

By the Committee on Health Policy; and Senator Brandes

588-02880-16

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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 or its designee;
8 authorizing the disclosure of certain information to
9 certain entities and individuals; providing for future
10 legislative review and repeal of the exemption under
11 the Open Government Sunset Review Act; providing a
12 statement of public necessity; providing a contingent
13 effective 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 or its designee under s. 408.064 is confidential
24 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
25 Constitution.

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

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

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33 terminal illness who has a plan in the clearinghouse.

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

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

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42 Review Act in accordance with s. 119.15 and shall stand repealed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

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

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

68 Section 3. This act shall take effect on the same date that
69 SB 664 or similar legislation takes effect if such legislation
70 is adopted in the same legislative session or an extension
71 thereof and becomes a law.