

House Bill No. 407

An act relating to public records and meetings exemptions for university health services support organizations; repealing s. 240.2995(6), F.S., which provides that meetings of the governing board of a university health services support organization are public and requires that certain records be made available to the Department of Insurance; amending s. 240.2996, F.S., which provides exemptions from public records and meetings requirements for certain contracts and related documents, marketing plans, trade secrets, and evaluation records of such organizations, for meetings at which any of such records or information is discussed, and for records of such meetings; reenacting such exemptions and removing the October 2, 2001, repeal thereof scheduled under the Open Government Sunset Review Act of 1995; narrowing the type of marketing plans exempted; requiring university health services support organizations to make certain records available to the Department of Insurance; providing an effective date.

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

Section 1. Subsection (6) of section 240.2995, Florida Statutes, is repealed.

Section 2. Notwithstanding the October 2, 2001, repeal of said subsections scheduled pursuant to the Open Government Sunset Review Act of 1995, subsections (2), (3), and (4) of section 240.2996, Florida Statutes, are reenacted and amended, and subsection (1) of said section is amended, to read:

240.2996 University health services support organization; confidentiality of information.—

(1) All meetings of a governing board of a university health services support organization and all university health services support organization records shall be open and available to the public in accordance with s. 286.011 and s. 24(b), Art. I of the State Constitution and chapter 119 and s. 24(a), Art. I of the State Constitution, respectively, unless made confidential or exempt by law. Records required by the Department of Insurance to discharge its duties shall be made available to the department upon request.

(2) The following university health services support organization's records and information are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Contracts for managed care arrangements under which the university health services support organization provides health care services, ~~including~~ preferred provider organization contracts, health maintenance organization contracts, alliance network arrangements, and exclusive provider organization contracts, and any documents directly relating to the negotiation, performance, and implementation of any such contracts for managed

care arrangements or alliance network arrangements. As used in this paragraph, the term “managed care” means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed-care techniques most often include one or more of the following: prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services; contracts with selected health care providers; financial incentives or disincentives related to the use of specific providers, services, or service sites; controlled access to and coordination of services by a case manager; and payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(b) Each A university health services support organization’s marketing plan the disclosure of which plans for marketing its services, which services are or may reasonably be expected by the organization’s governing board to be used by a competitor or an affiliated provider of the organization to frustrate, circumvent, or exploit the purposes of the plan before it is implemented and which is not otherwise known or cannot be legally obtained by a competitor or an affiliated provider provided by competitors of the organization or its affiliated providers. However, documents that are submitted to the organization’s governing board as part of the board’s approval of the organization’s budget, and the budget itself, are not confidential and exempt.

(c) Trade secrets, as defined in s. 688.002, including reimbursement methodologies and rates.

(d) The records of the peer review panels, committees, governing board, and agents of the university health services support organization which relate solely to the evaluation of health care services and professional credentials of health care providers and physicians employed by or providing services under contract to the university health services support organization. The exemptions created by this paragraph shall not be construed to impair any otherwise established rights of an individual health care provider to inspect documents concerning the determination of such provider’s professional credentials.

~~The exemptions in this subsection are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2001, unless reviewed and saved from repeal through reenactment by the Legislature.~~

(3) Any portion of a governing board or peer review panel or committee meeting during which a confidential and exempt contract, document, record, marketing plan, or trade secret, as provided for in subsection (2), is discussed is exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. ~~The exemption in this subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2001, unless reviewed and saved from repeal through reenactment by the Legislature.~~

(4) Those portions of any public record, such as a tape recording, minutes, and notes, generated during that portion of a governing board or peer

review panel or committee meeting which is closed to the public pursuant to this section, which contain information relating to contracts, documents, records, marketing plans, or trade secrets which are made confidential and exempt by this section, are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~The exemptions in this subsection are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2001, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 3. This act shall take effect October 1, 2001.

Approved by the Governor April 25, 2001.

Filed in Office Secretary of State April 25, 2001.