

By Senator Atwater

25-1930-07

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A bill to be entitled

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

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

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

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

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

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

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

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

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

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

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

5 (3) This section is subject to the Open Government
6 Sunset Review Act in accordance with s. 119.15 and shall stand
7 repealed on October 2, 2012, unless reviewed and saved from
8 repeal through reenactment by the Legislature.

9 Section 2. The Legislature finds that it is a public
10 necessity that a patient's medical or health record held by
11 the Florida Health Information Network, Inc., a not-for-profit
12 corporation, be made confidential and exempt from
13 public-records requirements. Matters of personal health are
14 traditionally private and confidential concerns between the
15 patient and the health care provider. The private and
16 confidential nature of personal health matters pervades both
17 the public and private health care sectors. For these reasons,
18 the individual's expectation of and right to privacy in all
19 matters regarding his or her personal health necessitates this
20 exemption. The Legislature further finds that it is a public
21 necessity to protect a patient's medical record or health
22 record because the release of such record could be defamatory
23 to the patient or could cause unwarranted damage to the name
24 or reputation of that patient. The Legislature also finds that
25 it is a public necessity to protect the release of a trade
26 secret as defined in s. 688.002, Florida Statutes. A trade
27 secret derives independent economic value, actual or
28 potential, from not being generally known to, and not being
29 readily ascertainable by proper means by, other persons who
30 can obtain economic value from its disclosure or use. Without
31 an exemption from public-records requirements for a trade

1 secret as defined in s. 688.002, Florida Statutes, that trade
2 secret becomes a public record when held by the Florida Health
3 Information Network, Inc., and must be divulged upon request.
4 Divulgence of any trade secret under the public-records law
5 would destroy the value of that property. Release of that
6 information would give business competitors an unfair
7 advantage and weaken the position of the corporation in the
8 marketplace. Thus, the Legislature finds that it is a public
9 necessity that a trade secret be made confidential and exempt
10 from public-records requirements. Finally, the Legislature
11 finds that it is a public necessity to protect information
12 received by the Florida Health Information Network, Inc., from
13 a person from another state or nation or the Federal
14 Government which is otherwise exempt or confidential pursuant
15 to the laws of that state or nation or pursuant to federal
16 law. Without this protection, another state or nation or the
17 Federal Government might be less likely to provide information
18 to the corporation in the furtherance of its duties and
19 responsibilities.

20 Section 3. This act shall take effect July 1, 2007, if
21 Senate Bill ____ or similar legislation is adopted in the same
22 legislative session or an extension thereof and becomes law.
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