

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, caregivers, and physicians held by the  
 6           Department of Health in the medical marijuana use  
 7           registry and information related to the physician  
 8           certification for marijuana and the dispensing thereof  
 9           held by the department; authorizing specified persons  
 10          and entities access to the exempt information;  
 11          requiring that information released from the registry  
 12          or the department remain confidential and exempt;  
 13          providing a criminal penalty; providing for future  
 14          legislative review and repeal of the exemption;  
 15          providing a statement of public necessity; providing a  
 16          contingent effective date.

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

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

22           381.987   Public records exemption for personal identifying  
 23   information relating to medical marijuana held by ~~in~~ the  
 24   department ~~compassionate use registry.~~

25           (1)   The following information is confidential and exempt

26 | from s. 119.07(1) and s. 24(a), Art. I of the State  
27 | Constitution:

28 |     (a) A patient's or caregiver's personal identifying  
29 | information held by the department in the medical marijuana  
30 | compassionate use registry established under s. 381.986,  
31 | including, but not limited to, the patient's or caregiver's  
32 | name, address, date of birth, photograph, and telephone number.

33 |     (b) All personal identifying information collected for the  
34 | purpose of issuing a qualifying patient's or caregiver's medical  
35 | marijuana use registry identification card in accordance with s.  
36 | 381.896., and government-issued identification number, and

37 |     (c) All personal identifying information pertaining to the  
38 | physician certification physician's order for marijuana low-THC  
39 | cannabis and the dispensing thereof held by the department,  
40 | including, but not limited to, information related to the  
41 | patient's diagnosis, exception requests to the daily dose amount  
42 | limit, and the qualified patient's experience related to the  
43 | medical use of marijuana are confidential and exempt from s.  
44 | 119.07(1) and s. 24(a), Art. I of the State Constitution.

45 |     (d)(2) A qualified physician's Drug Enforcement  
46 | Administration number, residential address, and government-  
47 | issued identification card identifying information held by the  
48 | department in the compassionate use registry established under  
49 | s. 381.986, including, but not limited to, the physician's name,  
50 | address, telephone number, government-issued identification

51 ~~number, and Drug Enforcement Administration number, and all~~  
52 ~~information pertaining to the physician's order for low-THC~~  
53 ~~cannabis and the dispensing thereof are confidential and exempt~~  
54 ~~from s. 119.07(1) and s. 24(a), Art. I of the State~~  
55 ~~Constitution.~~

56 (2)~~(3)~~ The department shall allow access to the ~~registry,~~  
57 ~~including access to~~ confidential and exempt information in the  
58 medical marijuana use registry, to:

59 (a) A law enforcement agency that is investigating a  
60 violation of law regarding marijuana ~~cannabis~~ in which the  
61 subject of the investigation claims an exception established  
62 under s. 381.986, except for information related to the  
63 patient's diagnosis.

64 (b) A medical marijuana treatment center ~~dispensing~~  
65 ~~organization~~ approved by the department pursuant to s. 381.986  
66 which is attempting to verify the authenticity of a physician  
67 certification ~~physician's order for marijuana low-THC cannabis,~~  
68 including whether the certification ~~order~~ had been previously  
69 filled and whether the certification ~~order~~ was issued ~~written~~  
70 for the person attempting to have it filled, except for  
71 information related to the patient's diagnosis.

72 (c) A physician who has issued a certification for  
73 marijuana ~~written an order for low-THC cannabis~~ for the purpose  
74 of monitoring the patient's use of such marijuana ~~cannabis~~ or  
75 for the purpose of determining, before issuing a certification

76 | ~~an order~~ for marijuana low-THC cannabis, whether another  
77 | physician has issued a certification for ~~ordered~~ the patient's  
78 | use of marijuana low-THC cannabis. The physician may access the  
79 | confidential and exempt information only for the patient for  
80 | whom he or she has issued a certification ~~ordered~~ or is  
81 | determining whether to issue a certification for ~~order~~ the use  
82 | of marijuana low-THC cannabis pursuant to s. 381.986.

83 | (d) A practitioner licensed to prescribe prescription  
84 | medications to ensure proper care for a patient before  
85 | prescribing medication that may interact with marijuana.

86 | (e)-(d) An employee of the department for the purposes of  
87 | maintaining the registry and periodic reporting or disclosure of  
88 | information that has been redacted to exclude personal  
89 | identifying information.

90 | (f) An employee of the department for the purpose of  
91 | monitoring physician registration in the registry and the  
92 | issuance of physician certifications for practices that could  
93 | facilitate unlawful diversion or misuse of marijuana or a  
94 | marijuana delivery device.

