

1 Government Accountability, and the State Board of Education,
2 pursuant to their oversight and auditing functions, must be
3 given access to all proprietary confidential business
4 information upon request and without subpoena and must
5 maintain the confidentiality of information so received. As
6 used in this paragraph, the term "proprietary confidential
7 business information" means information, regardless of its
8 form or characteristics, which is owned or controlled by the
9 not-for-profit corporation or its subsidiaries; is intended to
10 be and is treated by the not-for-profit corporation or its
11 subsidiaries as private and the disclosure of which would harm
12 the business operations of the not-for-profit corporation or
13 its subsidiaries; has not been intentionally disclosed by the
14 corporation or its subsidiaries unless pursuant to law, an
15 order of a court or administrative body, a legislative
16 proceeding pursuant to s. 5, Art. III of the State
17 Constitution, or a private agreement that provides that the
18 information may be released to the public; and which is
19 information concerning:

20 1. Internal auditing controls and reports of internal
21 auditors;

22 2. Matters reasonably encompassed in privileged
23 attorney-client communications;

24 3. Contracts for managed-care arrangements, including
25 preferred provider organization contracts, health maintenance
26 organization contracts, and exclusive provider organization
27 contracts, and any documents directly relating to the
28 negotiation, performance, and implementation of any such
29 contracts for managed-care arrangements;

30 4. Bids or other contractual data, banking records,
31 and credit agreements the disclosure of which would impair the

1 | efforts of the not-for-profit corporation or its subsidiaries
2 | to contract for goods or services on favorable terms;

3 | 5. Information relating to private contractual data,
4 | the disclosure of which would impair the competitive interest
5 | of the provider of the information;

6 | 6. Corporate officer and employee personnel
7 | information;

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

12 | 8. Minutes of meetings of the governing board of the
13 | not-for-profit corporation and its subsidiaries, except
14 | minutes of meetings open to the public pursuant to subsection
15 | (9);

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

19 | 10. Trade secrets as defined in s. 688.002, including:

20 | a. Information relating to methods of manufacture or
21 | production, potential trade secrets, potentially patentable
22 | materials, or proprietary information received, generated,
23 | ascertained, or discovered during the course of research
24 | conducted by the not-for-profit corporation or its
25 | subsidiaries;

26 | b. Proprietary and confidential information relating
27 | to business transactions resulting from such research; and

28 | c. Reimbursement methodologies or rates; ~~or~~

29 | 11. The identity of donors or prospective donors of
30 | property who wish to remain anonymous or any information
31 | identifying such donors or prospective donors. The anonymity

1 of these donors or prospective donors must be maintained in
2 the auditor's report; ~~or-~~

3 12. Any information received by the not-for-profit
4 corporation or its subsidiaries from a person in this or
5 another state or nation or the Federal Government which is
6 otherwise exempt or confidential under the laws of this or
7 another state or nation or under federal law.

8
9 As used in this paragraph, the term "managed care" means
10 systems or techniques generally used by third-party payors or
11 their agents to affect access to and control payment for
12 health care services. Managed-care techniques most often
13 include one or more of the following: prior, concurrent, and
14 retrospective review of the medical necessity and
15 appropriateness of services or site of services; contracts
16 with selected health care providers; financial incentives or
17 disincentives related to the use of specific providers,
18 services, or service sites; controlled access to and
19 coordination of services by a case manager; and payor efforts
20 to identify treatment alternatives and modify benefit
21 restrictions for high-cost patient care.

22 Section 2. Subparagraph 1004.43(8)(b)12., Florida
23 Statutes, is subject to the Open Government Sunset Review Act
24 of 1995 in accordance with section 119.15, Florida Statutes,
25 and shall stand repealed on October 2, 2010, unless reviewed
26 and saved from repeal through reenactment by the Legislature.

27 Section 3. (1) The Legislature finds that it is a
28 public necessity that trade secrets of the H. Lee Moffitt
29 Cancer Center or its subsidiaries, as defined in section
30 688.002, Florida Statutes, be confidential and exempt from
31 public disclosure. In accordance with that definition, a

1 "trade secret" consists of information that derives actual or
2 potential economic value from not being readily ascertainable
3 by others, and is the subject of reasonable efforts to
4 maintain its secrecy. The Legislature has determined that
5 "trade secrets" may include information relating to research
6 discoveries and business transactions resulting from research
7 discoveries and that the disclosure of such information would
8 adversely affect the H. Lee Moffitt Cancer Center and Research
9 Institute and its subsidiaries, which are resources of the
10 State of Florida, and would create an unfair competitive
11 advantage to a person receiving such information.

