

By the Committee on General Provisions; and Commissioner Cerio

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1 A proposal to amend
2 Section 25 of Article X of the State Constitution to
3 specify that the patients' right to know about adverse
4 medical incidents does not abrogate attorney-client
5 privilege or work product doctrine available under law
6 and provide that healthcare facilities and providers
7 that violate this section may be subject to
8 administrative discipline as provided by law.
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10 Be It Proposed by the Constitution Revision Commission of
11 Florida:

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13 Section 25 of Article X of the State Constitution is
14 amended to read:

15 ARTICLE X

16 MISCELLANEOUS

17 SECTION 25. Patients' right to know about adverse medical
18 incidents.—

19 (a) In addition to any other similar rights provided herein
20 or by general law, patients have a right to have access to any
21 records made or received in the course of business by a health
22 care facility or provider relating to any adverse medical
23 incident.

24 (b) In providing such access, the identity of patients
25 involved in the incidents shall not be disclosed, and any
26 privacy restrictions imposed by federal law shall be maintained.

27 (c) For purposes of this section, the following terms have
28 the following meanings:

29 (1) The phrases "health care facility" and "health care
30 provider" have the meaning given in general law related to a
31 patient's rights and responsibilities.

32 (2) The term "patient" means an individual who has sought,

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33 is seeking, is undergoing, or has undergone care or treatment in
34 a health care facility or by a health care provider.

35 (3) The phrase "adverse medical incident" means medical
36 negligence, intentional misconduct, and any other act, neglect,
37 or default of a health care facility or health care provider
38 that caused or could have caused injury to or death of a
39 patient, including, but not limited to, those incidents that are
40 required by state or federal law to be reported to any
41 governmental agency or body, and incidents that are reported to
42 or reviewed by any health care facility peer review, risk
43 management, quality assurance, credentials, or similar
44 committee, or any representative of any such committees.

45 (4) The phrase "have access to any records" means, in
46 addition to any other procedure for producing such records
47 provided by general law, making the records available for
48 inspection and copying upon formal or informal request by the
49 patient or a representative of the patient, provided that
50 current records which have been made publicly available by
51 publication or on the Internet may be "provided" by reference to
52 the location at which the records are publicly available.

53 (d) This section does not abrogate the attorney-client
54 privilege or work-product doctrine available under law.

55 (e) A health care facility or health care provider
56 that violates the requirements of this section may be subject
57 to administrative discipline as provided by law.