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A bill to be entitled
 An act relating to public records; exempting certain health care records of the Department of Health which relate to health care practitioners or pharmacists, law enforcement officers, or the Department of Health; providing guidelines for the use of such information and penalties for violations; providing a finding of public necessity; providing a contingent effective date.

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

Section 1. All information and records reported under s. 893.055, Florida Statutes, which would identify a patient are confidential and exempt from the provisions of s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution.

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

(a) A practitioner defined under chapter 893, Florida Statutes, who requests information and certifies that the information is necessary to provide medical treatment in accordance with s. 893.05, Florida Statutes, to a current patient, subject to the patient's written consent. The practitioner may designate one person in his or her office to access the information and records reported under s. 893.055,



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30 Florida Statutes, on the practitioner's patients and provide
31 information to the practitioner as directed.

32 (b) A pharmacist licensed in this state who requests
33 information and certifies that the requested information is to
34 be used to dispense controlled substances in accordance with s.
35 893.04, Florida Statutes, to a current patient, subject to the
36 patient's written consent.

37 (c) A criminal justice agency defined under s. 119.011,
38 Florida Statutes, which enforces the laws of this state or the
39 United States relating to drugs and which is engaged in a
40 specific investigation involving a violation of law.

41 (d) An employee or agent of the Department of Health who
42 is involved in a specific investigation involving a violation of
43 the chapter regulating the alleged violator, the rules of the
44 Department of Health, or the rules of a board regulating the
45 alleged violator.

46 (e) The patient, for purposes of checking the information
47 for accuracy and reporting any inaccuracies to the department
48 for correction if verified.

49 (2)(a) A person who obtains information under this section
50 may not use the information to his or her own personal advantage
51 or reveal any information obtained in the enforcement of law
52 except in a prosecution or administrative hearing for a
53 violation of state or federal law or, if applicable, to provide
54 medical treatment in accordance with s. 893.05, Florida
55 Statutes, to a current patient or to dispense controlled
56 substances in accordance with s. 893.04, Florida Statutes, to a
57 current patient.



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58 (b) Any person who knowingly violates this subsection
59 commits a felony of the third degree, punishable as provided in
60 s. 775.082 or s. 775.083, Florida Statutes.

61 (3) A practitioner or pharmacist authorized under this
62 section to obtain information is not liable for accessing or
63 failing to access such information.

64 Section 3. A practitioner, pharmacist, or other agency
65 that obtains information reported under s. 893.055, Florida
66 Statutes, which would identify a patient must maintain the
67 confidentiality of such information pursuant to ss. 456.057 and
68 465.017, Florida Statutes, or as otherwise required by law.

69 Section 4. The Legislature finds that it is a public
70 necessity that all information reported to the Department of
71 Health under s. 893.055, Florida Statutes, which would identify
72 a patient be held confidential and exempt from disclosure
73 because doing so will facilitate the department's efforts to
74 maintain compliance with the state's drug laws by the accurate
75 and timely reporting by health care practitioners of potential
76 drug diversion without compromising a patient's privacy, with
77 certain exceptions. The exemption for a patient's identity in
78 the information or records reported under s. 893.055, Florida
79 Statutes, facilitates the sharing of information between health
80 care practitioners so that the practitioners may appropriately
81 identify and evaluate a patient's risk for drug diversion and
82 the resulting abuse of controlled substances without
83 compromising a patient's privacy. The Legislature further finds
84 that the exemption for records identifying a patient within
85 information or records reported to the Department of Health is a
86 public necessity to protect health-related information of a
87 sensitive and personal nature. Matters of personal health are



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88 traditionally private and confidential concerns between a
89 patient and a health care provider. The private and confidential
90 nature of personal health matters pervades both the public and
91 private health care sectors. For these reasons, an individual's
92 expectation of a right to privacy in all matters regarding his
93 or her personal health necessitates this exemption.

94 Section 5. This act shall take effect on the effective
95 date of House Bill 989 or similar legislation establishing an
96 electronic system to monitor the prescribing of controlled
97 substances, if such bill or legislation is adopted in the same
98 legislative session or an extension thereof and becomes law.