

1 A bill to be entitled
 2 An act relating to public records; transferring,
 3 renumbering, and amending s. 381.987, F.S.; exempting
 4 from public records requirements personal identifying
 5 information of patients and physicians held by the
 6 Department of Health in the low-THC cannabis patient
 7 registry or the former compassionate use registry;
 8 exempting information related to ordering and
 9 dispensing low-THC cannabis; authorizing specified
 10 persons and entities access to the exempt information;
 11 requiring that information released from the registry
 12 remain confidential; providing a criminal penalty;
 13 providing for future legislative review and repeal;
 14 providing a statement of public necessity; providing a
 15 contingent effective date.

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

18
 19 Section 1. Section 381.987, Florida Statutes, is
 20 transferred, renumbered as section 381.9941, Florida Statutes,
 21 and amended to read:

22 381.9941 ~~381.987~~ Public records exemption for personal
 23 identifying information in the low-THC cannabis patient
 24 ~~compassionate use~~ registry.-

25 (1) A patient's personal identifying information held by
 26 the department in the low-THC cannabis patient ~~compassionate use~~

27 | registry established under s. 381.994 or the compassionate use
 28 | registry established under former s. 381.986, including, but not
 29 | limited to, the patient's name, address, telephone number, and
 30 | government-issued identification number, and all information
 31 | pertaining to the physician's order for low-THC cannabis and the
 32 | dispensing thereof are confidential and exempt from s. 119.07(1)
 33 | and s. 24(a), Art. I of the State Constitution.

34 | (2) A physician's identifying information held by the
 35 | department in the low-THC cannabis patient ~~compassionate use~~
 36 | registry established under s. 381.994 or the compassionate use
 37 | registry established under former s. 381.986, including, but not
 38 | limited to, the physician's name, address, telephone number,
 39 | government-issued identification number, and Drug Enforcement
 40 | Administration registration number, and all information
 41 | pertaining to the physician's order for low-THC cannabis and the
 42 | dispensing thereof are confidential and exempt from s. 119.07(1)
 43 | and s. 24(a), Art. I of the State Constitution.

44 | (3) The department shall allow access to the 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 cannabis in which the subject of the
 48 | investigation claims an exception established under s. 381.986.

49 | (b) A retail facility ~~dispensing organization~~ approved by
 50 | the department pursuant to s. 381.995 ~~381.986~~ which is
 51 | attempting to verify the authenticity of a physician's order for
 52 | low-THC cannabis, including whether the order had been

53 | previously filled and whether the order was written for the
54 | person attempting to have it filled.

55 | (c) A physician who has written an order for low-THC
56 | cannabis for the purpose of monitoring the patient's use of such
57 | cannabis or for the purpose of determining, before issuing an
58 | order for low-THC cannabis, whether another physician has
59 | ordered the patient's use of low-THC cannabis. The physician may
60 | access the confidential and exempt information only for the
61 | patient for whom he or she has ordered or is determining whether
62 | to order the use of low-THC cannabis pursuant to s. 381.996
63 | ~~381.986~~.

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

68 | (e) The department's relevant health care regulatory
69 | boards responsible for the licensure, regulation, or discipline
70 | of a physician if he or she is involved in a specific
71 | investigation of a violation of s. 381.992 or s. 381.998
72 | ~~381.986~~. If a health care regulatory board's investigation
73 | reveals potential criminal activity, the board may provide any
74 | relevant information to the appropriate law enforcement agency.

75 | (f) A person engaged in bona fide research if the person
76 | agrees:

77 | 1. To submit a research plan to the department which
78 | specifies the exact nature of the information requested and the

79 | intended use of the information;

80 | 2. To maintain the confidentiality of the records or
81 | information if personal identifying information is made
82 | available to the researcher;

83 | 3. To destroy any confidential and exempt records or
84 | information obtained after the research is concluded; and

85 | 4. Not to contact, directly or indirectly, for any
86 | purpose, a patient or physician whose information is in the
87 | registry.

88 | (4) All information released from the registry under
89 | subsection (3) remains confidential and exempt, and a person who
90 | receives access to such information must maintain the
91 | confidential and exempt status of the information received.

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

95 | (6) This section is subject to the Open Government Sunset
96 | Review Act in accordance with s. 119.15 and shall stand repealed
97 | on October 2, 2021 ~~2019~~, unless reviewed and saved from repeal
98 | through reenactment by the Legislature.

99 | Section 2. The Legislature finds that it is a public
100 | necessity that identifying information of patients and
101 | physicians held by the Department of Health in the low-THC
102 | cannabis patient registry established under s. 381.994, Florida
103 | Statutes, or the compassionate use registry established under
104 | former s. 381.986, Florida Statutes, be made confidential and

105 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
106 Article I of the State Constitution. Specifically, the
107 Legislature finds that it is a public necessity to make
108 confidential and exempt from public records requirements the
109 names, addresses, telephone numbers, and government-issued
110 identification numbers of patients and physicians and any other
111 information on or pertaining to a physician's order for low-THC
112 cannabis written pursuant to ss. 381.99-381.9991, Florida
113 Statutes, or former s. 381.986, Florida Statutes, held in the
114 registry. The choice made by a physician and his or her patient
115 to use low-THC cannabis to treat that patient's medical
116 condition or symptoms is a personal and private matter between
117 those two parties. The availability of such information to the
118 public could make the public aware of both the patient's use of
119 low-THC cannabis and the patient's diseases or other medical
120 conditions for which the patient is using low-THC cannabis. The
121 knowledge of the patient's use of low-THC cannabis, the
122 knowledge that the physician ordered the use of low-THC
123 cannabis, and the knowledge of the patient's medical condition
124 could be used to embarrass, humiliate, harass, or discriminate
125 against the patient and the physician. This information could be
126 used as a discriminatory tool by an employer who disapproves of
127 the patient's use of low-THC cannabis or of the physician's
128 ordering such use. However, despite the potential hazards of
129 collecting such information, maintaining the low-THC cannabis
130 registry established under s. 381.994, Florida Statutes, is

131 necessary to prevent the diversion and nonmedical use of any
132 low-THC cannabis as well as to aid and improve research done on
133 the efficacy of low-THC cannabis. Thus, the Legislature finds
134 that it is a public necessity to make confidential and exempt
135 from public records requirements the identifying information of
136 patients and physicians held by the Department of Health in the
137 low-THC cannabis registry established under s. 381.994, Florida
138 Statutes, or the compassionate use registry established under
139 former s. 381.986, Florida Statutes.

140 Section 3. This act shall take effect on the same date
141 that HB 63, or similar legislation establishing an electronic
142 system to record a physician's orders for, and a patient's use
143 of, low-THC cannabis takes effect, if such legislation is
144 adopted in the same legislative session or an extension thereof
145 and becomes a law.