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A bill to be entitled
 An act relating to public records and public meetings exemptions; amending s. 1004.445, F.S.; creating a public records exemption for proprietary confidential business information owned or controlled by the Florida Alzheimer's Center and Research Institute; categorizing specified types of information as proprietary confidential business information; defining "managed care"; providing for access to proprietary confidential business information by specified agencies; creating a public meetings exemption for specified meetings or portions of meetings of the governing board of the Florida Alzheimer's Center and Research Institute; providing for future review and repeal of the exemption; providing a statement of public necessity; providing for construction of the act in pari materia with laws enacted during the Regular Session of the Legislature; providing an effective date.

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

Section 1. Subsection (9) of section 1004.445, Florida Statutes, is amended, and subsection (10) is added to said section, to read:

1004.445 Florida Alzheimer's Center and Research Institute.--

(9)(a) The following information is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1.~~(a)~~ Personal identifying information relating to clients of programs created or funded through the Florida Alzheimer's



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31 Center and Research Institute which is held by the institute,
 32 the University of South Florida, or the State Board of Education
 33 or by persons who provide services to clients of programs
 34 created or funded through contracts with the Florida Alzheimer's
 35 Center and Research Institute;

36 2.(b) Any medical or health records relating to patients
 37 held which may be created or received by the institute; and

38 3.(e) Proprietary confidential business information. As
 39 used in this subparagraph, the term "proprietary confidential
 40 business information" means information, regardless of its form
 41 or characteristics, which is owned or controlled by the
 42 institute; is intended to be and is treated by the institute as
 43 private and the disclosure of which would harm the business
 44 operations of the institute; has not been intentionally
 45 disclosed by the institute unless pursuant to law, an order of a
 46 court or administrative body, a legislative proceeding pursuant
 47 to s. 5, Art. III of the State Constitution, or a private
 48 agreement that provides that the information may be released to
 49 the public; and which is information concerning:

50 a. Materials that relate to methods of manufacture or
 51 production, potential trade secrets, potentially patentable
 52 material, actual trade secrets as defined in s. 688.002, or
 53 proprietary information received, generated, ascertained, or
 54 discovered during the course of research conducted by or through
 55 the institute and business transactions resulting from such
 56 research;

57 b.(d) The identity of a donor or prospective donor to the
 58 institute ~~Florida Alzheimer's Center and Research Institute~~ who
 59 wishes to remain anonymous, and all information identifying such
 60 donor or prospective donor;



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61 c.~~(e)~~ Any information received by the institute in the
62 performance of its duties and responsibilities which is
63 otherwise confidential and exempt by law; ~~and~~

64 d.~~(f)~~ Any information received by the institute from a
65 person from this or another state or nation or the Federal
66 Government which is otherwise exempt or confidential ~~or exempt~~
67 pursuant to this or another ~~that~~ state's or nation's laws or
68 pursuant to federal law;

69 e. Internal auditing controls and reports of internal
70 auditors;

71 f. Contracts for managed-care arrangements, including
72 preferred provider organization contracts, health maintenance
73 organization contracts, and exclusive provider organization
74 contracts, and any documents directly relating to the
75 negotiation, performance, and implementation of any such
76 contracts for managed-care arrangements;

77 g. Bids or other contractual data, banking records, and
78 credit agreements the disclosure of which would impair the
79 efforts of the institute to contract for goods or services on
80 favorable terms;

81 h. Information relating to private contractual data, the
82 disclosure of which would impair the competitive interest of the
83 provider of the information;

84 i. Corporate officer and employee personnel information;

85 j. Information relating to the proceedings and records of
86 the credentialing panels and committees and of the governing
87 board of the institute relating to credentialing;

88 k. Minutes of meetings of the governing board of the
89 institute, except minutes of meetings open to the public
90 pursuant to subsection (10); and



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91 1. Information that reveals plans for marketing services
92 that the institute reasonably expects to be provided by
93 competitors.

94
95 As used in this subparagraph, the term "managed care" means
96 systems or techniques generally used by third-party payors or
97 their agents to affect access to and control payment for health
98 care services. Managed-care techniques most often include one or
99 more of the following: prior, concurrent, and retrospective
100 review of the medical necessity and appropriateness of services
101 or site of services; contracts with selected health care
102 providers; financial incentives or disincentives related to the
103 use of specific providers, services, or service sites;
104 controlled access to and coordination of services by a case
105 manager; and payor efforts to identify treatment alternatives
106 and modify benefit restrictions for high-cost patient care.

