

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 Department of Health;  
6           providing exceptions to the exemption;  
7           providing a criminal penalty for violating the  
8           provisions of the public-records exemption;  
9           providing for future review and repeal;  
10          providing a statement of public necessity;  
11          providing an effective date.

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

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15           Section 1. Public-records exemption.--

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

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

29           (b) A pharmacist licensed in this state who requests  
30 information and certifies that the requested information is to

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1 be used to dispense controlled substances to a current patient  
2 in accordance with section 893.04, Florida Statutes.

3 (c) A criminal justice agency, as defined in section  
4 119.011, Florida Statutes, which enforces the laws of this  
5 state or the United States relating to drugs and which is  
6 engaged in a specific investigation involving a violation of  
7 law.

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

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

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

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

29           Section 3. This act shall take effect upon the  
30 effective date of Senate Bill 80-E or similar legislation.  
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