

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 would be reasonably likely to be used by a competitor  
5 to frustrate, circumvent, or exploit the purpose of the plan  
6 before it is implemented and which is not otherwise known or  
7 cannot otherwise be legally obtained by the competitor plans,  
8 ~~including plans for marketing its services, which services are~~  
9 ~~or may reasonably be expected by the hospital's governing~~  
10 ~~board to be provided by competitors of the hospital.~~ However,  
11 documents that are submitted to the hospital's governing board  
12 as part of the board's approval of the hospital's budget, and  
13 the budget itself, are not confidential and exempt.

14 (4)(a) Those portions of a board meeting at which one  
15 or more ~~the~~ written strategic plans that are confidential  
16 pursuant to subsection (2), ~~including written plans for~~  
17 ~~marketing its services,~~ are discussed, or reported on,  
18 modified, or approved by the governing board are exempt from  
19 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
20 Constitution. This paragraph is subject to the Open Government  
21 Sunset Review Act of 1995 in accordance with s. 119.15 and  
22 shall stand repealed on October 2, 2004, unless reviewed and  
23 saved from 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 publicly disclosed by the hospital or  
8 implemented to the extent that confidentiality of the  
9 strategic plan is no longer necessary. If a discrete part of a  
10 strategic plan has been publicly disclosed by the hospital or  
11 has been implemented to the extent that confidentiality of  
12 that portion of the plan is no longer necessary, then the  
13 hospital shall redact the transcript and release only that  
14 part which records discussion of the nonconfidential part of  
15 the strategic plan, unless such disclosure would divulge any  
16 part of the strategic plan that remains confidential.

17 (c) This subsection does not allow the boards of two  
18 separate public entities to meet together in a closed meeting  
19 to discuss, report on, modify, or approve the implementation  
20 of a strategic plan that affects both public entities.

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

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

25 (b) Materially expand an existing health service;

26 (c) Acquire additional facilities by purchase or by  
27 lease;

28 (d) Materially expand existing facilities;

29 (e) Change all or a material part of the use of an  
30 existing facility or a newly acquired facility;

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1           (f) Acquire another health care facility or health  
2 care provider;

3           (g) Merge or consolidate with another health care  
4 facility when the surviving entity is an entity that is  
5 subject to s. 24, Art. I of the State Constitution;

6           (h) Enter into a shared service arrangement with  
7 another health care provider; or

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

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10           The term "strategic plan" does not include records that  
11 describe the existing operations of a hospital or other health  
12 care facility which implement or execute the provisions of a  
13 strategic plan, unless disclosure of any such document would  
14 divulge any part of a strategic plan which has not been fully  
15 implemented or is a record that is otherwise exempt from the  
16 public records laws. Such existing operations include, without  
17 limitation, the hiring of employees, the purchase of  
18 equipment, the placement of advertisements, and the entering  
19 into contracts with physicians to perform medical services.  
20 Records that describe operations are not exempt, except as  
21 specifically provided in this section.

22           (7) If the governing board of the hospital closes a  
23 portion of any board meeting pursuant to subsection (4) before  
24 placing the strategic plan or any separate component of the  
25 strategic plan into operation, the governing board must give  
26 notice of an open meeting in accordance with s. 286.011, and  
27 conduct the meeting to inform the public, in general terms, of  
28 the business activity that is to be implemented. If a  
29 strategic plan involves a substantial reduction in the level  
30 of medical services provided to the public, the meeting notice  
31 must be given at least 30 days prior to the meeting at which

1 the governing board considers the decision to implement the  
2 strategic plan.

3 (8) A hospital may not approve a binding agreement to  
4 implement a strategic plan at any closed meeting of the board.  
5 Any such approval must be made at a meeting open to the public  
6 and noticed in accordance with s. 286.011.

7 Section 2. The Legislature finds that community  
8 hospitals in this state are often the safety-net providers of  
9 health care to our less advantaged residents and visitors. Yet  
10 community hospitals that are subject to the public records and  
11 open meeting laws of the state, unlike most agencies that  
12 provide services to the public, must compete directly with  
13 their private-sector counterparts. The economic survival of  
14 Florida's community hospitals depends on their ability to  
15 obtain revenues from services they provide in competition with  
16 their private-sector counterparts. The Legislature further  
17 finds that the governing boards of these hospitals do not  
18 discuss, debate, or participate in the modification or  
19 approval of their written strategic plans because the  
20 governing boards' discussions and the records are open to the  
21 public, thereby giving private-sector competitor hospitals  
22 advance disclosure of the hospitals' planned strategic moves.  
23 The Legislature finds that it is a public necessity that the  
24 governing boards of these hospitals be involved in the  
25 discussion, modification, and approval of the hospitals'  
26 strategic plans. Consequently, the Legislature finds that it  
27 is a public necessity that the written strategic plan of any  
28 hospital which is subject to the public records laws of the  
29 state, and notes and transcripts that are recorded pursuant to  
30 section 395.3035(4)(c), Florida Statutes, be confidential and  
31 exempt from the public records laws of this state as provided

1 in this act. The Legislature also finds that it is a public  
2 necessity that those portions of a hospital's governing board  
3 meeting during which one or more written strategic plans which  
4 are exempt from the open records laws are discussed, reported  
5 on, modified, or approved shall be confidential and exempt  
6 from the public meeting laws of this state. The Legislature  
7 further finds that it is a public necessity to clarify that  
8 the records and meetings of any privately operated hospital  
9 which are subject to the public records law and open meetings  
10 law of this state are exempt from both in the same manner and  
11 to the same extent as are records and meetings of publicly  
12 operated hospitals and as otherwise provided by law.

13           Section 3. This act shall take effect upon becoming a  
14 law.

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