107 (b) The Auditor General, the Office of Program Policy
108 Analysis and Government Accountability, and the State Board of
109 Education, pursuant to their oversight and auditing functions,
110 must be given access to all proprietary confidential business
111 information upon request and without subpoena and must maintain
112 the confidentiality of information so received.

113 (c) Any governmental entity that demonstrates a need to
114 access such confidential and exempt information in order to
115 perform its duties and responsibilities shall have access to
116 such information and shall otherwise keep such information
117 confidential and exempt. ~~This section is subject to the Open~~
118 ~~Government Sunset Review Act of 1995 in accordance with s.~~
119 ~~119.15 and shall stand repealed on October 2, 2006, unless~~
120 ~~reviewed and saved from repeal through reenactment by the~~



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121 ~~Legislature.~~

122 (10) Meetings or portions of meetings of the governing
123 board of the Florida Alzheimer's Center and Research Institute
124 at which information is discussed that is made confidential and
125 exempt pursuant to subsection (9) are exempt from s. 286.011 and
126 s. 24(b), Art. I of the State Constitution.

127 Section 2. Subsections (9) and (10) of s. 1004.445,
128 Florida Statutes, are subject to the Open Government Sunset
129 Review Act of 1995 in accordance with s. 119.15, Florida
130 Statutes, and shall stand repealed on October 2, 2008, unless
131 reviewed and saved from repeal through reenactment by the
132 Legislature.

133 Section 3. The Legislature finds that it is a public
134 necessity that proprietary confidential business information
135 owned or controlled by the Florida Alzheimer's Center and
136 Research Institute; internal auditing controls and reports of
137 internal auditors; contracts for managed-care arrangements and
138 any documents directly relating to the negotiation, performance,
139 and implementation of any such contracts for managed-care
140 arrangements; bids or other contractual data, banking records,
141 and credit agreements; information relating to private
142 contractual data; corporate officer and employee personnel
143 information; information relating to the proceedings and records
144 of the credentialing panels and committees and of the governing
145 board of the Florida Alzheimer's Center and Research Institute
146 relating to credentialing; minutes of meetings of the governing
147 board of the institute; and information that reveals plans for
148 marketing services that the institute reasonably expects to be
149 provided by competitors be made confidential and exempt from
150 public disclosure. The institute must compete directly with its



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151 private-sector counterparts. Its economic survival depends on
152 the institute's ability to so compete. As such, these exemptions
153 are necessary because release of such information and records
154 would adversely impact the institute in the competitive health
155 care and medical research environment. Disclosure of such
156 information and records would place the institute on an unequal
157 footing in the marketplace as compared with private health care
158 providers that are not required to disclose such confidential
159 and exempt information and records. The highly confidential
160 nature of Alzheimer-related research discoveries necessitates
161 that the institute be authorized to maintain confidential
162 information it receives from, or generates for, the sponsors of
163 its research. Accordingly, disclosure of such information and
164 records would impede the effective and efficient administration
165 of the Florida Alzheimer's Center and Research Institute and
166 would create an unfair competitive advantage for persons or
167 entities receiving such information. Also, such information and
168 records contain information of a sensitive, personal nature
169 regarding corporate officers and employees. Disclosure of such
170 information could be harmful to the officer or employee. It is
171 likewise a public necessity that the meetings of the governing
172 board of the institute be closed in order to protect the
173 competitive interest of the institute and to guarantee the
174 ability of the governing board to fulfill its Alzheimer's
175 disease research and teaching mission for the benefit of the
176 public. Closing access to such board meetings enables the boards
177 to be more open and frank in the information so provided and
178 discussed without the attendant fear that honest and truthful
179 exchange of information will result in the public dissemination
180 of information discussed that could be used to harm the



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181 institute and its members. Furthermore, disclosing information
182 and records made confidential and exempt pursuant to the
183 institute's public records exemption via an open meeting defeats
184 the purpose of the public records exemption.

185 Section 4. If any law amended by this act was also amended
186 by a law enacted at the 2003 Regular Session of the Legislature,
187 such laws shall be construed as if they had been enacted at the
188 same session of the Legislature, and full effect shall be given
189 to each if possible.

190 Section 5. This act shall take effect upon becoming a law.