

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Harrell offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 385.321, Florida Statutes, is created
6 to read:

7 385.321 Public records exemption for personal identifying
8 information in the refractory epilepsy relief registry.-

9 (1) A patient's personal identifying information held by
10 the department in the refractory epilepsy relief registry
11 established under s. 385.32, including, but not limited to, the
12 patient's name, address, telephone number, and government-issued
13 identification number, and all information pertaining to the
14 physician's prescription of medication, including cannabidiol,

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15 and the dispensing thereof are confidential and exempt from s.
16 119.07(1) and s. 24(a), Art. I of the State Constitution.

17 (2) A physician's identifying information held by the
18 department in the refractory epilepsy relief registry
19 established under s. 385.32, including, but not limited to, the
20 physician's name, address, telephone number, government-issued
21 identification number, and Drug Enforcement Administration
22 number, and all information pertaining to the physician's
23 prescription of medication, including cannabidiol, and the
24 dispensing thereof are confidential and exempt from s. 119.07(1)
25 and s. 24(a), Art. I of the State Constitution.

26 (3) The department shall allow access to the registry,
27 including access to confidential and exempt information, to:

28 (a) A physician who has prescribed medication, including
29 cannabidiol, for the purpose of monitoring the patient's use of
30 such medication or for the purpose of determining, before
31 prescribing medication, whether another physician has prescribed
32 the same medication for the patient. The physician may access
33 the confidential and exempt information only for the patient for
34 whom he or she has prescribed or is determining whether to
35 prescribe medication pursuant to s. 385.32.

36 (b) An employee of the department for the purposes of
37 maintaining the registry and periodic reporting or disclosure of
38 information that has been redacted to exclude personal
39 identifying information.

40 (c) The department's relevant health care regulatory

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41 boards responsible for the licensure, regulation, or discipline
42 of a physician if he or she is involved in a specific
43 investigation of a violation of s. 385.31 or s. 385.32. If a
44 health care regulatory board's investigation reveals potential
45 criminal activity, the board may provide any relevant
46 information to the appropriate law enforcement agency.

47 (d) A person engaged in bona fide research if the person
48 agrees:

49 1. To submit a research plan to the department which
50 specifies the exact nature of the information requested and the
51 intended use of the information;

52 2. To maintain the confidentiality of the records or
53 information if personal identifying information is made
54 available to the researcher;

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

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

60 (4) All information released from the registry under
61 subsection (3) remains confidential and exempt, and a person who
62 receives access to such information must maintain the
63 confidential and exempt status of the information received.

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

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67 (6) This section is subject to the Open Government Sunset
68 Review Act in accordance with s. 119.15 and shall stand repealed
69 on October 2, 2019, unless reviewed and saved from repeal
70 through reenactment by the Legislature.

71 Section 2. The Legislature finds that it is a public
72 necessity that identifying information of patients and
73 physicians held by the Department of Health in the refractory
74 epilepsy relief registry established under s. 385.32, Florida
75 Statutes, be made confidential and exempt from s. 119.07(1),
76 Florida Statutes, and s. 24(a), Article I of the State
77 Constitution. Specifically, the Legislature finds that it is a
78 public necessity to make confidential and exempt from public
79 records requirements the names, addresses, telephone numbers,
80 and government-issued identification numbers of patients and
81 physicians and any other information on or pertaining to a
82 physician's prescription for medication, including cannabidiol,
83 written pursuant to s. 385.31, Florida Statutes, which are held
84 in the registry. The choice made by a physician and his or her
85 patient to use medication, including cannabidiol, to treat that
86 patient's medical condition or symptoms is a personal and
87 private matter between those two parties. The availability of
88 such information to the public could make the public aware of
89 both the patient's use of medication and the patient's diseases
90 or other medical conditions for which the patient is using such
91 medication. The knowledge of the patient's use of medication,
92 including cannabidiol, the knowledge that the physician

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93 prescribed such medication, and the knowledge of the patient's
94 medical condition could be used to embarrass, humiliate, harass,
95 or discriminate against the patient and the physician. This
96 information could be used as a discriminatory tool by an
97 employer who disapproves of the patient's use of medication or
98 of the physician's prescribing such use. However, despite the
99 potential hazards of collecting such information, maintaining
100 the refractory epilepsy relief registry established under s.
101 385.32, Florida Statutes, is necessary to prevent the diversion
102 and nonmedical use of medication, including cannabidiol, as well
103 as to aid and improve research done on the efficacy of such
104 medication. Thus, the Legislature finds that it is a public
105 necessity to make confidential and exempt from public records
106 requirements the identifying information of patients and
107 physicians held by the Department of Health in the refractory
108 epilepsy relief registry established under s. 385.32, Florida
109 Statutes.

110 Section 3. This act shall take effect on the same date
111 that SB 1030, or similar legislation establishing a registry to
112 record a physician's prescriptions for, and a patient's use of,
113 medication, including cannabidiol, takes effect, if such
114 legislation is adopted in the same legislative session or an
115 extension thereof and becomes a law.

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118 **T I T L E A M E N D M E N T**

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119 Remove everything before the enacting clause and insert:
120 A bill to be entitled
121 An act relating to public records; creating s.
122 385.321, F.S.; exempting from public records
123 requirements personal identifying information of
124 patients and physicians held by the Department of
125 Health in the refractory epilepsy relief registry;
126 exempting information related to the prescribing and
127 dispensing of medication, including cannabidiol;
128 authorizing specified persons and entities access to
129 the confidential and exempt information; requiring
130 that information released from the registry remain
131 confidential; providing a criminal penalty; providing
132 for future legislative review and repeal; providing a
133 statement of public necessity; providing a contingent
134 effective date.

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