

By the Committee on Governmental Oversight and Productivity;
and Senator Saunders

302-2022A-04

1 A bill to be entitled

2 An act relating to public records and meetings;

3 creating s. 381.0273, F.S.; providing that

4 information contained in patient safety data or

5 other records maintained by the Florida Patient

6 Safety Corporation and its subsidiaries,

7 advisory committees, or contractors which

8 identifies a patient or which identifies the

9 person or entity reporting patient safety data

10 is confidential and exempt from disclosure

11 under public-records requirements; authorizing

12 the release of information under specified

13 circumstances, including release to a health

14 care research entity; specifying circumstances

15 under which the corporation may deny a request

16 for records or data that identifies a patient;

17 providing that portions of meetings held by the

18 corporation and its subsidiaries, advisory

19 committees, or contractors at which such

20 information is discussed are exempt from

21 public-meetings requirements; providing for

22 future legislative review and repeal under the

23 Open Government Sunset Review Act of 1995;

24 providing a statement of public necessity;

25 providing a contingent effective date.

26

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

28

29 Section 1. Section 381.0273, Florida Statutes, is

30 created to read:

31

1 381.0273 Public records exemption for patient safety
2 data.--

3 (1) Information that identifies a patient and that is
4 contained in patient safety data, as defined in s. 766.1016,
5 or in other records held by the Florida Patient Safety
6 Corporation and its subsidiaries, advisory committees, or
7 contractors pursuant to s. 381.0271 is confidential and exempt
8 from s. 119.07(1) and s. 24(a), Art. I of the State
9 Constitution. Personal identifying information made
10 confidential and exempt from disclosure by this paragraph may
11 be disclosed only:

12 (a) With the express written consent of the patient or
13 the patient's legally authorized representative in compliance
14 with any federal or state law;

15 (b) By court order upon a showing of good cause; or

16 (c) To a health research entity if the entity seeks
17 the records or data pursuant to a research protocol approved
18 by the corporation, maintains the records or data in
19 accordance with the approved protocol, and enters into a
20 purchase and data-use agreement with the corporation, the fee
21 provisions of which are consistent with s. 119.07(1)(a). The
22 corporation may deny a request for records or data that
23 identify the patient if the protocol provides for intrusive
24 follow-back contacts, has not been approved by a human studies
25 institutional review board, does not plan for the destruction
26 of confidential records after the research is concluded, or
27 does not have scientific merit. The agreement must prohibit
28 the release of any information that would permit the
29 identification of any patient, must limit the use of records
30 or data in conformance with the approved research protocol,
31 and must prohibit any other use of the records or data. Copies

1 of records or data issued pursuant to this paragraph remain
2 the property of the corporation.

3 (2) Information that identifies the person or entity
4 that reports patient safety data, as defined in s. 766.1016,
5 to the corporation and that is contained in patient safety
6 data or in other records held by the Florida Patient Safety
7 Corporation and its subsidiaries, advisory committees, or
8 contractors pursuant to s. 381.0271 is confidential and exempt
9 from s. 119.07(1) and s. 24(a), Art. I of the State
10 Constitution. Information that identifies a person or entity
11 reporting patient safety data made confidential and exempt
12 from disclosure by this subsection may be disclosed only:

13 (a) With the express written consent of the person or
14 entity reporting the patient safety data to the corporation;

15 (b) By court order upon a showing of good cause; or

16 (c) To a health research entity if the entity seeks
17 the records or data pursuant to a research protocol approved
18 by the corporation, maintains the records or data in
19 accordance with the approved protocol, and enters into a
20 purchase and data-use agreement with the corporation, the fee
21 provisions of which are consistent with s. 119.07(1)(a). The
22 corporation may deny a request for records or data that
23 identify the person or entity reporting patient safety data if
24 the protocol provides for intrusive follow-back contacts, has
25 not been approved by a human studies institutional review
26 board, does not plan for the destruction of confidential
27 records after the research is concluded, or does not have
28 scientific merit. The agreement must prohibit the release of
29 any information that would permit the identification of
30 persons or entities that report patient safety data, must
31 limit the use of records or data in conformance with the

1 approved research protocol, and must prohibit any other use of
2 the records or data. Copies of records or data issued pursuant
3 to this paragraph remain the property of the corporation.

4 (3) Any portion of a meeting held by the Florida
5 Patient Safety Corporation and its subsidiaries, advisory
6 committees, or contractors during which information is
7 discussed which is confidential and exempt from disclosure
8 pursuant to this section is exempt from s. 286.011 and s.
9 24(b), Art. I of the State Constitution. Subsections (1) and
10 (2) apply to those portions of the minutes of such meetings
11 which contain information made confidential and exempt from
12 disclosure by this section.

13 Section 2. Section 381.0273, Florida Statutes, is
14 subject to the Open Government Sunset Review Act of 1995 in
15 accordance with section 119.15, Florida Statutes, and shall
16 stand repealed on October 2, 2009, unless reviewed and saved
17 from repeal through reenactment by the Legislature.

18 Section 3. The Legislature finds it is a public
19 necessity that information that identifies a patient contained
20 in patient safety data, as defined in section 766.1016,
21 Florida Statutes, and that is maintained by the Florida
22 Patient Safety Corporation and its subsidiaries, advisory
23 committees, or contractors be protected because such
24 information is of a sensitive and personal nature and the
25 release of such information could be defamatory to the patient
26 or could cause unwarranted damage to the name or reputation of
27 the patient. The Legislature finds that it is a public
28 necessity that information that identifies the person or
29 entity reporting patient safety data to the Florida Patient
30 Safety Corporation and its subsidiaries, advisory committees,
31 or contractors be protected because health care practitioners

1 and health care facilities would be unlikely to voluntarily
2 submit patient safety data if their identity were made public
3 and such information could be defamatory to the person or
4 entity or could cause unwarranted damage to the name or
5 reputation of the person or entity. The Legislature also finds
6 it is a public necessity that any portion of a meeting of the
7 Florida Patient Safety Corporation and its subsidiaries,
8 advisory committees, or contractors be closed when such
9 sensitive and personal information relating to patient safety
10 data is discussed. Without these protections, the
11 effectiveness of the Florida Patient Safety Corporation would
12 be seriously jeopardized and the ability of the Florida
13 Patient Safety Corporation to assist health care practitioners
14 and health care facilities in reducing and preventing injury
15 to patients in the future would be significantly impaired.

16 Section 4. This act shall take effect on the same date
17 that CS for SB 1464 or similar legislation takes effect, if
18 such legislation is enacted in the same legislative session or
19 an extension thereof and becomes law.

20
21
22
23
24
25
26
27
28
29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 702
4 Creates a public record exemption for personal identifying
5 information that is contained in patient safety data held by
6 the Florida Patient Safety Corporation, its subsidiaries,
7 advisory committees, or contractors pursuant to s. 381.0271,
8 F.S.
9 Permits disclosure of personal identifying information with
10 express written consent of patient or authorized
11 representative; by court order upon a showing of good cause;
12 and to a health research entity under specified terms and
13 conditions.
14 Creates an exemption for information that identifies the
15 person or entity that reports patient safety data.
16 Permits disclosure of information identifying a person or
17 entity reporting patient safety data with express written
18 consent of that person or entity; by court order upon showing
19 of good cause; and to a health research entity under specified
20 terms and conditions.
21 Provides for review and repeal under the Open Government
22 Sunset Review Act of 1995.
23
24
25
26
27
28
29
30
31