

By Senator Bean

4-02537B-14

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1                   A bill to be entitled  
2       An act relating to public records; creating s. 456.61,  
3       F.S.; exempting from public records requirements  
4       personal identifying information of patients and  
5       physicians held by the Department of Health in the  
6       compassionate use registry; exempting information  
7       related to ordering and dispensing low-THC marijuana;  
8       authorizing specified persons and entities access to  
9       the exempt information; requiring that information  
10      released from the registry remain confidential;  
11      providing a criminal penalty; providing for future  
12      legislative review and repeal; providing a statement  
13      of public necessity; providing a contingent effective  
14      date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1. Section 456.61, Florida Statutes, is created to  
19       read:

20       456.61 Public records exemption for personal identifying  
21       information in the compassionate use registry.-

22       (1) A patient's personal identifying information held by  
23       the department in the compassionate use registry established  
24       under s. 456.60, including, but not limited to, the patient's  
25       name, address, telephone number, and government-issued  
26       identification number, and all information pertaining to the  
27       physician's order for low-THC marijuana and the dispensing  
28       thereof are confidential and exempt from s. 119.07(1) and s.  
29       24(a), Art. I of the State Constitution.

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30       (2) A physician's identifying information held by the  
31 department in the compassionate use registry established under  
32 s. 456.60, including, but not limited to, the physician's name,  
33 address, telephone number, government-issued identification  
34 number, and Drug Enforcement Administration number, and all  
35 information pertaining to the physician's order for low-THC  
36 marijuana and the dispensing thereof are confidential and exempt  
37 from s. 119.07(1) and s. 24(a), Art. I of the State  
38 Constitution.

39       (3) The department shall allow access to the registry,  
40 including access to confidential and exempt information, to:

41       (a) A law enforcement agency that is investigating a  
42 violation of law regarding cannabis in which the subject of the  
43 investigation claims an exception established under s. 456.60.

44       (b) A dispensing organization approved by the department  
45 pursuant to s. 456.60(3)(b) which is attempting to verify the  
46 authenticity of a physician's order for low-THC marijuana,  
47 including whether the order had been previously filled and  
48 whether the order was written for the person attempting to have  
49 it filled.

50       (c) A physician who has written an order for low-THC  
51 marijuana for the purpose of monitoring the patient's use of  
52 such marijuana or for the purpose of determining, before issuing  
53 an order for low-THC marijuana, whether another physician has  
54 ordered the patient's use of low-THC marijuana. The physician  
55 may access the confidential and exempt information only for the  
56 patient for whom he or she has ordered or is determining whether  
57 to order the use of low-THC marijuana pursuant to s. 456.60.

58       (d) An employee of the department for the purposes of

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59 maintaining the registry and periodic reporting or disclosure of  
60 information that has been redacted to exclude personal  
61 identifying information.

62 (e) The department's relevant health care regulatory boards  
63 responsible for the licensure, regulation, or discipline of a  
64 physician if he or she is involved in a specific investigation  
65 of a violation of s. 456.60. If a health care regulatory board's  
66 investigation reveals potential criminal activity, the board may  
67 provide any relevant information to the appropriate law  
68 enforcement agency.

69 (f) A person engaged in bona fide research if the person  
70 agrees:

71 1. To submit a research plan to the department which  
72 specifies the exact nature of the information requested and the  
73 intended use of the information;

74 2. To maintain the confidentiality of the records or  
75 information if personal identifying information is made  
76 available to the researcher;

77 3. To destroy any confidential records or information  
78 obtained after the research is concluded; and

79 4. Not to contact, directly or indirectly, for any purpose,  
80 a patient or physician whose information is in the registry.

81 (4) All information released from the registry under  
82 subsection (3) remains confidential and exempt, and a person who  
83 receives access to such information must maintain the  
84 confidential status of the information received.

85 (5) A person who willfully and knowingly violates this  
86 section commits a felony of the third degree, punishable as  
87 provided in s. 775.082, s. 775.083, or s. 775.084.

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88 (6) This section is subject to the Open Government Sunset  
89 Review Act in accordance with s. 119.15 and shall stand repealed  
90 on October 2, 2019, unless reviewed and saved from repeal  
91 through reenactment by the Legislature.

92 Section 2. The Legislature finds that it is a public  
93 necessity that identifying information of patients and  
94 physicians held by the Department of Health in the compassionate  
95 use registry established under s. 456.60, Florida Statutes, be  
96 made confidential and exempt from s. 119.07(1), Florida  
97 Statutes, and s. 24(a), Article I of the State Constitution.  
98 Specifically, the Legislature finds that it is a public  
99 necessity to make confidential and exempt from public records  
100 requirements the names, addresses, telephone numbers, and  
101 government-issued identification numbers of patients and  
102 physicians and any other information on or pertaining to a  
103 physician's order for low-THC marijuana written pursuant to s.  
104 456.60, Florida Statutes, which are held in the registry. The  
105 choice made by a physician and his or her patient to use low-THC  
106 marijuana to treat that patient's medical condition or symptoms  
107 is a personal and private matter between those two parties. The  
108 availability of such information to the public could make the  
109 public aware of both the patient's use of low-THC marijuana and  
110 the patient's diseases or other medical conditions for which the  
111 patient is using low-THC marijuana. The knowledge of the  
112 patient's use of low-THC marijuana, the knowledge that the  
113 physician ordered the use of low-THC marijuana, and the  
114 knowledge of the patient's medical condition could be used to  
115 embarrass, humiliate, harass, or discriminate against the  
116 patient and the physician. This information could be used as a

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117 discriminatory tool by an employer who disapproves of the  
118 patient's use of low-THC marijuana or of the physician's  
119 ordering such use. However, despite the potential hazards of  
120 collecting such information, maintaining the compassionate use  
121 registry established under s. 456.60, Florida Statutes, is  
122 necessary to prevent the diversion and nonmedical use of any  
123 low-THC marijuana as well as to aid and improve research done on  
124 the efficacy of low-THC marijuana. Thus, the Legislature finds  
125 that it is a public necessity to make confidential and exempt  
126 from public records requirements the identifying information of  
127 patients and physicians held by the Department of Health in the  
128 compassionate use registry established under s. 456.60, Florida  
129 Statutes.

130 Section 3. This act shall take effect on the same date that  
131 SB 1030, or similar legislation establishing an electronic  
132 system to record a physician's orders for, and a patient's use  
133 of, low-THC marijuana takes effect, if such legislation is  
134 adopted in the same legislative session or an extension thereof  
135 and becomes a law.