

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

317-1868A-03

1                                   A bill to be entitled  
 2           An act relating to public records and meetings;  
 3           creating s. 381.04091, F.S.; providing that  
 4           patient records obtained by and other documents  
 5           identifying a patient by name and contained in  
 6           patient safety data held by the Florida Center  
 7           for Excellence in Health Care are exempt from  
 8           public-record requirements; providing that  
 9           meetings held by the center at which such  
 10          information is discussed are exempt from  
 11          public-meeting requirements; authorizing the  
 12          release of information under specified  
 13          circumstances, including the release to a  
 14          health care research entity or licensed health  
 15          insurer; providing for future legislative  
 16          review and repeal under the Open Government  
 17          Sunset Review Act of 1995; providing a  
 18          statement of public necessity; providing a  
 19          contingent effective date.

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

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 23           Section 1.   Section 381.04091, Florida Statutes, is  
 24 created to read:

25           381.04091 Patient safety data.--  
 26           (1) The information contained in patient safety data  
 27 as defined in s. 381.0409, which is held by the Florida Center  
 28 for Excellence in Health Care, is confidential and exempt from  
 29 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 30 except as otherwise provided by law. All patient records  
 31 obtained by the center and any other documents maintained by

1 the center which identify the patient by name are confidential  
2 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
3 Constitution, except as otherwise provided by law. Any portion  
4 of a meeting held by the Florida Center for Excellence in  
5 Health Care at which such information is discussed is exempt  
6 from s. 286.011 and s. 24(b) Art. I of the State Constitution.  
7 Information made confidential and exempt by this subsection  
8 shall be disclosed:

9 (a) With the express written consent of the individual  
10 or the individual's legally authorized representative in  
11 compliance with any federal or state law.

12 (b) By court order upon a showing of good cause.

13 (c) To a health research entity or licensed health  
14 insurer, if the entity or insurer seeks the records or data  
15 pursuant to a research protocol approved by the center,  
16 maintains the records or data in accordance with the approved  
17 protocol, and enters into a purchase and data-use agreement  
18 with the center, the fees provisions of which are consistent  
19 with s. 119.07(1)(a). The center may deny a request for  
20 records or data if the protocol provides for intrusive  
21 follow-back contracts, has not been approved by a human  
22 institutional review board, does not plan for the destruction  
23 of confidential records after the research is concluded, is  
24 administratively burdensome, or does not have scientific  
25 merit. The agreement must restrict the release of any  
26 information which would permit the identification of persons,  
27 limit the use of records or data to the approved research  
28 protocol, and prohibit any other use of the records or data.  
29 Copies of records or data issued pursuant to this subparagraph  
30 remain the property of the center.

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1           (2) This section is subject to the Open Government  
2 Sunset Review Act of 1995 in accordance with s. 119.15, and  
3 shall stand repealed on October 2, 2008, unless reviewed and  
4 saved from repeal through reenactment by the Legislature.

5           Section 2. The Legislature finds that it is a public  
6 necessity that information contained in public safety data, as  
7 defined in section 381.0409, Florida Statutes, and patient  
8 records that are of a sensitive and personal nature concerning  
9 individuals and entities be protected when the release of such  
10 information would be defamatory to such individuals or  
11 entities or cause unwarranted damage to the good name or  
12 reputation of such individuals or entities. In addition, the  
13 Legislature finds that it is a public necessity that records  
14 be protected and meetings be closed to the public when the  
15 administration of a governmental program otherwise would be  
16 significantly impaired. The information contained in patient  
17 safety data held by the Florida Center for Excellence in  
18 Health Care include patient safety events, as defined in  
19 section 381.0409, Florida Statutes, and patient records and  
20 other information of a sensitive and personal nature relating  
21 to patients. The release of such information would be  
22 defamatory to such individuals or may cause unwarranted damage  
23 to the name or reputation of such individuals. It is also a  
24 public necessity that any portion of a meeting of the center  
25 be closed when such sensitive and personal information  
26 relating to data, reports, records, memoranda, or analyses of  
27 patient safety events or the corrective actions taken in  
28 response to such patient safety events is discussed. If such  
29 meetings were not closed, information would be released which  
30 would be defamatory to individuals or entities and cause  
31 unwarranted damage to their names or reputations; or

1 information would be released which would reveal details  
2 regarding patient safety events, thus undermining the health  
3 care quality assurance process and internal risk management  
4 programs implemented by health care practitioners or health  
5 care facilities and inhibiting the rigor and effectiveness of  
6 corrective actions taken in response to such patient safety  
7 events, including changes in practices and procedures which  
8 may be implemented by health care practitioners and health care  
9 facilities to prevent adverse incidents. Further, such  
10 information concerning internal risk management programs is  
11 otherwise exempt from public disclosure. It is clear that the  
12 willingness of a health care practitioner or health care  
13 facility to voluntarily submit patient safety data to the  
14 center for analysis and possible improvement of patient safety  
15 in order to prevent patient safety events or adverse incidents  
16 may be impeded unless those portions of meetings during which  
17 such information is discussed are closed to the public to  
18 avoid disclosure of such information. The unwillingness of  
19 health care practitioners and health care facilities to submit  
20 patient safety data to the center would interfere with the  
21 administration and effectiveness of the Florida Center for  
22 Excellence in Health Care efforts to reduce and prevent future  
23 patient safety events or future adverse incidents.

24           Section 3. This act shall take effect upon becoming a  
25 law if SB 560, SB 562, and SB 564 or similar legislation is  
26 adopted in the same legislative session or an extension  
27 thereof and becomes law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 566

The committee substitute makes information contained in patient safety data, as defined in s. 381.0409, F.S., which is held by the Florida Center for Excellence in Health Care and all patient records obtained by the center and any other documents maintained by the center which identify the patient by name confidential and exempt from the Public Records Law. Any portion of a meeting held by the Florida Center for Excellence in Health Care at which such information is discussed is made exempt from the Public Meetings Law requirements. The bill specifies the conditions under which the confidential and exempt information may be disclosed. The Public Records and Meeting Law exemptions stand repealed on October 2, 2008, in accordance with the Open Government Sunset Review Act of 1995. Legislative findings of public necessity for the Public Records and Meetings Law exemptions are specified. The bill provides a contingent effective date upon becoming a law.