

By Senator Brandes

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1                                   A bill to be entitled  
 2       An act relating to public records; creating s.  
 3       408.0641, F.S.; creating an exemption from public  
 4       records for identifying information in compassionate  
 5       and palliative care plans filed with the Clearinghouse  
 6       for Compassionate and Palliative Care Plans;  
 7       authorizing the disclosure of certain information to  
 8       certain entities and individuals; providing for future  
 9       legislative review and repeal of the exemption under  
 10      the Open Government Sunset Review Act; providing a  
 11      statement of public necessity; providing a contingent  
 12      effective date.

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

16           Section 1. Section 408.0641, Florida Statutes, is created  
 17 to read:

18           408.0641 Clearinghouse for compassionate and palliative  
 19 care plans; public records exemption.-

20           (1) Information held in the Clearinghouse for Compassionate  
 21 and Palliative Care Plans under s. 408.064 is confidential and  
 22 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 23 Constitution.

24           (2) The agency may disclose such confidential and exempt  
 25 information to the following persons or entities upon request  
 26 after using a verification process to ensure the legitimacy of  
 27 the request and the requestor's identity:

28           (a) A physician who certifies that the information is  
 29 necessary to provide medical treatment to a patient with a

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30 terminal illness who has a plan in the clearinghouse.

31 (b) A patient or the legal guardian or designated health  
32 care surrogate for a patient with a terminal illness who has a  
33 plan in the clearinghouse.

34 (c) A health care facility that certifies that the  
35 information is necessary to provide medical treatment to a  
36 patient with a terminal illness who has a plan in the  
37 clearinghouse.

38 (3) This section is subject to the Open Government Sunset  
39 Review Act in accordance with s. 119.15 and shall stand repealed  
40 on October 2, 2020, unless reviewed and saved from repeal  
41 through reenactment by the Legislature.

42 Section 2. The Legislature finds that it is a public  
43 necessity to make confidential and exempt from disclosure  
44 information held in the Clearinghouse for Compassionate and  
45 Palliative Care Plans which would identify a patient, his or her  
46 terminal illness, or the patient's family members. Such personal  
47 identifying information, if publicly available, could be used to  
48 invade the personal privacy of the patient or his or her family.  
49 The decisions made under a compassionate and palliative care  
50 plan for a terminal condition are a private matter. Furthermore,  
51 the public disclosure of such information could hinder the  
52 effective and efficient administration of the Clearinghouse for  
53 Compassionate and Palliative Care Plans. Public access to such  
54 information could reduce participation and minimize the  
55 effectiveness of compassionate and palliative care plans to meet  
56 the needs of individuals. Finally, access to such information  
57 could be used to solicit, harass, stalk, or intimidate  
58 clearinghouse participants or terminally ill patients or their

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59 families. Therefore, the Legislature finds that information held  
60 in the Clearinghouse for Compassionate and Palliative Care Plans  
61 which would identify a patient participating in the  
62 clearinghouse or which contains or reflects the patient's  
63 medical information should be confidential and exempt from  
64 public records requirements.

65 Section 3. This act shall take effect on the same date that  
66 SB 1052 or similar legislation takes effect if such legislation  
67 is adopted in the same legislative session or an extension  
68 thereof and becomes a law.