

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 personal identifying information in
 5 compassionate and palliative care plans filed with the
 6 Clearinghouse for Compassionate and Palliative Care
 7 Plans managed by the Agency for Health Care
 8 Administration or its designee; authorizing the
 9 disclosure of such information to certain entities and
 10 individuals; providing for future legislative review
 11 and repeal of the exemption under the Open Government
 12 Sunset Review Act; providing a statement of public
 13 necessity; providing a contingent 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) Personal identifying information held in the
 22 Clearinghouse for Compassionate and Palliative Care Plans
 23 managed by the Agency for Health Care Administration or its
 24 designee under s. 408.064 is confidential and exempt from s.
 25 119.07(1) and s. 24(a), Art. I of the State 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42 Review Act in accordance with s. 119.15 and shall stand repealed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, 2022, 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.
56 Public access to such information could reduce participation in
57 and minimize the effectiveness of compassionate and palliative
58 care plans to meet the needs of individuals. Finally, access to
59 such information could be used to solicit, harass, stalk, or
60 intimidate terminally ill patients or their families. Therefore,
61 the Legislature finds that information held in the clearinghouse

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62 which would identify a patient who has a plan on file with 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 228 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.