crow

1 A bill to be entitled
 2 An act relating to a public records exemption;
 3 creating a public records exemption for the
 4 identity of a recipient of certain controlled
 5 substances, a dispenser's National Association
 6 of Boards of Pharmacy number, and a
 7 practitioner's United States Drug Enforcement
 8 Administration number, held by the Department
 9 of Health and contained in the department's
 10 electronic prescription monitoring system;
 11 creating a public records exemption for the
 12 identity of a patient to whom a controlled
 13 substance has been prescribed and such
 14 patient's address, held by the Department of
 15 Health under specified authority and also
 16 contained in the department's electronic
 17 prescription monitoring system; providing
 18 exceptions to the exemption; providing
 19 penalties; providing for future review and
 20 repeal; providing a statement of public
 21 necessity; providing a contingent effective
 22 date.

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

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 26 Section 1. Public records exemption.--
 27 (1) The following information held by the Department
 28 of Health and contained in the department's electronic system
 29 which monitors the prescribing of controlled substances is
 30 exempt from the provisions of s. 119.07(1), Florida Statutes,
 31 and s. 24(a), Art. I of the State Constitution:

1 (a) The identity of a recipient of the monitored
2 controlled substances, if the recipient is not the patient,
3 and the recipient's driver's license number or other
4 identification number.

5 (b) A dispenser's National Association of Boards of
6 Pharmacy number.

7 (c) A practitioner's United States Drug Enforcement
8 Administration number.

9 (2) The identity of a patient to whom a controlled
10 substance has been prescribed and such patient's address,
11 including the state and zip code, held by the Department of
12 Health pursuant to s. 893.065, Florida Statutes, and also
13 contained in the department's electronic system that monitors
14 the prescribing of controlled substances are confidential and
15 exempt from the provisions of s. 119.07(1), Florida Statutes,
16 and s. 24(a), Art. I of the State Constitution. The Department
17 of Health may disclose the patient's identity to the
18 following:

19 (a) A health care practitioner as defined in s.
20 456.001(4), Florida Statutes, who requests information and
21 certifies that the information is necessary to provide medical
22 or diagnostic treatment to a current patient.

23 (b) A pharmacist licensed in this state who requests
24 information and certifies that the requested information is to
25 be used to dispense controlled substances to a current patient
26 in accordance with s. 893.04, Florida Statutes.

27 (c) A criminal justice agency, as defined in s.
28 119.011, Florida Statutes, which enforces the laws of this
29 state or the United States relating to drugs and which is
30 engaged in a specific investigation involving a violation of
31 law.

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2 A health care practitioner, pharmacist, or criminal justice
3 agency that obtains the identity of such patient must maintain
4 the confidential and exempt status of that patient's identity.

5 (3) Any person who violates this section commits a
6 misdemeanor of the first degree, punishable as provided in s.
7 775.082 or s. 775.083, Florida Statutes. A person who commits
8 a second or subsequent violation of this section commits a
9 felony of the third degree, punishable as provided in s.
10 775.082 or s. 775.083, Florida Statutes.

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12 The exemptions in this section are subject to the Open
13 Government Sunset Review Act of 1995 in accordance with s.
14 119.15, Florida Statutes, and shall stand repealed on October
15 2, 2007, unless reviewed and saved from repeal through
16 reenactment by the Legislature.

17 Section 2. The Legislature finds that the public
18 records exemption created by this act is a public necessity in
19 order to facilitate the Department of Health's efforts to
20 maintain compliance with the state's drug laws by the accurate
21 and timely reporting by health care practitioners of potential
22 drug diversion without compromising a patient's, recipient's,
23 pharmacist's, or health care practitioner's privacy. If a
24 physician's National Association of Board of Pharmacy number
25 were made available to the public, a person could determine if
26 such physician regularly prescribed certain controlled
27 substances that are subject to abuse. Abusers of such
28 substances could then solicit the physician for prescriptions.
29 Also, it is a public necessity to make exempt from public
30 disclosure a dispenser's National Association of Boards of
31 Pharmacy number and a practitioner's United States Drug

1 Enforcement Administration number in order to protect the
2 privacy of patients, the pharmacist, and the physician. If
3 such numbers were made available to the public, a person could
4 possibly determine the identity of a practitioner's patient
5 and a pharmacist's customer. The exemption for personal
6 identifying information regarding a patient or recipient of
7 certain controlled substances held by the Department of Health
8 facilitates the sharing of information between health care
9 practitioners and pharmacists in order to appropriately
10 identify and evaluate a patient's or recipient's risk for drug
11 diversion and the resulting abuse of controlled substances
12 without compromising the patient's or recipient's privacy. The
13 Legislature further finds that the exemption for such
14 information is a public necessity in order to protect a
15 patient's health-related information. Matters of personal
16 health are traditionally private and confidential concerns
17 between a patient and a health care provider. The private and
18 confidential nature of personal health matters pervades both
19 the public and private health care sectors. If the patient's
20 personal identifying information were not confidential and
21 exempt, then that patient's name would be connected to his or
22 her prescription. By connecting the patient's name to the
23 patient's prescription, a third party could then determine
24 that patient's medical condition, thereby intruding upon the
25 patient's right to privacy in matters regarding his or her
26 personal health.

27 Section 3. This act shall take effect July 1, 2002, if
28 HB ___ or similar legislation is adopted in the same
29 legislative session or an extension thereof and becomes law.

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HOUSE SUMMARY

Creates a public records exemption for the identity of a recipient of certain controlled substances, specified identifying numbers of pharmaceutical dispensers and practitioners, and the identity and address of a patient to whom a controlled substance has been prescribed held by the Department of Health and contained in the department's electronic system which monitors the providing of controlled substances. Authorizes specified disclosure of information by the Department of Health under certain circumstances. Provides penalties for violation. Provides for future review and repeal. Provides a statement of public necessity.