

HB 1411

2006
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CHAMBER ACTION

1 The Health & Families Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public records; creating s. 408.0641,
7 F.S.; providing an exemption from public records
8 requirements for patient medical or health records, trade
9 secrets, and certain other information that is
10 confidential or exempt contained in records of the Florida
11 Health Information Network, Inc.; providing an exception
12 to the exemption; providing for review and repeal;
13 providing a statement of public necessity; providing a
14 contingent effective date.

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

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18 Section 1. Section 408.0641, Florida Statutes, is created
19 to read:

20 408.0641 Florida Health Information Network, Inc.; public
21 records exemption.--

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22 (1) The following information held by the Florida Health
23 Information Network, Inc., is confidential and exempt from s.
24 119.07(1) and s. 24, Art. I of the State Constitution:

25 (a) A patient's medical or health record.

26 (b) Trade secrets as defined in s. 688.002.

27 (c) Any information received from a person from another
28 state or nation or the Federal Government which is otherwise
29 confidential or exempt pursuant to the laws of that state or
30 nation or pursuant to federal law.

31 (2) A patient's medical or health record shall be
32 disclosed:

33 (a) With the express written consent of the individual or
34 the individual's legally authorized representative.

35 (b) In a medical emergency, but only to the extent
36 necessary to protect the health or life of the individual.

37 (3) This section is subject to the Open Government Sunset
38 Review Act in accordance with s. 119.15 and shall stand repealed
39 on October 2, 2011, unless reviewed and saved from repeal
40 through reenactment by the Legislature.

41 Section 2. The Legislature finds that it is a public
42 necessity that a patient's medical or health record held by the
43 Florida Health Information Network, Inc., a not-for-profit
44 corporation, be made confidential and exempt from public records
45 requirements. Matters of personal health are traditionally
46 private and confidential concerns between the patient and the
47 health care provider. The private and confidential nature of
48 personal health matters pervades both the public and private
49 health care sectors. For these reasons, the individual's

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50 expectation of and right to privacy in all matters regarding his
51 or her personal health necessitates this exemption. The
52 Legislature further finds that it is a public necessity to
53 protect a patient's medical record or health record because the
54 release of such record could be defamatory to the patient or
55 could cause unwarranted damage to the name or reputation of that
56 patient. The Legislature also finds that it is a public
57 necessity to protect the release of a trade secret as defined in
58 s. 688.002, Florida Statutes. A trade secret derives independent
59 economic value, actual or potential, from not being generally
60 known to, and not being readily ascertainable by proper means
61 by, other persons who can obtain economic value from its
62 disclosure or use. Without an exemption from public records
63 requirements for a trade secret as defined in s. 688.002,
64 Florida Statutes, that trade secret becomes a public record when
65 held by the Florida Health Information Network, Inc., and must
66 be divulged upon request. Divulgence of any trade secret under
67 the public records law would destroy the value of that property.
68 Release of that information would give business competitors an
69 unfair advantage and weaken the position of the corporation in
70 the marketplace. Thus, the Legislature finds that it is a public
71 necessity that a trade secret be made confidential and exempt
72 from public records requirements. Finally, the Legislature finds
73 that it is a public necessity to protect information received by
74 the Florida Health Information Network, Inc., from a person from
75 another state or nation or the Federal Government which is
76 otherwise exempt or confidential pursuant to the laws of that
77 state or nation or pursuant to federal law. Without this

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78 | protection, another state or nation or the Federal Government
79 | might be less likely to provide information to the corporation
80 | in the furtherance of its duties and responsibilities.

81 | Section 3. This act shall take effect July 1, 2006, if
82 | House Bill 1409 or similar legislation is adopted in the same
83 | legislative session or an extension thereof and becomes law.