

By Senator Burt

16-2410-02

1 A bill to be entitled
2 An act relating to public-records exemptions;
3 creating a public-records exemption for
4 personal identifying information regarding a
5 patient held by the Bureau of Pharmacy Services
6 of the Department of Health; providing
7 exceptions to the exemption; providing a
8 criminal penalty for violating the provisions
9 of the public-records exemption; providing for
10 future review and repeal; providing a statement
11 of public necessity; providing an effective
12 date.

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

16 Section 1. Public-records exemption.--

17 (1) Personal identifying information regarding a
18 patient reported and contained in the electronic system, or in
19 reports or analyses prepared from that information, which is
20 established by the Bureau of Pharmacy Services of the
21 Department of Health to monitor the prescribing of controlled
22 substances is confidential and exempt from section 119.07(1),
23 Florida Statutes, and Section 24(a) of Article I of the State
24 Constitution. The Bureau of Pharmacy Services of the
25 Department of Health may disclose a patient's identity
26 contained in the electronic system to:

27 (a) A practitioner who requests information and
28 certifies that the information is necessary to provide medical
29 treatment to a current patient in accordance with section
30 893.05, Florida Statutes.

31

1 (b) A pharmacist licensed in this state who requests
2 information and certifies that the requested information is to
3 be used to dispense controlled substances to a current patient
4 in accordance with section 893.04, Florida Statutes.

5 (c) A criminal justice agency, as defined in section
6 119.011, Florida Statutes, which enforces the laws of this
7 state or the United States relating to drugs and which is
8 engaged in a specific investigation involving a violation of
9 law.

10 (d) An employee or agent of the Department of Health
11 who is involved in a specific investigation involving a
12 violation of the chapter regulating the alleged violator, the
13 rules of the Department of Health, or the rules of a board
14 regulating the alleged violator. Information provided shall be
15 limited to the practitioner, patient, or other person at issue
16 in the investigation.

17
18 A practitioner, pharmacist, criminal justice agency, or
19 employee or agent of the Department of Health who obtains
20 personal identifying information pursuant to this section must
21 maintain the confidential and exempt status of that
22 information. This exemption is subject to the Open Government
23 Sunset Review Act of 1995 in accordance with section 119.15,
24 Florida Statutes, and shall stand repealed on October 2, 2007,
25 unless reviewed and saved from repeal through reenactment by
26 the Legislature.

27 (2) Any person who violates this section commits a
28 misdemeanor of the first degree, punishable as provided in
29 section 775.082 or section 775.083, Florida Statutes. Upon a
30 second or subsequent violation, the person commits a felony of
31

1 the third degree, punishable as provided in section 775.082 or
2 section 775.083, Florida Statutes.

3 Section 2. The Legislature finds that it is a public
4 necessity that the information made confidential and exempt by
5 this act be held confidential and exempt in order to
6 facilitate the efforts of the Bureau of Pharmacy Services of
7 the Department of Health to maintain compliance with drug laws
8 by the accurate and timely reporting by health care
9 practitioners of potential drug diversion without compromising
10 a patient's privacy, with certain exceptions. The exemption
11 for a patient's personal identifying information reported and
12 contained in the electronic system for monitoring the
13 prescribing of controlled substances facilitates the sharing
14 of information among health care practitioners so that the
15 practitioners may appropriately identify and evaluate a
16 patient's risk for drug diversion and the resulting abuse of
17 controlled substances without compromising a patient's
18 privacy. The Legislature further finds that the exemption is a
19 public necessity in order to protect a patient's
20 health-related information. Matters of personal health are
21 traditionally private and confidential concerns between a
22 patient and a health care provider. The private and
23 confidential nature of personal health matters pervades the
24 public and private health care sectors. If a patient's
25 personal identifying information were not confidential and
26 exempt, that patient's name would be associated with the
27 prescription. By associating a patient's name with the
28 patient's prescription, a third party could determine that
29 patient's ailment, thereby intruding upon the patient's right
30 to privacy in all matters regarding the patient's personal
31 health.

1 Section 3. This act shall take effect upon the
2 effective date of Senate Bill ____ or similar legislation.

3
4 *****

5 SENATE SUMMARY

6 Exempts from public-records laws certain personal
7 identifying information regarding patients held by the
8 Bureau of Pharmacy Services of the Department of Health.
9 Provides for future repeal and legislative review.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31