12 (2) Pursuant to section 119.15, Florida Statutes, the
13 Legislature finds that the amendment to subparagraph
14 1004.43(8)(b)10., Florida Statutes, referencing information
15 relating to methods of manufacture or production, potential
16 trade secrets, potentially patentable materials, or
17 proprietary information received, generated, ascertained, or
18 discovered during the course of research conducted by the H.
19 Lee Moffitt Cancer Center and Research Institute or any of its
20 subsidiaries, and business transactions resulting from such
21 research, does not substantially amend the existing exemption.
22 The Legislature finds and declares that each of the classes of
23 information specified meets the test of being a "trade secret"
24 within the meaning of the term as defined in section 688.002,
25 Florida Statutes. To fulfill its legislative mandate of
26 research, education, treatment, prevention, and the early
27 detection of cancer, an exemption of confidential and
28 proprietary information relating to business transactions will
29 allow the not-for-profit corporation and its subsidiaries to
30 more effectively partner with other researchers. Although
31 information relating to business transactions may not qualify

1 as intellectual property, the terms and pricing of a research
2 transaction and, in some cases, the very fact of a research
3 transaction may be considered confidential information
4 concerning an entity. This exemption will assure collaborating
5 partners that their confidential business information will
6 remain confidential and exempt from public disclosure if
7 shared with the not-for-profit corporation or its
8 subsidiaries. The Legislature finds that the ability of the
9 not-for-profit corporation and its subsidiaries to conduct
10 meaningful scientific research and meet their obligations will
11 be significantly impaired if certain proprietary business
12 information or scientific research is not made confidential
13 and exempt from public disclosure. Specifically, the
14 Legislature finds that it is a public necessity to make exempt
15 and confidential proprietary business information or
16 scientific research that relates to methods of manufacture or
17 production, potential trade secrets, patentable material,
18 actual trade secrets as defined in section 688.002, Florida
19 Statutes, or proprietary information received, generated,
20 ascertained, or discovered by or through the not-for-profit
21 corporation or its subsidiaries because the disclosure of this
22 information would negate the benefit expected by exposing
23 valuable proprietary work to competitors. Business
24 transactions resulting from scientific research must be held
25 confidential and exempt from public records requirements
26 because the disclosure of such information would create an
27 unfair competitive advantage for the person receiving such
28 information. Such an advantage would adversely affect the
29 not-for-profit corporation and its subsidiaries. If
30 confidential and exempt information regarding research in
31 progress were released pursuant to a public records request,

1 others would be allowed to derive benefit from the research
2 without compensation or reimbursement to the not-for-profit
3 corporation or its subsidiaries. Without the exemptions
4 provided for in this act, the disclosure of confidential and
5 exempt information would place the not-for-profit corporation
6 or its subsidiaries on an unequal footing in the marketplace
7 as compared with other research competitors whose information
8 is kept confidential and exempt. The Legislature finds that
9 disclosure of confidential and exempt information would
10 adversely affect the not-for-profit corporation or its
11 subsidiaries in fulfilling the mission of research.

12 (3) The Legislature further finds that information
13 received by the not-for-profit corporation or its subsidiaries
14 from a person in this or another state or nation or the
15 Federal Government which is otherwise exempt or confidential
16 under the laws of this or another state or nation or under
17 federal law should remain exempt or confidential because the
18 highly confidential nature of cancer-related research
19 necessitates that the not-for-profit corporation or its
20 subsidiaries be authorized to maintain the status of exempt or
21 confidential information received from the sponsors of
22 research. Without the exemptions provided for in this act, the
23 disclosure of exempt and confidential information would place
24 the not-for-profit corporation on an unequal footing in the
25 marketplace as compared with its private health care and
26 medical research competitors that are not required to disclose
27 such exempt and confidential information. The Legislature
28 finds that the disclosure of such exempt and confidential
29 information would adversely affect the not-for-profit
30 corporation or its subsidiaries in fulfilling their mission of
31 cancer treatment, research, and education.

