

PCB HQS 17-03

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 381.987, F.S.; exempting from public records
 4 requirements personal identifying information of
 5 patients and physicians held by the Department of
 6 Health in the medical marijuana use registry and
 7 information related to the physician's certification
 8 for marijuana and the dispensing thereof; authorizing
 9 specified persons and entities access to the exempt
 10 information; requiring that information released from
 11 the registry remain confidential and exempt; providing
 12 a criminal penalty; providing for future legislative
 13 review and repeal of the exemption; providing a
 14 statement of public necessity; providing an effective
 15 date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 381.987, Florida Statutes, is amended
 20 to read:

21 381.987 Public records exemption for personal identifying
 22 information in the medical marijuana ~~compassionate~~ use
 23 registry.—

24 (1) A patient's personal identifying information held by
 25 the department in the medical marijuana ~~compassionate~~ use

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26 registry established under s. 381.986, ~~including, but not~~
 27 ~~limited to, the patient's name, address, telephone number, and~~
 28 ~~government-issued identification number,~~ and all information
 29 pertaining to the physician's certification order for marijuana
 30 ~~low-THC cannabis~~ and the dispensing thereof, are confidential
 31 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 32 Constitution.

33 (2) A physician's personal identifying information and
 34 Drug Enforcement Administration number held by the department in
 35 the medical marijuana ~~compassionate~~ use registry established
 36 under s. 381.986, ~~including, but not limited to, the physician's~~
 37 ~~name, address, telephone number, government-issued~~
 38 ~~identification number, and Drug Enforcement Administration~~
 39 ~~number,~~ and all information pertaining to the physician's
 40 certification order for marijuana ~~low-THC cannabis~~ and the
 41 dispensing thereof, are confidential and exempt from s.
 42 119.07(1) and s. 24(a), Art. I of the State Constitution.

43 (3) The department shall allow access to the confidential
 44 and exempt information in the medical marijuana use registry,
 45 ~~including access to confidential and exempt information,~~ to:

46 (a) A law enforcement agency that is investigating a
 47 violation of law regarding marijuana ~~cannabis~~ in which the
 48 subject of the investigation claims an exception established
 49 under s. 381.986.

50 (b) A medical marijuana treatment center ~~dispensing~~

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51 | ~~organization~~ approved by the department pursuant to s. 381.986
 52 | which is attempting to verify the authenticity of a physician's
 53 | certification order ~~order~~ for marijuana ~~low-THC cannabis~~, including
 54 | whether the certification order had been previously filled and
 55 | whether the certification order was issued ~~written~~ for the
 56 | person attempting to have it filled.

57 | (c) A physician who has issued a certification for
 58 | marijuana ~~written an order for low-THC cannabis~~ for the purpose
 59 | of monitoring the patient's use of such marijuana ~~cannabis~~ or
 60 | for the purpose of determining, before issuing a certification
 61 | for marijuana ~~an order for low-THC cannabis~~, whether another
 62 | physician has issued a certification for ~~ordered~~ the patient's
 63 | use of marijuana ~~low-THC cannabis~~. The physician may access the
 64 | confidential and exempt information only for the patient for
 65 | whom he or she has issued a certification ~~ordered~~ or is
 66 | determining whether to issue a certification for ~~order~~ the use
 67 | of marijuana ~~low-THC cannabis~~ pursuant to s. 381.986.

68 | (d) An employee of the department for the purposes of
 69 | maintaining the registry and periodic reporting or disclosure of
 70 | information that has been redacted to exclude personal
 71 | identifying information.

72 | (e) The department's relevant health care regulatory
 73 | boards responsible for the licensure, regulation, or discipline
 74 | of a physician if he or she is involved in a specific
 75 | investigation of a violation of s. 381.986. If a health care

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76 regulatory board's investigation reveals potential criminal
 77 activity, the board may provide any relevant information to the
 78 appropriate law enforcement agency.

79 (f) A person engaged in bona fide research if the person
 80 agrees:

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

84 2. To maintain the confidentiality of the records or
 85 information if personal identifying information is made
 86 available to the researcher;

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

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

92 (4) All information released from the registry under
 93 subsection (3) remains confidential and exempt, and a person who
 94 receives access to such information must maintain the
 95 confidential and exempt status of the information received.

96 (5) A person who willfully and knowingly violates this
 97 section commits a felony of the third degree, punishable as
 98 provided in s. 775.082 or, s. 775.083, ~~or s. 775.084~~.

99 (6) This section is subject to the Open Government Sunset
 100 Review Act in accordance with s. 119.15 and shall stand repealed

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101 on October 2, ~~2019~~, unless reviewed and saved from repeal
 102 through reenactment by the Legislature.

103 Section 2. The Legislature finds that it is a public
 104 necessity that identifying information of patients and
 105 physicians held by the Department of Health in the medical
 106 marijuana use registry established under s. 381.986, Florida
 107 Statutes, be made confidential and exempt from s. 119.07(1),
 108 Florida Statutes, and s. 24(a), Article I of the State
 109 Constitution. The Legislature further finds that it is a public
 110 necessity to make confidential and exempt from s. 119.07(1),
 111 Florida Statutes, and s. 24(a), Article I of the State
 112 Constitution all information held in the medical marijuana use
 113 registry that pertains to a physician's certification for
 114 marijuana and the dispensing thereof pursuant to s. 381.986,
 115 Florida Statutes. The choice made by a physician to certify and
 116 his or her patient to use marijuana to treat the patient's
 117 medical condition or symptoms is a personal and private matter
 118 between those two parties. The availability of such information
 119 could make the public aware of both the patient's use of
 120 marijuana and the patient's diseases or other medical conditions
 121 for which the patient is using marijuana. The knowledge of the
 122 patient's use of marijuana, the knowledge that the physician
 123 certified the use of marijuana, and the knowledge of the
 124 patient's diseases or other medical conditions could be used to
 125 embarrass, humiliate, harass, or discriminate against the

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126 | patient and the physician. This information could be used as a
 127 | discriminatory tool by an employer who disapproves of the
 128 | patient's use of marijuana or of the physician's certification
 129 | of such use. However, despite the potential hazards of
 130 | collecting such information, maintaining the medical marijuana
 131 | use registry established under s. 381.986, Florida Statutes, is
 132 | necessary to prevent the diversion and nonmedical use of
 133 | marijuana as well as to aid and improve research done on the
 134 | efficacy of marijuana. Therefore, the Legislature finds that it
 135 | is a public necessity to make confidential and exempt from
 136 | public records requirements the identifying information of
 137 | patients and physicians held by the Department of Health in the
 138 | medical marijuana use registry established under s. 381.986,
 139 | Florida Statutes, and all information held in the registry that
 140 | pertains to a physician's certification for marijuana and the
 141 | dispensing thereof pursuant to s. 381.986, Florida Statutes.

142 | Section 3. This act shall take effect on the same date
 143 | that HB 1397 or similar legislation takes effect, if such
 144 | legislation is adopted in the same legislative session or an
 145 | extension thereof and becomes a law, if such legislation is
 146 | adopted in the same legislative session or an extension thereof
 147 | and becomes a law.