

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

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

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 14           Section 1.   Section 408.0641, Florida Statutes, is created  
 15 to read:

16           408.0641 Florida Health Information Network, Inc.; public  
 17 records exemption.--

18           (1) The following information held by the Florida Health  
 19 Information Network, Inc., is confidential and exempt from s.  
 20 119.07(1) and s. 24, Art. I of the State Constitution:

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

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

23           (c) Any information received from a person from another  
 24 state or nation or the Federal Government which is otherwise  
 25 confidential or exempt pursuant to the laws of that state or  
 26 nation or pursuant to federal law.

27        (2) A patient's medical or health record shall be  
28 disclosed:

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

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

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34 Review Act in accordance with s. 119.15 and shall stand repealed  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

37        Section 2. The Legislature finds that it is a public  
38 necessity that a patient's medical or health record held by the  
39 Florida Health Information Network, Inc., a not-for-profit  
40 corporation, be made confidential and exempt from public records  
41 requirements. Matters of personal health are traditionally  
42 private and confidential concerns between the patient and the  
43 health care provider. The private and confidential nature of  
44 personal health matters pervades both the public and private  
45 health care sectors. For these reasons, the individual's  
46 expectation of and right to privacy in all matters regarding his  
47 or her personal health necessitates this exemption. The  
48 Legislature further finds that it is a public necessity to  
49 protect a patient's medical record or health record because the  
50 release of such record could be defamatory to the patient or  
51 could cause unwarranted damage to the name or reputation of that  
52 patient. The Legislature also finds that it is a public  
53 necessity to protect the release of a trade secret as defined in

54 s. 688.002, Florida Statutes. A trade secret derives independent  
55 economic value, actual or potential, from not being generally  
56 known to, and not being readily ascertainable by proper means  
57 by, other persons who can obtain economic value from its  
58 disclosure or use. Without an exemption from public records  
59 requirements for a trade secret as defined in s. 688.002,  
60 Florida Statutes, that trade secret becomes a public record when  
61 held by the Florida Health Information Network, Inc., and must  
62 be divulged upon request. Divulgence of any trade secret under  
63 the public records law would destroy the value of that property.  
64 Release of that information would give business competitors an  
65 unfair advantage and weaken the position of the corporation in  
66 the marketplace. Thus, the Legislature finds that it is a public  
67 necessity that a trade secret be made confidential and exempt  
68 from public records requirements. Finally, the Legislature finds  
69 that it is a public necessity to protect information received by  
70 the Florida Health Information Network, Inc., from a person from  
71 another state or nation or the Federal Government which is  
72 otherwise exempt or confidential pursuant to the laws of that  
73 state or nation or pursuant to federal law. Without this  
74 protection, another state or nation or the Federal Government  
75 might be less likely to provide information to the corporation  
76 in the furtherance of its duties and responsibilities.

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