

CHAPTER 98-256

Committee Substitute for House Bill No. 1437

An act relating to public records and meetings; amending s. 408.7056, F.S.; providing an exemption from public records requirements for certain personal information in documents, reports, or records prepared or reviewed by a provider and subscriber assistance panel or obtained by the Agency for Health Care Administration; providing an exemption for portions of meetings of such panels when a subscriber whose grievance will be discussed requests a closed meeting or when such information, or trade secret or internal risk management program information, is discussed; requiring recording of closed meetings; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

Section 1. Subsection (6) is added to section 408.7056, Florida Statutes, to read:

408.7056 Statewide Provider and Subscriber Assistance Program.—

(6)(a) Any information which would identify a subscriber or the spouse, relative, or guardian of a subscriber which is contained in a document, report, or record prepared or reviewed by the panel or obtained by the agency pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Meetings of the panel shall be open to the public unless the provider or subscriber whose grievance will be heard requests a closed meeting or the agency or the Department of Insurance determines that information of a sensitive personal nature which discloses the subscriber's medical treatment or history; or information which constitutes a trade secret as defined by s. 812.081; or information relating to internal risk management programs as defined in s. 641.55(5)(c), (6), and (8) may be revealed at the panel meeting, in which case that portion of the meeting during which such sensitive personal information, trade secret information, or internal risk management program information is discussed shall be exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. All closed meetings shall be recorded by a certified court reporter.

This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.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 it is a public necessity that information of a sensitive personal nature concerning individuals be protected when the release of such information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals. In addition, the Legislature finds that it is a public necessity that

records be protected and meetings be closed to the public when administration of a governmental program otherwise would be significantly impaired. The documents and reports prepared and reviewed by the provider and subscriber assistance panel will include medical records and other information of a sensitive personal nature relating to subscribers and their families. The release of such information would be defamatory to such individuals or may cause unwarranted damage to the name or reputation of such individuals. It is also a public necessity that portions of a meeting of the panel be closed when such sensitive personal information is discussed, or when information relating to trade secrets or internal risk management programs is discussed. If such meetings were not closed, information would be released which would be defamatory to individuals or cause unwarranted damage to their names or reputations; or information would be released which would reveal a trade secret, thus negatively impacting the business interests of those providing the information in the marketplace and causing competitors to gain an unfair advantage; or information would be released which would reveal details regarding an internal risk management program, thus undermining the medical quality assurance process and inhibiting the peer review process. Further, such internal risk management program information is otherwise exempt from public disclosure. It is clear that the willingness of a subscriber or provider to bring an unresolved grievance before the panel may be impeded unless, when requested by the provider or subscriber, those portions of panel meetings during which such information is discussed are closed to the public to avoid disclosure of such information. The unwillingness of subscribers and providers to bring unresolved grievances before the panel would interfere with the administration of the Statewide Provider and Subscriber Assistance Program by the Agency for Health Care Administration and reduce the effectiveness of the provider and subscriber assistance panels.

Section 3. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.