

By the Committee on Health, Aging, and Long-Term Care; and  
Senator Peadar

317-2037-03

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A bill to be entitled  
An act relating to public records; creating ss.  
458.353 and 459.028, F.S.; providing exemptions  
from public-records requirements for  
information contained in reports made by  
physicians of adverse incidents occurring in  
office practice settings; providing for future  
review and repeal; providing findings of public  
necessity; providing an effective date.

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

Section 1. Section 458.353, Florida Statutes, is  
created to read:

458.353 Notification of adverse incident; public  
records exemption.--The information contained in the  
notification of an adverse incident, which is required under  
s. 458.351 and provided to the department by a physician  
licensed under this chapter, is confidential and exempt from  
s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
The information may not be made available to the public as  
part of the record of investigation or prosecution in a  
disciplinary proceeding. This section is subject to the Open  
Government Sunset Review Act of 1995 in accordance with s.  
119.15 and shall stand repealed October 2, 2008, unless  
reviewed and saved from repeal through reenactment by the  
Legislature.

Section 2. Section 459.028, Florida Statutes, is  
created to read:

459.028 Notification of adverse incident; public  
records exemption.--The information contained in the

1 notification of an adverse incident, which is required under  
2 s. 459.026 and provided to the department by a physician  
3 licensed under this chapter, is confidential and exempt from  
4 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
5 The information may not be made available to the public as  
6 part of the record of investigation or prosecution in a  
7 disciplinary proceeding. This section is subject to the Open  
8 Government Sunset Review Act of 1995 in accordance with s.  
9 119.15 and shall stand repealed October 2, 2008, unless  
10 reviewed and saved from repeal through reenactment by the  
11 Legislature.

12           Section 3. The Legislature finds that the exemptions  
13 from public records requirements provided in sections 458.353  
14 and 459.028, Florida Statutes, are a public necessity, and  
15 that it would be an invasion of a patient's privacy for  
16 personal, sensitive information contained in the notification  
17 of an adverse incident to be publicly available. Furthermore,  
18 the Legislature finds that failure to protect the  
19 confidentiality of any information submitted to or collected  
20 by the Department of Health pursuant to section 458.351 or  
21 section 459.026, Florida Statutes, regarding an adverse  
22 incident, including, but not limited to, the identity of the  
23 patient, the type of adverse incident, and the fact that an  
24 investigation is being conducted, would deter the collection  
25 and reporting of this information to the department. This  
26 would prevent the department and the appropriate regulatory  
27 boards from effectively carrying out their responsibility to  
28 enforce safe patient care and take necessary disciplinary  
29 action for practice violations. Release of such information  
30 would deter physicians licensed in this state from reporting  
31 adverse incidents and could lead to the deterioration of

1 services and care rendered, to the detriment of the health of  
2 those served.

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

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 Senate Bill 1942

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9 A Public Records Law exemption is created in the bill to  
10 protect information contained in a notification of an adverse  
11 incident resulting from physician office surgery involving an  
12 osteopathic physician, as is required in s. 459.026, F.S.

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