

By the Council for Healthy Communities and Representative Fasano

1 A bill to be entitled
 2 An act relating to the confidentiality of
 3 information relating to the not-for-profit
 4 corporation which governs and operates the
 5 Florida Alzheimer's Center and Research
 6 Institute or its subsidiaries; providing
 7 exemptions from the public records and meetings
 8 provisions of the Florida Constitution and
 9 Florida law for certain records and meetings of
 10 the not-for-profit corporation governing and
 11 operating the Florida Alzheimer's Center and
 12 Research Institute and of certain records and
 13 meetings of subsidiaries of such not-for-profit
 14 corporation; providing a statement of public
 15 necessity for such exemptions; providing a
 16 contingent effective date.

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

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 20 Section 1. (1)(a) Records of the not-for-profit
 21 corporation governing and operating the Florida Alzheimer's
 22 Center and Research Institute and of its subsidiaries are
 23 public records unless made confidential or exempt by law.

24 (b) Proprietary confidential business information is
 25 confidential and exempt from the provisions of s. 119.07(1),
 26 Florida Statutes, and s. 24(a), Art. I of the State
 27 Constitution. However, the Auditor General, the Office of
 28 Program Policy Analysis and Government Accountability, and the
 29 State Board of Education, pursuant to their oversight and
 30 auditing functions, must be given access to all proprietary
 31 confidential business information upon request and without

1 subpoena and must maintain the confidentiality of information
2 so received. As used in this paragraph, the term "proprietary
3 confidential business information" means information,
4 regardless of its form or characteristics, which is owned or
5 controlled by the not-for-profit corporation or its
6 subsidiaries; is intended to be and is treated by the
7 not-for-profit corporation or its subsidiaries as private and
8 the disclosure of which would harm the business operations of
9 the not-for-profit corporation or its subsidiaries; has not
10 been intentionally disclosed by the corporation or its
11 subsidiaries unless pursuant to law, an order of a court or
12 administrative body, a legislative proceeding pursuant to s.
13 5, Art. III of the State Constitution, or a private agreement
14 that provides that the information may be released to the
15 public; and which is information concerning:
16 1. Internal auditing controls and reports of internal
17 auditors;
18 2. Matters reasonably encompassed in privileged
19 attorney-client communications;
20 3. Contracts for managed-care arrangements, including
21 preferred provider organization contracts, health maintenance
22 organization contracts, and exclusive provider organization
23 contracts, and any documents directly relating to the
24 negotiation, performance, and implementation of any such
25 contracts for managed-care arrangements;
26 4. Bids or other contractual data, banking records,
27 and credit agreements, the disclosure of which would impair
28 the efforts of the not-for-profit corporation or its
29 subsidiaries to contract for goods or services on favorable
30 terms;
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1 5. Information relating to private contractual data,
2 the disclosure of which would impair the competitive interest
3 of the provider of the information;

4 6. Corporate officer and employee personnel
5 information;

6 7. Information relating to the proceedings and records
7 of credentialing panels and committees and of the governing
8 board of the not-for-profit corporation or its subsidiaries
9 relating to credentialing;

10 8. Minutes of meetings of the governing board of the
11 not-for-profit corporation and its subsidiaries, except
12 minutes of meetings open to the public pursuant to subsection
13 (2);

14 9. Information that reveals plans for marketing
15 services that the corporation or its subsidiaries reasonably
16 expect to be provided by competitors;

17 10. Trade secrets as defined in s. 688.002, Florida
18 Statutes, including reimbursement methodologies or rates; or

19 11. The identity of donors or prospective donors of
20 property who wish to remain anonymous or any information
21 identifying such donors or prospective donors. The anonymity
22 of these donors or prospective donors must be maintained in
23 the auditor's report.

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25 As used in this paragraph, the term "managed care" means
26 systems or techniques generally used by third-party payors or
27 their agents to affect access to and control payment for
28 health care services. Managed-care techniques most often
29 include one or more of the following: prior, concurrent, and
30 retrospective review of the medical necessity and
31 appropriateness of services or site of services; contracts

1 with selected health care providers; financial incentives or
2 disincentives related to the use of specific providers,
3 services, or service sites; controlled access to and
4 coordination of services by a case manager; and payor efforts
5 to identify treatment alternatives and modify benefit
6 restrictions for high-cost patient care.

7 (2) Meetings of the governing board of the
8 not-for-profit corporation and meetings of the subsidiaries of
9 the not-for-profit corporation at which the expenditure of
10 dollars appropriated to the not-for-profit corporation by the
11 state are discussed or reported must remain open to the public
12 in accordance with s. 286.011, Florida Statutes, and s. 24(b),
13 Art. I of the State Constitution, unless made confidential or
14 exempt by law. Other meetings of the governing board of the
15 not-for-profit corporation and of the subsidiaries of the
16 not-for-profit corporation are exempt from s. 286.011, Florida
17 Statutes, and s. 24(b), Art. I of the State Constitution.

18 Section 2. (1) The Legislature finds that the state
19 has provided for a substantial investment of public funds in
20 the not-for-profit corporation known as the Florida
21 Alzheimer's Center and Research Institute. Because of the high
22 incidence of Alzheimer's disease in this state, the
23 Legislature recognizes the need for the public to have access
24 to the services provided by the not-for-profit corporation or
25 its subsidiaries and it further recognizes the need for the
26 not-for-profit corporation to fulfill its mission in
27 Alzheimer's disease research and teaching. It is also the
28 intent of the Legislature that the not-for-profit corporation
29 or its subsidiaries not be at a disadvantage in a competitive
30 health care environment. It is further the intent of the
31 Legislature that the not-for-profit corporation and its

1 subsidiaries have the freedom to act in all regards as a
2 private not-for-profit corporation.

3 (2) The Legislature finds that it is a public
4 necessity that certain records of the not-for-profit
5 corporation or its subsidiaries which contain proprietary
6 confidential business information regarding internal policies
7 or operations, attorney-client communications, contracts and
8 contract negotiation, personnel information, certain
9 proceedings and records and minutes, marketing and strategic
10 plans, trade secrets, and donor information be held
11 confidential and exempt from disclosure. These exemptions are
12 necessary because these records contain information that, if
13 disclosed, would adversely impact the not-for-profit
14 corporation or its subsidiaries in the competitive health care
15 environment. Disclosure of such information would place the
16 not-for-profit corporation or its subsidiaries on an unequal
17 footing in the marketplace as compared with private health
18 care providers that are not required to disclose such
19 confidential information. It is, likewise, a public necessity
20 that the meetings of the governing board of the not-for-profit
21 corporation and its subsidiaries at which the expenditure of
22 public dollars appropriated by the Legislature is discussed or
23 reported be open to the public. It is no less a public
24 necessity that other meetings of the governing board of the
25 not-for-profit corporation and of the governing boards of
26 subsidiaries be closed in order to protect the competitive
27 interest of the not-for-profit corporation or its subsidiaries
28 and to guarantee the ability of the not-for-profit corporation
29 to fulfill its Alzheimer's disease research and teaching
30 mission for the benefit of the public.

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1 Section 3. This act shall take effect July 1, 2002, if
2 HB or similar legislation is adopted in the same
3 legislative session or an extension thereof and becomes law.

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6 HOUSE SUMMARY

7 Provides exemptions from the public records and meetings
8 provisions of the Florida Constitution and Florida law
9 for certain records and meetings of the not-for-profit
10 corporation governing and operating the Florida
Alzheimer's Center and Research Institute, and the public
necessity for such exemptions. See bill for details.

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