

CHAPTER 98-321

Committee Substitute for Committee Substitute for House Bill No. 3311

An act relating to public records; providing an exemption from public records requirements for information contained in a notification of an adverse incident provided to the Agency for Health Care Administration by a facility licensed under ch. 395, F.S.; providing that such information is not discoverable or admissible in a civil action or administrative proceeding unless such action or proceeding is a disciplinary proceeding conducted by the agency or a regulatory board; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

Section 1. The information contained in the notification of an adverse incident, which is required under s. 395.0197(7), Florida Statutes, and provided to the Agency for Health Care Administration by a facility licensed under chapter 395, Florida Statutes, is confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. In addition, the information is not discoverable or admissible in a civil or administrative action, unless the action is a disciplinary proceeding by the Agency for Health Care Administration or the appropriate regulatory board. The information may not be made available to the public as part of the record of investigation or prosecution in a disciplinary proceeding which is made available by the Agency for Health Care Administration or a regulatory board. This exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that the exemption from public disclosure provided for in section 1 of this act is a public necessity because it would be an invasion of a patient's privacy for such personal, sensitive information contained in the notification of an adverse incident to be publicly available. Furthermore, the Legislature finds that failure to protect the confidentiality of any information submitted to or collected by the Agency for Health Care Administration pursuant to s. 395.0197(7), Florida Statutes, regarding an adverse incident, including, but not limited to, the identity of the patient, the type of adverse incident, potential risk to other patients, and the fact that an investigation is being conducted, would deter the collection and reporting of this information to the agency. This would prevent the agency from effectively carrying out its responsibility to enforce corrective measures by a facility regarding the occurrence of an adverse incident. Release of such information would deter licensed facilities from internally reporting and correcting situations resulting in adverse incidents. This could lead to the deterioration of services rendered, all to the detriment of the health of those served. This exemption simply extends existing exemptions already in s. 395.0197, Florida Statutes, regarding the same information to the new,

earlier reporting requirement. The Legislature has thus consistently and repeatedly acknowledged the public necessity of these types of exemptions.

Section 3. This act shall take effect on the effective date of the amendment to s. 395.0197, Florida Statutes, contained in Committee Substitute for Senate Bill 314 or Committee Substitute for Committee Substitute for Committee Substitute for House Bill 349, relating to the regulation of health care facilities, or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof.

Became a law without the Governor's approval May 30, 1998.

Filed in Office Secretary of State May 29, 1998.