

By 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           communications or work product privileges for  
6           patients, health care providers, and health care  
7           facilities and to revise the definition of the term  
8           "adverse medical incident."  
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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, unless  
45 otherwise protected by federal laws or regulations relating to  
46 patient safety quality improvement.

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

55 (d) This section does not abrogate attorney-client  
56 communications or work product privileges for patients, health  
57 care providers, or health care facilities.