

## CHAPTER 2017-231

### Senate Bill No. 6-A

An act relating to public records; amending s. 381.987, F.S.; exempting from public records requirements personal identifying information of patients, caregivers, and physicians held by the Department of Health in the medical marijuana use registry and personal identifying information related to the physician certification for marijuana and the dispensing thereof held by the department; authorizing specified persons and entities access to the exempt information; requiring that information released from the registry or the department remain confidential and exempt; providing a criminal penalty; providing for future legislative review and repeal of the exemption; 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 amended to read:

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

(1) The following information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

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

(b) All personal identifying information collected for the purpose of issuing a patient's or caregiver's medical marijuana use registry identification card described in s. 381.896. ~~and government-issued identification number, and~~

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

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

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

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

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

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

(d) A practitioner licensed to prescribe prescription medications to ensure proper care of a patient before prescribing medication to that patient which may interact with marijuana.

~~(e)(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.

(f) An employee of the department for the purposes of reviewing physician registration and the issuance of physician certifications to monitor practices that could facilitate unlawful diversion or the misuse of marijuana or a marijuana delivery device.

~~(g)(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.

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

(i)(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.

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

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

(b) The Coalition for Medical Marijuana Research and Education pursuant to s. 381.986 for the purpose of conducting research regarding the medical use of marijuana.

(4) All information released by the department from the registry under subsections ~~subsection (2) and~~ (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 ~~or~~; 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, ~~2022~~ 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that personal identifying information of patients, caregivers, and physicians, including the name, residential address, date of birth, photograph, telephone number, government-issued identification card, Drug Enforcement Administration number, and other personal identifying information collected for purposes of issuing a medical marijuana use registry identification card issued under s. 381.986, Florida Statutes, held by the Department of Health in the medical

marijuana 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. The Legislature further finds that it is a public necessity to make confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution all personal identifying information, including but not limited to information related to the qualified patient's diagnosis, exception requests to the daily dose amount limit, and the qualified patient's experience related to the medical use of marijuana, held in the medical marijuana use registry or by the department which pertains to a physician certification for marijuana and the dispensing thereof pursuant to s. 381.986, Florida Statutes. The choice made by a physician to certify, and by his or her patient to use, marijuana to treat the patient's medical condition or symptoms and the choice made by a caregiver to assist a qualifying patient with the medical use of marijuana is a personal and private matter between such parties. The availability of such information could make the public aware of both the patient's use of marijuana and the patient's diseases or other medical conditions for which the patient is using marijuana. The knowledge of the patient's use of marijuana, the knowledge that the physician certified the use of marijuana, the knowledge of the patient's diseases or other medical conditions, and the knowledge that a caregiver is assisting a patient with the medical use of marijuana could be used to embarrass, humiliate, harass, or discriminate against the patient, the caregiver, or the physician. This information could be used as a discriminatory tool by an employer who disapproves of the patient's use of marijuana, the caregiver's assistance in the use of marijuana, or the physician certification of such use. However, despite the potential hazards of collecting such information, maintaining the medical marijuana use registry established under s. 381.986, Florida Statutes, and collecting information pertaining to the physician certification for marijuana is necessary to prevent the diversion and nonmedical use of marijuana as well as to aid and improve research on the efficacy of marijuana. Therefore, the Legislature finds that it is a public necessity to make confidential and exempt from public records requirements the personal identifying information of patients, caregivers, and physicians held by the Department of Health in the medical marijuana use registry established under s. 381.986, Florida Statutes, and all personal identifying information held in the registry or by the department that pertains to a physician certification for marijuana and the dispensing thereof pursuant to s. 381.986, Florida Statutes.

Section 3. This act shall take effect on the same date that SB 8A or similar legislation 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 23, 2017.

Filed in Office Secretary of State June 23, 2017.