

1 A bill to be entitled

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

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

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 22 Section 1. Section 381.0273, Florida Statutes, is created
 23 to read:

24 381.0273 Public records and public meetings exemptions for
 25 patient safety data.--

26 (1)(a) Patient identifying information held by the Florida
 27 Patient Safety Corporation or its subsidiaries, advisory
 28 committees, and contractors pursuant to s. 381.0271 is

29 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 30 of the State Constitution.

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

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

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

43 2. With the express written consent of the person or
 44 entity reporting the patient safety data to the Florida Patient
 45 Safety Corporation, and such consent only authorizes the release
 46 of information regarding that person or entity;

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

48 4. To a health research entity if the entity seeks such
 49 confidential and exempt information pursuant to a research
 50 protocol approved by the Florida Patient Safety Corporation,
 51 maintains such confidential and exempt information in accordance
 52 with the approved protocol, and enters into a purchase and data-
 53 use agreement with the corporation the fee provisions of which
 54 are consistent with s. 119.07(1)(a). The corporation may deny a
 55 request for such confidential and exempt information if the
 56 protocol provides for intrusive follow-back contacts, has not

57 | been approved by a human studies institutional review board,
58 | does not plan for the destruction of such confidential and
59 | exempt information after the research is concluded, or does not
60 | have scientific merit. The agreement must prohibit the release
61 | of such confidential and exempt information, must limit the use
62 | of such confidential and exempt information in conformance with
63 | the approved research protocol, and must prohibit any other use
64 | of such confidential and exempt information. Copies of such
65 | confidential and exempt information issued pursuant to this
66 | subparagraph remain the property of the corporation.

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

73 | (b) Minutes of those portions of meetings made exempt
74 | pursuant to this subsection are confidential and exempt from s.
75 | 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

80 | Section 2. The Legislature finds that it is a public
81 | necessity that patient identifying information held by the
82 | Florida Patient Safety Corporation or its subsidiaries, advisory
83 | committees, and contractors be made confidential and exempt from
84 | public disclosure. Such information is of a sensitive and

85 personal nature, and the release of such information could be
86 defamatory to the patient or could cause unwarranted damage to
87 the name or reputation of the patient. If patient identifying
88 information is not made confidential and exempt, any person
89 could inspect and copy records held by the corporation and its
90 subsidiaries, advisory committees, and contractors, thus being
91 made aware of the medical status of a patient. The availability
92 of such information to the public would result in the invasion
93 of the patient's privacy. If the identity of the patient could
94 be correlated with his or her medical information, it would be
95 possible for the public to become aware of the diseases or other
96 medical concerns for which a patient is being treated. This
97 knowledge could be used to embarrass or humiliate a patient or
98 to discriminate against him or her. The Legislature further
99 finds that it is a public necessity that information that
100 identifies the person or entity reporting patient safety data to
101 the Florida Patient Safety Corporation or its subsidiaries,
102 advisory committees, and contractors be made confidential and
103 exempt from public disclosure. Release of such information could
104 discourage health care practitioners and health care facilities
105 from voluntarily reporting incidents occurring at such
106 facilities and could discourage such practitioners and
107 facilities from voluntarily submitting patient safety data to
108 the corporation and its subsidiaries, advisory committees, and
109 contractors. As such, the effective and efficient administration
110 of a governmental program would be hindered. The Legislature
111 also finds that it is a public necessity that any portion of a
112 meeting of the Florida Patient Safety Corporation or its

113 subsidiaries, advisory committees, and contractors in which
114 confidential and exempt information is discussed be made exempt
115 from public access and that the minutes of those portions of
116 such exempt meetings be made confidential and exempt. Disclosing
117 information made confidential and exempt via an open meeting
118 defeats the purpose of the public records exemption. Without
119 these exemptions, the effective and efficient administration of
120 the Florida Patient Safety Corporation would be jeopardized and
121 the ability of the Florida Patient Safety Corporation to assist
122 health care practitioners and health care facilities to reduce
123 and prevent injury to patients in the future would be
124 significantly impaired.

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