

An Overview Of The Sunshine Law

The History of Florida's Sunshine Law

- In 1967, the Florida Legislature passed the Government-in-the-Sunshine law, which became the nation's first open meetings law. It was codified at Chapter 286, Florida Statutes.
- In 1992, Florida voters approved a proposed constitutional amendment guaranteeing Florida citizens a right of access to public records and meetings. It became Article I, Section 24 of the Florida state constitution.

Who Does the Sunshine Law Apply To?

- The Sunshine Law governs the actions of members of a collegial body.
- A collegial body would include commissions, advisory boards, ad hoc committees, or task forces.
- AHCA is not a collegial body, so meetings of its employees are not subject to the Sunshine Law UNLESS the employees are meeting as an appointed committees.
- Additionally, collegial bodies formed solely for the purpose of fact-finding are not subject to the Sunshine Law.

What Are the Requirements of the Sunshine Law?

- There are 3 basic requirements under the Sunshine Law:
 - A collegial body's meetings must be open to the public;
 - A collegial body must give the public reasonable notice of its meetings; and
 - A collegial body must keep minutes of its meetings.

What Constitutes a Meeting Under the Sunshine Law?

- A “meeting” of a body subject to the Sunshine Law is broadly defined to include any gathering – formal or informal – during which two or more members of the body discuss the official business of the body. Accordingly, business-related discussions between members of the collegial body may only take place at open, properly-noticed meetings. Members may not discuss the business of the collegial body with each other through private phone conversations or e-mail discussions.
- Members may distribute documents to each other, but they may not discuss or exchange comments on those documents outside of a public meeting.
- Members may also discuss business with third parties (i.e., non-members of the body), provided the members do not use a third party as a liaison for business-related communication with other members.

Giving Notice of Public Meetings

- The requirements for notice of public meetings are found in section 120.525, Florida Statutes. These requirements are more specific than those of the Sunshine Law and dictate the following:
 - Notice of public meetings, hearings, and workshops shall be by publication in the Florida Administrative Register not less than 7 days before the event. The notice shall include a statement of the general subject matter to be considered.
 - An agenda shall be prepared in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered in order of presentation. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time.

Public Participation

- Members of the public must be given a “reasonable opportunity to be heard” on a proposition before a state board or commission. The board may adopt policies governing this opportunity. This requirement may be enforced by injunction, and a court may award attorneys fees to the complainant.

Minutes of Meetings

- Although the Sunshine Law requires the collegial body to record minutes of its meetings, such minutes need not be verbatim transcripts of the proceedings. A summary or notes of the meeting is sufficient. It is within the collegial body's discretion to determine who is responsible for creating the minutes of meetings.

Sunshine Law and Public Records

- As a general matter, any documents or other materials that are (1) created or received by collegial body members, (2) related to the collegial body's official business are "public records" which must be made available to the public for inspection and copying.
- Examples of public records made or received by collegial body members relating to their official business include reports, correspondence (including email and texts), and personal notes.
- Any confidential information made or received by a collegial body would retain its statutory exemption from disclosure as a public record. Collegial body members should also take care during the public meetings not to discuss information derived from such confidential records.

QUESTIONS?