

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, which identifies the
9 person or entity reporting patient safety data,
10 or which identifies a health care practitioner
11 or health care facility is confidential and
12 exempt from disclosure under public-records
13 requirements; authorizing the release of
14 information under specified circumstances,
15 including release to a health care research
16 entity; specifying circumstances under which
17 the corporation may deny a request for records
18 or data that identifies a patient; providing
19 that portions of meetings held by the
20 corporation and its subsidiaries, advisory
21 committees, or contractors at which such
22 information is discussed are exempt from
23 public-meetings requirements; providing for
24 future legislative review and repeal under the
25 Open Government Sunset Review Act of 1995;
26 providing a statement of public necessity;
27 providing a contingent effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 381.0273, Florida Statutes, is
2 created to read:

3 381.0273 Public records exemption for patient safety
4 data.--

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

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

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

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

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

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

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

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

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

1 persons or entities that report patient safety data, must
2 limit the use of records or data in conformance with the
3 approved research protocol, and must prohibit any other use of
4 the records or data. Copies of records or data issued pursuant
5 to this paragraph remain the property of the corporation.

6 (3) Information that identifies a health care
7 practitioner or health care facility which is held by the
8 Florida Patient Safety Corporation and its subsidiaries,
9 advisory committees, or contractors pursuant to s. 381.0271,
10 is confidential and exempt from s. 119.07(1) and s. 24(a),
11 Art. I of the State Constitution. Information that identifies
12 a health care practitioner or health care facility and that is
13 contained in patient safety data made confidential and exempt
14 from disclosure by this subsection may be disclosed only:

15 (a) With the express written consent of the health
16 care practitioner or health care facility;

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

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

1 persons or entities that report patient safety data, must
2 limit the use of records or data in conformance with the
3 approved research protocol, and must prohibit any other use of
4 the records or data. Copies of records or data issued under
5 this paragraph remain the property of the corporation.

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

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

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

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

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