



HB 0007B

2003

1 A bill to be entitled

2 An act relating to public records and public meetings
3 exemptions; amending s. 1004.445, F.S.; creating a public
4 records exemption for proprietary confidential business
5 information owned or controlled by the Florida Alzheimer's
6 Center and Research Institute; categorizing specified
7 types of information as proprietary confidential business
8 information; defining "managed care"; providing for access
9 to proprietary confidential business information by
10 specified agencies; creating a public meetings exemption
11 for specified meetings or portions of meetings of the
12 governing board of the Florida Alzheimer's Center and
13 Research Institute; providing for future review and repeal
14 of the exemption; providing a statement of public
15 necessity; providing for construction of the act in pari
16 materia with laws enacted during the 2003 Regular Session
17 or the 2003 Special Session A of the Legislature;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (9) of section 1004.445, Florida
23 Statutes, is amended, and subsection (10) is added to said
24 section, to read:

25 1004.445 Florida Alzheimer's Center and Research
26 Institute.--

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

30 1.(a) Personal identifying information relating to clients



HB 0007B

2003

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

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

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

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

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



HB 0007B

2003

61 donor or prospective donor;

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

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

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

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

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

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

85 i. Corporate officer and employee personnel information;

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

89 k. Minutes of meetings of the governing board of the
90 institute, except minutes of meetings open to the public



HB 0007B

2003

91 pursuant to subsection (10); and

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

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

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

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



HB 0007B

2003

121 ~~reviewed and saved from repeal through reenactment by the~~
122 ~~Legislature.~~

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

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

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



HB 0007B

2003

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



HB 0007B

2003

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

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

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