95 | (g)-(e) The department's relevant health care regulatory  
96 | boards responsible for the licensure, regulation, or discipline  
97 | of a physician if he or she is involved in a specific  
98 | investigation of a violation of s. 381.986. If a health care  
99 | regulatory board's investigation reveals potential criminal  
100 | activity, the board may provide any relevant information to the

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101 appropriate law enforcement agency.

102 (h) The Coalition for Medical Marijuana Research and  
 103 Education established in s. 1004.4351(4).

104 (i)~~(f)~~ A person engaged in bona fide research if the  
 105 person agrees:

106 1. To submit a research plan to the department which  
 107 specifies the exact nature of the information requested and the  
 108 intended use of the information;

109 2. To maintain the confidentiality of the records or  
 110 information if personal identifying information is made  
 111 available to the researcher;

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

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

117 (3) The department shall allow access to the confidential  
 118 and exempt information pertaining to the physician certification  
 119 for marijuana and the dispensing thereof, whether in the  
 120 registry or otherwise held by the department, to:

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

124 (b) The Coalition for Medical Marijuana Research and  
 125 Education pursuant to s. 381.986 for the purpose of conducting

126 research regarding the medical use of marijuana.

127 (4) All information released by the department ~~from the~~  
 128 ~~registry~~ under subsections ~~subsection~~ (2) and (3) remains  
 129 confidential and exempt, and a person who receives access to  
 130 such information must maintain the confidential and exempt  
 131 status of the information received.

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

135 (6) This section is subject to the Open Government Sunset  
 136 Review Act in accordance with s. 119.15 and shall stand repealed  
 137 on October 2, 2022 ~~2019~~, unless reviewed and saved from repeal  
 138 through reenactment by the Legislature.

139 Section 2. The Legislature finds that it is a public  
 140 necessity that personal identifying information of patients,  
 141 caregivers, and physicians held by the Department of Health in  
 142 the medical marijuana use registry established under s. 381.986,  
 143 Florida Statutes, be made confidential and exempt from s.  
 144 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 145 State Constitution. The Legislature further finds that it is a  
 146 public necessity to make confidential and exempt from s.  
 147 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 148 State Constitution all personal identifying information held in  
 149 the medical marijuana use registry or by the department which  
 150 pertains to a physician certification for marijuana and the

151 dispensing thereof pursuant to s. 381.986, Florida Statutes. The  
152 choice made by a physician to certify, and by his or her patient  
153 to use, marijuana to treat the patient's medical condition or  
154 symptoms and the choice made by a caregiver to assist a  
155 qualifying patient with the medical use of marijuana is a  
156 personal and private matter between such parties. The  
157 availability of such information could make the public aware of  
158 both the patient's use of marijuana and the patient's diseases  
159 or other medical conditions for which the patient is using  
160 marijuana. The knowledge of the patient's use of marijuana, the  
161 knowledge that the physician certified the use of marijuana, the  
162 knowledge of the patient's diseases or other medical conditions,  
163 and the knowledge that a caregiver is assisting a patient with  
164 the medical use of marijuana could be used to embarrass,  
165 humiliate, harass, or discriminate against the patient, the  
166 caregiver, or the physician. This information could be used as a  
167 discriminatory tool by an employer who disapproves of the  
168 patient's use of marijuana, the caregiver's assistance in the  
169 use of marijuana, or the physician certification of such use.  
170 However, despite the potential hazards of collecting such  
171 information, maintaining the medical marijuana use registry  
172 established under s. 381.986, Florida Statutes, and collecting  
173 information pertaining to the physician certification for  
174 marijuana is necessary to prevent the diversion and nonmedical  
175 use of marijuana as well as to aid and improve research on the

176 | efficacy of marijuana. Therefore, the Legislature finds that it  
177 | is a public necessity to make confidential and exempt from  
178 | public records requirements the personal identifying information  
179 | of patients, caregivers, and physicians held by the Department  
180 | of Health in the medical marijuana use registry established  
181 | under s. 381.986, Florida Statutes, and all personal identifying  
182 | information held in the registry or by the department that  
183 | pertains to a physician certification for marijuana and the  
184 | dispensing thereof pursuant to s. 381.986, Florida Statutes.

185 |       Section 3. This act shall take effect on the same date  
186 | that HB 5A or similar legislation takes effect, if such  
187 | legislation is adopted in the same legislative session or an  
188 | extension thereof and becomes a law.