

By Senator Fasano

11-1859-03

See HB 997

1 A bill to be entitled
2 An act relating to public records; exempting
3 certain health care records of the Department
4 of Health which relate to health care
5 practitioners or pharmacists, law enforcement
6 officers, or the Department of Health;
7 providing guidelines for the use of such
8 information and penalties for violations;
9 providing a finding of public necessity;
10 providing a contingent 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. All information and records reported under
15 section 893.055, Florida Statutes, which would identify a
16 patient are confidential and exempt from the provisions of
17 Section 119.07(1), Florida Statutes, and Section 24(a),
18 Article I of the State Constitution.

19 Section 2. (1) The Department of Health may disclose
20 a patient's identity in the information or records reported
21 under section 893.055, Florida Statutes, whose identity is
22 otherwise confidential and exempt from the provisions of
23 section 119.07(1), Florida Statutes, and Section 24(a),
24 Article I of the State Constitution, to the following:

25 (a) A practitioner defined under chapter 893, Florida
26 Statutes, who requests information and certifies that the
27 information is necessary to provide medical treatment in
28 accordance with section 893.05, Florida Statutes, to a current
29 patient, subject to the patient's written consent. The
30 practitioner may designate one person in his or her office to
31 access the information and records reported under section

1 893.055, Florida Statutes, on the practitioner's patients and
2 provide information to the practitioner as directed.

3 (b) A pharmacist licensed in this state who requests
4 information and certifies that the requested information is to
5 be used to dispense controlled substances in accordance with
6 section 893.04, Florida Statutes, to a current patient,
7 subject to the patient's written consent.

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

13 (d) An employee or agent of the Department of Health
14 who is involved in a specific investigation involving a
15 violation of the chapter regulating the alleged violator, the
16 rules of the Department of Health, or the rules of a board
17 regulating the alleged violator.

18 (e) The patient, for purposes of checking the
19 information for accuracy and reporting any inaccuracies to the
20 department for correction if verified.

21 (2)(a) A person who obtains information under this
22 section may not use the information to his or her own personal
23 advantage or reveal any information obtained in the
24 enforcement of law except in a prosecution or administrative
25 hearing for a violation of state or federal law or, if
26 applicable, to provide medical treatment in accordance with
27 section 893.05, Florida Statutes, to a current patient or to
28 dispense controlled substances in accordance with section
29 893.04, Florida Statutes, to a current patient.

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1 (b) Any person who knowingly violates this subsection
2 commits a felony of the third degree, punishable as provided
3 in section 775.082 or section 775.083, Florida Statutes.

4 (3) A practitioner or pharmacist authorized under this
5 section to obtain information is not liable for accessing or
6 failing to access such information.

7 Section 3. A practitioner, pharmacist, or other agency
8 that obtains information reported under section 893.055,
9 Florida Statutes, which would identify a patient must maintain
10 the confidentiality of such information pursuant to sections
11 456.057 and 465.017, Florida Statutes, or as otherwise
12 required by law.

13 Section 4. The Legislature finds that it is a public
14 necessity that all information reported to the Department of
15 Health under section 893.055, Florida Statutes, which would
16 identify a patient be held confidential and exempt from
17 disclosure because doing so will facilitate the department's
18 efforts to maintain compliance with the state's drug laws by
19 the accurate and timely reporting by health care practitioners
20 of potential drug diversion without compromising a patient's
21 privacy, with certain exceptions. The exemption for a
22 patient's identity in the information or records reported
23 under section 893.055, Florida Statutes, facilitates the
24 sharing of information between health care practitioners so
25 that the practitioners may appropriately identify and evaluate
26 a patient's risk for drug diversion and the resulting abuse of
27 controlled substances without compromising a patient's
28 privacy. The Legislature further finds that the exemption for
29 records identifying a patient within information or records
30 reported to the Department of Health is a public necessity to
31 protect health-related information of a sensitive and personal

1 nature. Matters of personal health are traditionally private
2 and confidential concerns between a patient and a health care
3 provider. The private and confidential nature of personal
4 health matters pervades both the public and private health
5 care sectors. For these reasons, an individual's expectation
6 of a right to privacy in all matters regarding his or her
7 personal health necessitates this exemption.

8 Section 5. This act shall take effect on the effective
9 date of Senate Bill ___ or similar legislation establishing an
10 electronic system to monitor the prescribing of controlled
11 substances, if such bill or legislation is adopted in the same
12 legislative session or an extension thereof and becomes law.

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