WEST VIRGINIA CODE: §16-5G-4

§16-5G-4. Exceptions.

(a) This article does not prevent the governing body of a hospital from holding an executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under this article for the holding of the executive session and has presented it to the governing body and to the general public, but no official action may be made in the executive session, except as is necessary:

(1) To protect the confidentiality of protected health information as defined by the Health Insurance Portability and Accountability Act of 1996;

(2) To preserve the privilege and confidentiality of peer review information as provided in article three-c, chapter thirty of this code;

(3) To approve confidential legal settlements or otherwise act in connection with matters described in subdivision (5), subsection (b) of this section; or

(4) To end an executive session and readmit the public to a meeting.

(b) An executive session may be held only upon a majority affirmative vote of the members present of the governing body of a hospital as defined in this article for the following:

(1) The appointment, employment, retirement, promotion, demotion, disciplining, resignation, discharge, dismissal or compensation of any officer or employee, or other personnel matters, or for the purpose of conducting a hearing on a complaint against an officer or employee, unless the officer or employee requests an open meeting;

(2) The disciplining, suspension or expulsion of any student or trainee enrolled in a program conducted by the hospital, unless the student or trainee requests an open meeting;

(3) Investigations and proceedings involving the issuance, denial, suspension or revocation of the authority or privilege of a medical practitioner to use the hospital and to engage in particular kinds of practice or to perform particular kinds of operations, unless the person seeking the authority or privilege or whose authority or privilege was denied, suspended or revoked requests an open meeting;

(4) Matters concerning the failure or refusal of a medical practitioner to comply with reasonable regulations of a hospital with respect to the conditions under which operations are performed and other medical services are delivered;

(5) To conduct privileged attorney-client communications or to consider the work product of the hospital's attorney or the hospital administration, including materials prepared by an attorney or others in anticipation of litigation, litigation strategies and reports, confidential

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legal settlements and discussions, negotiations and alternative dispute resolution proceedings conducted in pursuit of a legal settlement;

(6) The physical or mental health of any person, unless the person requests an open meeting;

(7) Matters which, if discussed in public, would be likely to affect adversely the reputation of any person;

(8) Any official investigation or matters relating to crime prevention or law enforcement;

(9) The development of security personnel or devices;

(10) Matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving competition which, if made public, might adversely affect the financial or other interest of the state or any political subdivision or the hospital; or

(11) To consider or act upon the matters described in subdivisions (1), (2), (3) and (4), subsection (a) of this section.

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