

## CHAPTER 2014-158

### Senate Bill No. 1700

An act relating to public records; creating s. 381.987, F.S.; exempting from public records requirements personal identifying information of patients and physicians held by the Department of Health in the compassionate use registry; exempting information related to ordering and dispensing low-THC cannabis; authorizing specified persons and entities access to the exempt information; requiring that information released from the registry remain confidential; providing a criminal penalty; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 381.987, Florida Statutes, is created to read:

381.987 Public records exemption for personal identifying information in the compassionate use registry.—

(1) A patient's personal identifying information held by the department in the compassionate use registry established under s. 381.986, including, but not limited to, the patient's name, address, telephone number, and government-issued identification number, and all information pertaining to the physician's order for low-THC cannabis and the dispensing thereof are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

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

(b) A dispensing organization approved by the department pursuant to s. 381.986 which is attempting to verify the authenticity of a physician's order for low-THC cannabis, including whether the order had been previously filled and whether the order was written for the person attempting to have it filled.

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

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

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

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

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

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

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

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

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

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

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

Section 2. The Legislature finds that it is a public necessity that identifying information of patients and physicians held by the Department of Health in the compassionate use registry established under s. 381.986, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Specifically, the

Legislature finds that it is a public necessity to make confidential and exempt from public records requirements the names, addresses, telephone numbers, and government-issued identification numbers of patients and physicians and any other information on or pertaining to a physician's order for low-THC cannabis written pursuant to s. 381.986, Florida Statutes, which are held in the registry. The choice made by a physician and his or her patient to use low-THC cannabis to treat that patient's medical condition or symptoms is a personal and private matter between those two parties. The availability of such information to the public could make the public aware of both the patient's use of low-THC cannabis and the patient's diseases or other medical conditions for which the patient is using low-THC cannabis. The knowledge of the patient's use of low-THC cannabis, the knowledge that the physician ordered the use of low-THC cannabis, and the knowledge of the patient's medical condition could be used to embarrass, humiliate, harass, or discriminate against the patient and the physician. This information could be used as a discriminatory tool by an employer who disapproves of the patient's use of low-THC cannabis or of the physician's ordering such use. However, despite the potential hazards of collecting such information, maintaining the compassionate use registry established under s. 381.986, Florida Statutes, is necessary to prevent the diversion and nonmedical use of any low-THC cannabis as well as to aid and improve research done on the efficacy of low-THC cannabis. Thus, the Legislature finds that it is a public necessity to make confidential and exempt from public records requirements the identifying information of patients and physicians held by the Department of Health in the compassionate use registry established under s. 381.986, Florida Statutes.

Section 3. This act shall take effect on the same date that SB 1030, or similar legislation establishing an electronic system to record a physician's orders for, and a patient's use of, low-THC cannabis takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor June 16, 2014.

Filed in Office Secretary of State June 16, 2014.