

By the Committee on Health Policy

588-01045-22

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 381.987, F.S., which
4 provides an exemption from public records requirements
5 for personal identifying information relating to
6 medical marijuana held by the Department of Health;
7 removing the scheduled repeal of the exemption;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Section 381.987, Florida Statutes, is amended to
13 read:

14 381.987 Public records exemption for personal identifying
15 information relating to medical marijuana held by the
16 department.—

17 (1) The following information is confidential and exempt
18 from s. 119.07(1) and s. 24(a), Art. I of the State
19 Constitution:

20 (a) A patient's or caregiver's personal identifying
21 information held by the department in the medical marijuana use
22 registry established under s. 381.986, including, but not
23 limited to, the patient's or caregiver's name, address, date of
24 birth, photograph, and telephone number.

25 (b) All personal identifying information collected for the
26 purpose of issuing a patient's or caregiver's medical marijuana
27 use registry identification card described in s. 381.986.

28 (c) All personal identifying information pertaining to the
29 physician certification for marijuana and the dispensing thereof

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30 held by the department, including, but not limited to,
31 information related to the patient's diagnosis, exception
32 requests to the daily dose amount limit, and the qualified
33 patient's experience related to the medical use of marijuana.

34 (d) A qualified physician's Drug Enforcement Administration
35 number, residential address, and government-issued
36 identification card.

37 (2) The department shall allow access to the confidential
38 and exempt information in the medical marijuana use registry to:

39 (a) A law enforcement agency that is investigating a
40 violation of law regarding marijuana in which the subject of the
41 investigation claims an exception established under s. 381.986,
42 except for information related to the patient's diagnosis.

43 (b) A medical marijuana treatment center approved by the
44 department pursuant to s. 381.986 which is attempting to verify
45 the authenticity of a physician certification for marijuana,
46 including whether the certification had been previously filled
47 and whether the certification was issued for the person
48 attempting to have it filled, except for information related to
49 the patient's diagnosis.

50 (c) A physician who has issued a certification for
51 marijuana for the purpose of monitoring the patient's use of
52 such marijuana or for the purpose of determining, before issuing
53 a certification for marijuana, whether another physician has
54 issued a certification for the patient's use of marijuana. The
55 physician may access the confidential and exempt information
56 only for the patient for whom he or she has issued a
57 certification or is determining whether to issue a certification
58 for the use of marijuana pursuant to s. 381.986.

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59 (d) A practitioner licensed to prescribe prescription
60 medications to ensure proper care of a patient before
61 prescribing medication to that patient which may interact with
62 marijuana.

63 (e) An employee of the department for the purposes of
64 maintaining the registry and periodic reporting or disclosure of
65 information that has been redacted to exclude personal
66 identifying information.

67 (f) An employee of the department for the purposes of
68 reviewing physician registration and the issuance of physician
69 certifications to monitor practices that could facilitate
70 unlawful diversion or the misuse of marijuana or a marijuana
71 delivery device.

72 (g) The department's relevant health care regulatory boards
73 responsible for the licensure, regulation, or discipline of a
74 physician if he or she is involved in a specific investigation
75 of a violation of s. 381.986. If a health care regulatory
76 board's investigation reveals potential criminal activity, the
77 board may provide any relevant information to the appropriate
78 law enforcement agency.

79 (h) The Consortium for Medical Marijuana Clinical Outcomes
80 Research established in s. 1004.4351(4).

81 (i) A person engaged in bona fide research if the person
82 agrees:

83 1. To submit a research plan to the department which
84 specifies the exact nature of the information requested and the
85 intended use of the information;

86 2. To maintain the confidentiality of the records or
87 information if personal identifying information is made

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88 available to the researcher;

89 3. To destroy any confidential and exempt records or
90 information obtained after the research is concluded; and

91 4. Not to contact, directly or indirectly, for any purpose,
92 a patient or physician whose information is in the registry.

93 (3) The department shall allow access to the confidential
94 and exempt information pertaining to the physician certification
95 for marijuana and the dispensing thereof, whether in the
96 registry or otherwise held by the department, to:

97 (a) An employee of the department for the purpose of
98 approving or disapproving a request for an exception to the
99 daily dose amount limit for a qualified patient; and

100 (b) The Consortium for Medical Marijuana Clinical Outcomes
101 Research pursuant to s. 381.986 for the purpose of conducting
102 research regarding the medical use of marijuana.

103 (4) All information released by the department under
104 subsections (2) and (3) remains confidential and exempt, and a
105 person who receives access to such information must maintain the
106 confidential and exempt status of the information received.

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

110 ~~(6) This section is subject to the Open Government Sunset~~
111 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
112 ~~on October 2, 2022, unless reviewed and saved from repeal~~
113 ~~through reenactment by the Legislature.~~

114 Section 2. This act shall take effect October 1, 2022.