

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 401.452, F.S.; creating an exemption from public
 4 records requirements for personal identifying
 5 information held in the database for Patient-directed
 6 Doctor's Order forms; authorizing the disclosure of
 7 such information to certain entities and individuals
 8 under specified conditions; 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.

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

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 16 Section 1. Section 401.452, Florida Statutes, is created
 17 to read:

18 401.452 Database for Patient-directed Doctor's Order
 19 forms; public records exemption.—

20 (1) Personal identifying information held in the database
 21 for Patient-directed Doctor's Order (PDDO) forms created by the
 22 Agency for Health Care Administration and stored solely at the
 23 option of the patient in electronic form by the Department of
 24 Health under s. 401.451 is confidential and exempt from s.
 25 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

30 (a) A physician who certifies that the information is
31 necessary to provide medical treatment to a terminally ill
32 patient who has a form stored in the database.

33 (b) A terminally ill patient who has a PDDO form stored in
34 the database or such patient's legal guardian, designated health
35 care surrogate, or family member.

36 (c) A health care facility that certifies that the
37 information is necessary to provide medical treatment to a
38 terminally ill patient who has a PDDO form stored in the
39 database.

40 (3) This section is subject to the Open Government Sunset
41 Review Act in accordance with s. 119.15 and shall stand repealed
42 on October 2, 2029, unless reviewed and saved from repeal
43 through reenactment by the Legislature.

44 Section 2. The Legislature finds that it is a public
45 necessity to make confidential and exempt from disclosure
46 personal identifying information held in the database for
47 Patient-directed Doctor's Order (PDDO) forms which would
48 identify a terminally ill patient, his or her illness, or his or
49 her legal guardian, designated health care surrogate, or family
50 member. Such information, if publicly available, could be used

51 to invade the personal privacy of the terminally ill patient or
52 his or her legal guardian, designated health care surrogate, or
53 family member. The decisions made under a compassionate and
54 palliative care plan for a terminal illness are a private
55 matter. Furthermore, the public disclosure of such information
56 could hinder the effective and efficient administration of the
57 database. Public access to such information could reduce
58 participation in and minimize the effectiveness of compassionate
59 and palliative care plans to meet the needs of individuals.
60 Finally, access to such information could be used to solicit,
61 harass, stalk, or intimidate terminally ill patients or their
62 legal guardians, designated health care surrogates, or family
63 members. Therefore, the Legislature finds that personal
64 identifying information held in the database which would
65 identify a terminally ill patient, or his or her legal guardian,
66 designated health care surrogate, or family member, who has a
67 plan in the database or which contains or reflects the
68 terminally ill patient's medical information should be
69 confidential and exempt from public records requirements.

70 Section 3. This act shall take effect on the same date
71 that HB 219 or similar legislation takes effect if such
72 legislation is adopted in the same legislative session or an
73 extension thereof and becomes a law.