
Constitution Proposal Analysis

PROPOSAL NUMBER: 0099

SPONSOR: Commissioner Tim Cerio

SUBJECT: Amendment to Article X, Section 25 (Patients' Right to Know...)

REFERENCES: General Provisions, Declaration of Rights

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I. SUMMARY

The proposal seeks to amend Article X, Section 25 of the State Constitution providing that attorney-client and work product privileges are not abrogated under this section and specifically the section's language outlining a patient's right to know about adverse medical incidents. The proposal further revises a definition of the term "adverse incident" excepting those adverse incident reports that may be protected by federal law or regulation relating to patient safety quality improvements.

This proposed change serves the purpose of clarifying what otherwise may be unclear as to adverse incident reporting, and what may legitimately be withheld, irrespective of a patient's right to know.

II. CURRENT SITUATION

Currently, Article X, Section 25 is silent as to whether communications in an adverse medical incident report that are protected under certain legal privileges and must be provided by right to those patients affected. The current definition of adverse medical incident is also silent as to whether protections allowed for under federal law and regulation relating to patient safety quality improvements are excepted under this defined term.

III. EFFECT OF PROPOSED CHANGES

The proposal serves to clarify the language of Article X, Section 25 making it clear that certain federal laws and regulations should be seen as exceptions to a patient's right to know (regarding adverse medical incidents).

IV. FISCAL IMPACT

There is likely to be little, if any, fiscal impact as a result of this proposed change. Such impact, if recognized is likely to be seen by the private sector as a result of the need to review and redact or withhold adverse medical incident report that may contain communications otherwise privileged or protected in accordance with the amendment to Article X, Section 25.

V. OTHER ISSUES IDENTIFIED

None.

This analysis was prepared by _____ and facilitated by members of the _____ Section (Committee). The analysis is not a position of the section, committee, or The Florida Bar and has not been submitted to the _____ Executive Council or The Florida Bar for approval.