

By Representative Murman

1 A bill to be entitled
2 An act relating to public hospital records and
3 meetings; amending s. 395.3035, F.S.; defining
4 "strategic plans" for purposes of provisions
5 which provide for the confidentiality of such
6 plans and of meetings relating thereto;
7 providing an effective date.

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

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11 Section 1. Section 395.3035, Florida Statutes, 1996
12 Supplement, is amended to read:

13 395.3035 Confidentiality of public hospital records
14 and meetings.--

15 (1) All meetings of a governing board of a public
16 hospital and all public hospital records shall be open and
17 available to the public in accordance with s. 286.011 and s.
18 24(b), Art. I of the State Constitution and chapter 119 and s.
19 24(a), Art. I of the State Constitution, respectively, unless
20 made confidential or exempt by law.

21 (2) The following public hospital records and
22 information are confidential and exempt from the provisions of
23 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

24 (a) Contracts for managed care arrangements, as
25 managed care is defined in s. 408.701, under which the public
26 hospital provides health care services, including preferred
27 provider organization contracts, health maintenance
28 organization contracts, exclusive provider organization
29 contracts, and alliance network arrangements, and any
30 documents directly relating to the negotiation, performance,
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1 and implementation of any such contracts for managed care or
2 alliance network arrangements.

3 (b) A public hospital's strategic plans, including
4 plans for marketing its services, which services are or may
5 reasonably be expected by the hospital's governing board to be
6 provided by competitors of the hospital. However, documents
7 that are submitted to the hospital's governing board as part
8 of the board's approval of the hospital's budget, and the
9 budget itself, are not confidential and exempt.

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

12 (d) Documents, offers, and contracts, not including
13 contracts for managed care, that are the product of
14 negotiations with nongovernmental entities for the payment for
15 services when such negotiations concern services that are or
16 may reasonably be expected by the hospital's governing board
17 to be provided by competitors of the hospital. If the
18 governing board is required to vote on the documents, offers,
19 or contracts, this exemption expires 30 days prior to the date
20 of the meeting at which the hospital's governing board is
21 scheduled to take the vote.

22 (3) Those portions of a governing board meeting at
23 which negotiations for contracts with nongovernmental entities
24 occur or are reported on when such negotiations or reports
25 concern services that are or may reasonably be expected by the
26 hospital's governing board to be provided by competitors of
27 the hospital are exempt from the provisions of s. 286.011 and
28 s. 24(b), Art. I of the State Constitution. All governing
29 board meetings at which the board is scheduled to vote to
30 accept, reject, or amend contracts, except managed care
31 contracts, shall be open to the public. All portions of any

1 board meeting which are closed to the public shall be recorded
2 by a certified court reporter. The reporter shall record the
3 times of commencement and termination of the meeting, all
4 discussion and proceedings, the names of all persons present
5 at any time, and the names of all persons speaking. No
6 portion of the meeting shall be off the record. The court
7 reporter's notes shall be fully transcribed and maintained by
8 the hospital records custodian within a reasonable time after
9 the meeting. The transcript shall become public 1 year after
10 the termination or completion of the term of the contract to
11 which such negotiations relate or, if no contract was
12 executed, 1 year after termination of the negotiations.

13 (4) Those portions of a board meeting at which ~~the~~
14 written strategic plans, including written plans for marketing
15 its services, are discussed or reported on are exempt from the
16 provisions of s. 286.011 and s. 24(b), Art. I of the State
17 Constitution. All portions of any board meeting which are
18 closed to the public shall be recorded by a certified court
19 reporter. The reporter shall record the times of commencement
20 and termination of the meeting, all discussion and
21 proceedings, the names of all persons present at any time, and
22 the names of all persons speaking. No portion of the meeting
23 shall be off the record. The court reporter's notes shall be
24 fully transcribed and maintained by the hospital records
25 custodian within a reasonable time after the meeting. The
26 transcript shall become public 3 years after the date of the
27 board meeting.

28 (5) As used in this section, "strategic plans" means
29 any plan to:

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

31 (b) Expand an existing health service;

- 1 (c) Acquire additional facilities;
2 (d) Expand existing facilities;
3 (e) Change all or part of the use of an existing
4 facility or a newly acquired facility;
5 (f) Acquire, merge, or consolidate with another health
6 care facility or health care provider;
7 (g) Enter into a shared service arrangement with
8 another health care provider;
9 (h) Enter into a transaction permitted by s. 155.40;
10 (i) Market the services of the hospital and its
11 ancillary facilities; or
12 (j) Any combination of the plans specified in
13 paragraphs (a)-(i).
14 ~~(6)~~~~(5)~~ Any public records, such as tape recordings,
15 minutes, and notes, generated at any governing board meeting
16 or portion of a governing board meeting which is closed to the
17 public pursuant to this section are confidential and exempt
18 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
19 the State Constitution. All such records shall be retained
20 and shall cease to be exempt at the same time as the
21 transcript of the meeting becomes available to the public.
22 ~~(7)~~~~(6)~~(a) No less than once every 3 months, the
23 hospital shall report in writing to the governing board on the
24 number of records for which a public records request has been
25 made and the records have been declared to be confidential
26 under the provisions of this section. For each such record,
27 the hospital shall provide the governing board with a general
28 description of the record, the date on which the record became
29 confidential, whether the public will have access to the
30 record at a future time, and, if so, on what date the public
31 will be granted access to such record. The hospital shall

1 also report in writing to the governing board each record that
2 had been confidential to which the public has been granted
3 access since the hospital's last report to the board. For
4 each such record to which the public now has access, the
5 hospital shall give a general description of the record and
6 the date on which the record became confidential. The
7 governing board of the hospital shall retain copies of these
8 reports for 5 years from the date on which the report was made
9 to the governing board of the hospital. If the governing
10 board of a public hospital is comprised of members who are
11 appointed, the board shall transmit each report to the
12 official or authority that appoints the members to the
13 governing board within 10 working days after the date on which
14 the governing board received the report from the hospital.

15 (b) The governing board of the hospital shall maintain
16 a written list of the meetings or portions of meetings that
17 were closed under the provisions of this section. For each
18 such meeting or portion of meeting, the governing board shall
19 list the date on which the meeting was closed, the approximate
20 length of time the meeting was closed, a general description
21 of the subject of the meeting, the titles of the meeting
22 participants, and a description of the format of the meeting.
23 The governing board may purge information about a meeting from
24 this list 5 years after the date on which the meeting was
25 closed. If the governing board of a public hospital is
26 comprised of members who are appointed, the board shall
27 transmit the list required by this paragraph to the official
28 or authority that appoints the members to the governing board
29 no less than once every 3 months.

30 Section 2. This act shall take effect upon becoming a
31 law.

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HOUSE SUMMARY

Defines "strategic plans" for purposes of provisions
which provide for the confidentiality of a public
hospital's strategic plans and of meetings relating
thereto.