

1                                   A bill to be entitled  
 2           An act relating to public records; creating s.  
 3           381.9941, F.S.; exempting from public records  
 4           requirements personal identifying information of  
 5           patients and physicians held by the Department of  
 6           Health in the electronic medical marijuana patient  
 7           registry; exempting information related to ordering  
 8           and dispensing medical marijuana; authorizing  
 9           specified persons and entities access to the exempt  
 10          information; requiring that information released from  
 11          the registry remain confidential; providing a criminal  
 12          penalty; providing for future legislative review and  
 13          repeal; providing a statement of public necessity;  
 14          providing a contingent effective date.

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

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 18           Section 1. Section 381.9941, Florida Statutes, is created  
 19 to read:

20           381.9941 Public records exemption for personal identifying  
 21 information in the electronic medical marijuana patient  
 22 registry.-

23           (1) A patient's personal identifying information held by  
 24 the department in the electronic medical marijuana patient  
 25 registry established under s. 381.994, including, but not  
 26 limited to, the patient's name, address, telephone number, and

27 government-issued identification number, and all information  
28 pertaining to the physician's order for medical marijuana and  
29 the dispensing thereof are confidential and exempt from s.  
30 119.07(1) and s. 24(a), Art. I of the State Constitution.

31 (2) A physician's identifying information held by the  
32 department in the electronic medical marijuana patient registry  
33 established under s. 381.994, including, but not limited to, the  
34 physician's name, address, telephone number, government-issued  
35 identification number, and Drug Enforcement Administration  
36 number, and all information pertaining to the physician's order  
37 for medical marijuana and the dispensing thereof are  
38 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
39 of the State Constitution.

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

42 (a) A law enforcement agency that is investigating a  
43 violation of law regarding cannabis in which the subject of the  
44 investigation claims an exception established under s. 381.994.

45 (b) A retail facility or employee approved by the  
46 department that is attempting to verify the authenticity of a  
47 physician's order for medical marijuana, including whether the  
48 order had been previously filled and whether the order was  
49 written for the person attempting to have it filled.

50 (c) A physician who has written an order for medical  
51 marijuana for the purpose of monitoring the patient's use of  
52 such cannabis or for the purpose of determining, before issuing

53 an order for medical marijuana, whether another physician has  
54 ordered the patient's use of medical 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 medical marijuana pursuant to ss. 381.991-  
58 381.9991.

59 (d) An employee of the department for the purposes of  
60 maintaining the registry and periodic reporting or disclosure of  
61 information that has been redacted to exclude personal  
62 identifying information.

63 (e) The department's relevant health care regulatory  
64 boards responsible for the licensure, regulation, or discipline  
65 of a physician if he or she is involved in a specific  
66 investigation of a violation of ss. 381.991-381.9991. If a  
67 health care regulatory board's investigation reveals potential  
68 criminal activity, the board may provide any relevant  
69 information to the appropriate law enforcement agency.

70 (4) All information released from the registry under  
71 subsection (3) remains confidential and exempt, and a person who  
72 receives access to such information must maintain the  
73 confidential and exempt status of the information received.

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

77 (6) This section is subject to the Open Government Sunset  
78 Review Act in accordance with s. 119.15 and shall stand repealed

79 on October 2, 2020, unless reviewed and saved from repeal  
80 through reenactment by the Legislature.

81 Section 2. The Legislature finds that it is a public  
82 necessity that identifying information of patients and  
83 physicians held by the Department of Health in the electronic  
84 medical marijuana patient registry established under s. 381.994,  
85 Florida Statutes, be made confidential and exempt from s.  
86 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
87 State Constitution. Specifically, the Legislature finds that it  
88 is a public necessity to make confidential and exempt from  
89 public records requirements the names, addresses, telephone  
90 numbers, and government-issued identification numbers of  
91 patients and physicians and any other information on or  
92 pertaining to a physician's order for medical marijuana written  
93 pursuant to s. 381.994, Florida Statutes, which are held in the  
94 registry. The choice made by a physician and his or her patient  
95 to use medical marijuana to treat that patient's medical  
96 condition or symptoms is a personal and private matter between  
97 those two parties. The availability of such information to the  
98 public could make the public aware of both the patient's use of  
99 medical marijuana and the patient's diseases or other medical  
100 conditions for which the patient is using medical marijuana. The  
101 knowledge of the patient's use of medical marijuana, the  
102 knowledge that the physician ordered the use of medical  
103 marijuana, and the knowledge of the patient's medical condition  
104 could be used to embarrass, humiliate, harass, or discriminate

105 against the patient and the physician. This information could be  
106 used as a discriminatory tool by an employer who disapproves of  
107 the patient's use of medical marijuana or of the physician's  
108 ordering such use. However, despite the potential hazards of  
109 collecting such information, maintaining the electronic medical  
110 marijuana patient registry established under s. 381.994, Florida  
111 Statutes, is necessary to prevent the diversion and nonmedical  
112 use of any medical marijuana. Thus, the Legislature finds that  
113 it is a public necessity to make confidential and exempt from  
114 public records requirements the identifying information of  
115 patients and physicians held by the Department of Health in the  
116 electronic medical marijuana patient registry established under  
117 s. 381.994, Florida Statutes.

118 Section 3. This act shall take effect on the same date  
119 that HB 683, or similar legislation establishing an electronic  
120 system to record a physician's orders for, and a patient's use  
121 of, medical marijuana takes effect, if such legislation is  
122 adopted in the same legislative session or an extension thereof  
123 and becomes a law.