

1                                   A bill to be entitled  
2           An act relating to hospital meetings and  
3           records; amending s. 395.3035, F.S.; defining  
4           the term "strategic plan" for purposes of  
5           provisions which provide for the  
6           confidentiality of such plans and of meetings  
7           relating thereto; providing an exemption from  
8           open meetings requirements for meetings at  
9           which such plans are modified or approved by  
10          the hospital's governing board; providing for  
11          future review and repeal; providing conditions  
12          for the early release of transcripts of  
13          meetings at which such plans are discussed;  
14          prohibiting public hospitals from taking  
15          certain specified actions at closed meetings;  
16          requiring certain notice; providing a finding  
17          of public necessity; providing an effective  
18          date.

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

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22           Section 1. Paragraph (b) of subsection (2) and  
23           subsection (4) of section 395.3035, Florida Statutes, are  
24           amended, present subsection (6) is renumbered as subsection  
25           (9), and new subsections (6), (7), and (8) are added to that  
26           section, to read:

27           395.3035 Confidentiality of ~~public~~ hospital records  
28           and meetings.--

29           (2) The following ~~public hospital~~ records and  
30           information of any hospital that is subject to chapter 119 and  
31           s. 24(a), Art. I of the State Constitution are confidential

1 and exempt from the provisions of s. 119.07(1) and s. 24(a),  
2 Art. I of the State Constitution:

3 (b) A ~~public hospital's~~ strategic plan the disclosure  
4 of which, in the judgment of the hospital, could be used by a  
5 competitor to frustrate, circumvent, or exploit the purpose of  
6 the plan before it is implemented and which is not otherwise  
7 known or discoverable by the competitor by any means other  
8 than legal process plans, including plans for marketing its  
9 services, which services are or may reasonably be expected by  
10 the hospital's governing board to be provided by competitors  
11 of the hospital. However, documents that are submitted to the  
12 hospital's governing board as part of the board's approval of  
13 the hospital's budget, and the budget itself, are not  
14 confidential and exempt.

15 (4)(a) Those portions of a board meeting at which ~~the~~  
16 ~~written strategic plans, including written plans for marketing~~  
17 ~~its services, are discussed, or reported on, modified, or~~  
18 approved by the governing board are exempt from the provisions  
19 of s. 286.011 and s. 24(b), Art. I of the State Constitution.  
20 This paragraph is subject to the Open Government Sunset Review  
21 Act of 1995 in accordance with s. 119.15 and shall stand  
22 repealed on October 2, 2004, unless reviewed and saved from  
23 repeal through reenactment by the Legislature.

24 (b) All portions of any board meeting which are closed  
25 to the public pursuant to this subsection shall be recorded by  
26 a certified court reporter. The reporter shall record the  
27 times of commencement and termination of the meeting, all  
28 discussion and proceedings, the names of all persons present  
29 at any time, and the names of all persons speaking. No portion  
30 of the meeting shall be off the record. The court reporter's  
31 notes shall be fully transcribed and maintained by the

1 hospital records custodian within a reasonable time after the  
2 meeting. The closed meeting shall be restricted to discussion,  
3 reports, modification, or approval of a written strategic  
4 plan. The transcript shall become public 3 years after the  
5 date of the board meeting or at an earlier date if the  
6 strategic plan discussed, reported on, modified, or approved  
7 at the meeting has been implemented to the extent that  
8 confidentiality of the strategic plan is no longer necessary.

9 (6) For purposes of this section, the term "strategic  
10 plan" means any record which describes actions or activities  
11 to:

12 (a) Initiate or acquire a new health service;

13 (b) Expand an existing health service;

14 (c) Acquire additional facilities;

15 (d) Expand existing facilities;

16 (e) Change all or part of the use of an existing  
17 facility or a newly acquired facility;

18 (f) Acquire, merge, or consolidate with another health  
19 care facility or health care provider;

20 (g) Enter into a shared service arrangement with  
21 another health care provider;

22 (h) Enter into or terminate a joint venture, subject  
23 to the provisions of s. 155.40 relating to selling or leasing  
24 a health care facility; or

25 (i) Any combination of paragraphs (a)-(h).

26  
27 The term "strategic plan" does not include records that  
28 describe the existing operations of a hospital or other health  
29 care facility which implement or execute the provisions of a  
30 strategic plan, unless disclosure of any such document would  
31 divulge any part of a strategic plan which has not been fully

1 implemented or is a record that is otherwise exempt from the  
2 public records laws. Such existing operations include, without  
3 limitation, the hiring of employees, the purchase of  
4 equipment, the placement of advertisements, and the entering  
5 into contracts with physicians to perform medical services.  
6 Records that describe operations are not exempt, except as  
7 specifically provided in this section.

8 (7) If the governing board of the hospital closes a  
9 portion of any board meeting pursuant to subsection (4) before  
10 placing the strategic plan or any separate component of the  
11 strategic plan into operation, the governing board must give  
12 notice of an open meeting in accordance with s. 286.011, and  
13 conduct the meeting to inform the public, generally, of the  
14 business activity that is to be implemented.

15 (8) A hospital may not approve a binding agreement to  
16 sell, lease, merge, or consolidate the hospital at any closed  
17 meeting of the board. Any such approval must be made at a  
18 meeting open to the public and noticed in accordance with s.  
19 286.011.

20 Section 2. The Legislature finds that community  
21 hospitals in this state are often the safety-net providers of  
22 health care to our less advantaged residents and visitors. Yet  
23 community hospitals that are subject to the public records and  
24 open meeting laws of the state, unlike most agencies that  
25 provide services to the public, must compete directly with  
26 their private-sector counterparts. The economic survival of  
27 Florida's community hospitals depends on their ability to  
28 obtain revenues from services they provide in competition with  
29 their private-sector counterparts. The Legislature further  
30 finds that the governing boards of these hospitals do not  
31 discuss, debate, or participate in the modification or

1 approval of their written strategic plans because the  
 2 governing boards' discussions and the records are open to the  
 3 public, thereby giving private-sector competitor hospitals  
 4 advance disclosure of the hospitals' planned strategic moves.  
 5 The Legislature finds that it is a public necessity that the  
 6 governing boards of these hospitals be involved in the  
 7 modification and approval of the hospitals' strategic plans.  
 8 Consequently, the Legislature finds that it is a public  
 9 necessity that the written strategic plan of any hospital  
 10 which is subject to the public records laws of the state, and  
 11 notes and transcripts that are recorded pursuant to section  
 12 395.3035(4)(c), Florida Statutes, be confidential and exempt  
 13 from the public records laws of this state. The Legislature  
 14 further finds that it is a public necessity that those  
 15 portions of a hospital's governing board meeting involving the  
 16 hospital's strategic plans or during which the written  
 17 strategic plan is discussed, reported on, modified, or  
 18 approved be confidential and exempt from the public meeting  
 19 laws of this state. The Legislature further finds that it is a  
 20 public necessity to clarify that the records and meetings of  
 21 any privately operated hospital which are subject to the  
 22 public records law and open meetings law of this state are  
 23 exempt from both in the same manner and to the same extent as  
 24 are records and meetings of publicly operated hospitals and as  
 25 otherwise provided by law.

26           Section 3. The stated purpose of the exemption  
 27 provided in section 1 is to allow hospital boards to fully  
 28 discuss adoption or modification of and to receive reports  
 29 concerning their strategic plans without the strategic plans  
 30 being disclosed in advance to private-sector competitor  
 31 hospitals.

1           Section 4. This act shall take effect upon becoming a  
2 law.  
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