

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 at the
7 Agency for Health Care Administration; authorizing the
8 disclosure of certain information to certain entities
9 and individuals; providing for future legislative
10 review and repeal of the exemption under the Open
11 Government Sunset Review Act; providing a statement of
12 public necessity; providing a contingent effective
13 date.

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

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

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

21 (1) Information held in the clearinghouse for compassionate
22 and palliative care plans at the Agency for Health Care
23 Administration under s. 408.064 is confidential and exempt from
24 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

29 (a) A physician who certifies that the information is

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30 necessary to provide medical treatment to a patient with a
31 terminal illness who has a plan in the clearinghouse.

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

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

39 (3) This section is subject to the Open Government Sunset
40 Review Act in accordance with s. 119.15 and shall stand repealed
41 on October 2, 2021, unless reviewed and saved from repeal
42 through reenactment by the Legislature.

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

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59 clearinghouse participants or terminally ill patients or their
60 families. Therefore, the Legislature finds that information held
61 in the clearinghouse for compassionate and palliative care plans
62 which would identify a patient participating in the
63 clearinghouse or which contains or reflects the patient's
64 medical information should be confidential and exempt from
65 public records requirements.

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