

CHAMBER ACTION

1 The Committee on State Administration recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public records and public meetings
7 exemptions; creating s. 381.0273, F.S.; providing that
8 patient identifying information held by the Florida
9 Patient Safety Corporation and its subsidiaries, advisory
10 committees, and contractors and information that
11 identifies the person or entity reporting patient safety
12 data are confidential and exempt from public records
13 requirements; authorizing certain disclosure of such
14 information; providing that portions of meetings held by
15 the corporation and its subsidiaries, advisory committees,
16 and contractors at which such information is discussed are
17 exempt from public meetings requirements; providing that
18 minutes of those portions of exempt meetings are
19 confidential and exempt from public records requirements;
20 providing for future review and repeal; providing a
21 statement of public necessity; providing a contingent
22 effective date.

HB 1887

2004
CS

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

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26 Section 1. Section 381.0273, Florida Statutes, is created
27 to read:

28 381.0273 Public records and public meetings exemptions for
29 patient safety data.--

30 (1)(a) Patient identifying information held by the Florida
31 Patient Safety Corporation or its subsidiaries, advisory
32 committees, and contractors pursuant to s. 381.0271 is
33 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
34 of the State Constitution.

35 (b) Information that identifies the person or entity
36 reporting patient safety data, as defined in s. 766.1016, held
37 by the Florida Patient Safety Corporation or its subsidiaries,
38 advisory committees, and contractors pursuant to s. 381.0271 is
39 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
40 of the State Constitution.

41 (c) Identifying information made confidential and exempt
42 pursuant to paragraphs (a) and (b) may be disclosed only:

43 1. With the express written consent of the patient or the
44 patient's legally authorized representative in compliance with
45 any federal or state law, and such consent only authorizes the
46 release of information regarding that patient;

47 2. With the express written consent of the person or
48 entity reporting the patient safety data to the Florida Patient
49 Safety Corporation, and such consent only authorizes the release
50 of information regarding that person or entity;

51 3. By court order upon a showing of good cause; or

52 4. To a health research entity if the entity seeks such
 53 confidential and exempt information pursuant to a research
 54 protocol approved by the Florida Patient Safety Corporation,
 55 maintains such confidential and exempt information in accordance
 56 with the approved protocol, and enters into a purchase and data-
 57 use agreement with the corporation the fee provisions of which
 58 are consistent with s. 119.07(1)(a). The corporation may deny a
 59 request for such confidential and exempt information if the
 60 protocol provides for intrusive follow-back contacts, has not
 61 been approved by a human studies institutional review board,
 62 does not plan for the destruction of such confidential and
 63 exempt information after the research is concluded, or does not
 64 have scientific merit. The agreement must prohibit the release
 65 of such confidential and exempt information, must limit the use
 66 of such confidential and exempt information in conformance with
 67 the approved research protocol, and must prohibit any other use
 68 of such confidential and exempt information. Copies of such
 69 confidential and exempt information issued pursuant to this
 70 subparagraph remain the property of the corporation.

71 (2)(a) Any portion of a meeting held by the Florida
 72 Patient Safety Corporation or its subsidiaries, advisory
 73 committees, and contractors during which information made
 74 confidential and exempt pursuant to subsection (1) is discussed
 75 is exempt from s. 286.011 and s. 24(b), Art. I of the State
 76 Constitution.

77 (b) Minutes of those portions of meetings made exempt
 78 pursuant to this subsection are confidential and exempt from s.
 79 119.07(1) and s. 24(a), Art. I of the State Constitution.

HB 1887

2004
CS

80 (3) This section is subject to the Open Government Sunset
81 Review Act of 1995 in accordance with s. 119.15 and shall stand
82 repealed on October 2, 2009, unless reviewed and saved from
83 repeal through reenactment by the Legislature.

84 Section 2. The Legislature finds that it is a public
85 necessity that patient identifying information held by the
86 Florida Patient Safety Corporation or its subsidiaries, advisory
87 committees, and contractors be made confidential and exempt from
88 public disclosure. Such information is of a sensitive and
89 personal nature, and the release of such information could be
90 defamatory to the patient or could cause unwarranted damage to
91 the name or reputation of the patient. If patient identifying
92 information is not made confidential and exempt, any person
93 could inspect and copy records held by the corporation and its
94 subsidiaries, advisory committees, and contractors, thus being
95 made aware of the medical status of a patient. The availability
96 of such information to the public would result in the invasion
97 of the patient's privacy. If the identity of the patient could
98 be correlated with his or her medical information, it would be
99 possible for the public to become aware of the diseases or other
100 medical concerns for which a patient is being treated. This
101 knowledge could be used to embarrass or humiliate a patient or
102 to discriminate against him or her. The Legislature further
103 finds that it is a public necessity that information that
104 identifies the person or entity reporting patient safety data to
105 the Florida Patient Safety Corporation or its subsidiaries,
106 advisory committees, and contractors be made confidential and
107 exempt from public disclosure. Release of such information could

HB 1887

2004
CS

108 discourage health care practitioners and health care facilities
109 from voluntarily reporting incidents occurring at such
110 facilities and could discourage such practitioners and
111 facilities from voluntarily submitting patient safety data to
112 the corporation and its subsidiaries, advisory committees, and
113 contractors. As such, the effective and efficient administration
114 of a governmental program would be hindered. The Legislature
115 also finds that it is a public necessity that any portion of a
116 meeting of the Florida Patient Safety Corporation or its
117 subsidiaries, advisory committees, and contractors in which
118 confidential and exempt information is discussed be made exempt
119 from public access and that the minutes of those portions of
120 such exempt meetings be made confidential and exempt. Disclosing
121 information made confidential and exempt via an open meeting
122 defeats the purpose of the public records exemption. Without
123 these exemptions, the effective and efficient administration of
124 the Florida Patient Safety Corporation would be jeopardized and
125 the ability of the Florida Patient Safety Corporation to assist
126 health care practitioners and health care facilities to reduce
127 and prevent injury to patients in the future would be
128 significantly impaired.

129 Section 3. This act shall take effect upon becoming a law
130 if HB 1885 or similar legislation is adopted in the same
131 legislative session or an extension thereof and becomes law.