

IN THE SUPREME COURT OF FLORIDA

CASE NO: SC18-683

HALIFAX HOSPITAL MEDICAL CENTER,

Appellant,

v.

THE STATE OF FLORIDA, *et. al.*,

Appellees.

AMENDED AMICUS BRIEF OF SOUTH BROWARD HOSPITAL
DISTRICT IN SUPPORT OF APPELLANT

ON DIRECT APPEAL FROM THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA

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IDENTITY AND INTEREST OF AMICUS CURIAE

South Broward Hospital District d/b/a Memorial Healthcare System (“Memorial”), files this brief in support of Appellant, Halifax Hospital Medical Center (“Halifax”)¹ to assist the Court in understanding the far-reaching ramifications of the trial court’s decision on public health, should it be upheld.

Memorial is a \$2 billion healthcare system located in South Broward County, with over 13,000 employees, almost 2000 medical staff members, two AHCA-certified Level 1 trauma centers – one for adults and one for pediatrics, 1,976 licensed hospital beds, the state’s 4th largest inpatient rehab center, a dedicated pediatric hospital, a jointly operated Moffitt/Memorial blood cancer center, three Neonatal Intensive Care Unit (NICUs), the most births south of Atlanta and, as of two weeks ago, a new teaching hospital. Like Halifax, Memorial is a special tax district created by the Legislature. Per its Charter, Chapter 2004-397, Laws of Florida (2004), Memorial is charged with caring for the citizens of its District regardless of ability to pay.² Since its inception in 1947, Memorial has done so, providing more than \$859 million in uncompensated care in FY2017 alone. Memorial is one of the largest public healthcare systems in the U.S., operating six

¹ Halifax Hospital Medical Center is an independent tax district and is currently governed by Chapter 2003-374, Laws of Florida (2003) (the “Enabling Act”). Appendix (hereinafter “A”) at 15.

² Broward County is divided into two hospital districts: Memorial, which serves the south and North Broward Hospital District (“NBHD”), which serves the north.

hospitals, a nursing home, five outpatient centers, a home health agency, ancillary medical facilities, a state awarded Medicaid HMO, community clinics and more.

Memorial's mission statement is simple: to "[h]eal the body, mind and spirit of those we touch." *About Us*, Memorial Healthcare System, <https://www.mhs.net/about> (last visited June 29, 2018). To fulfill this mission, Memorial's employees and clinicians work together pursuant to Memorial's vision: "[t]o be a premier clinically integrated delivery system providing access to exceptional patient-and-family-centered care, medical education, research and innovation for the benefit of the community we serve." *Id.* To achieve this vision of integration and for the benefit of its community, Memorial operates both within and beyond its boundary.

One Memorial hospital, Joe DiMaggio Children's Hospital ("JDCH"), holds a special place in the hearts of the citizens of Broward County and beyond. JDCH was born out of a vision that no child should ever be denied medical care, regardless of a family's ability to pay, nor should any District child be forced to leave his or her community for care. After almost 20 years of providing hospital services for children, in 2011, Memorial opened a \$145 million dollar state-of-the-art children's hospital. As the needs of children in its community continued to grow, Memorial expanded JDCH's services, adding highly-specialized service lines, like the JDCH

Heart Institute, which performs complex heart procedures and heart transplants,³ specialized neuroscience services and orthopedic services. The catchment area for such specialized and costly services necessarily reaches beyond District boundaries, as thankfully, vast numbers of acutely ill children do not reside in the District's half-county area.

To maintain these service lines, JDCH operates several pediatric specialty centers outside its geographic boundary. These pediatric centers allow JDCH to attract and care for patients who would otherwise be without nearby specialty care—thereby creating the patient volume and additional revenue needed to support highly specialized and costly services like heart transplants and neurosurgery. In the process of protecting JDCH's viability for the residents of its District through operation of these facilities, critical care is delivered to children in the north part of Broward County, Palm Beach County, Dade County and elsewhere.

As a public healthcare system, Memorial has a vested interest in this litigation because the trial court's ruling, if upheld, threatens Memorial's economic viability, including its ability to render indispensable pediatric care to the children of its

³ Memorial launched its cardiac program in 2005 based on verified community medical need. *See infra* §I.A.2.a. To date, Memorial has performed 825 cardiac operations, 24 heart transplants, 623 cardiac catheters procedures and 168 electrophysiology procedures. (A: 028). JDCH is ranked among the top 50 pediatric hospitals for services provided in Cardiology and Heart Surgery, as well as Orthopedics. JDCH: A Year of Success and Recognition, <http://annualreport.mhs.net/medicine/pediatric-services.html>

District as required by its Charter.

SUMMARY OF THE ARGUMENT⁴

The trial court's ruling, if upheld, will have devastating effects on the ability of public healthcare systems operating under similar enabling acts to fulfill their public missions. In Memorial's case, the trial court's decision would significantly impair Memorial's ability to support JDCH's operations and continued growth, would harm District residents and would place South Florida's most vulnerable population—its children—at risk.

Recognizing dangerous shortages in pediatric specialty care, JDCH expanded its operations outside its boundaries to care for children in need and provide effective continuity of care to its existing pediatric patients, who in some cases live less than five miles from JDCH, albeit outside the District. This expansion has allowed JDCH to serve its public purpose in a fiscally responsible manner by increasing market share and revenue. For public hospitals like Memorial and Halifax, expansion is key to increasing cost efficiencies, economies of scale, and clinical margins, all of which are essential to survival. Without such public hospitals, Florida's most vulnerable – its indigent population and its children – will be left without care.

Existing law provides this Court with the authority to prevent such harm. The

⁴ Memorial adopts the *de novo* standard of review set forth in Appellant's brief. See Halifax Amended Initial Brief at 16-17.

trial court's ruling – that Halifax had no authority to issue bonds to establish, construct or operate facilities outside of its geographic boundary – is not supported by the Enabling Act's plain language, nor its legislative history. The trial court failed to interpret the Enabling Act in its entirety as required under well-established principles of statutory interpretation, and ignored other provisions indicating that the Legislature never intended to limit Halifax's operations to its geographic boundary. Accordingly, this Court should reverse the trial court's final order and find that the Enabling Act allows Halifax to provide services and establish, construct, operate, and maintain hospitals and other facilities outside its geographic boundary.

ARGUMENT

I. PUBLIC HEALTHCARE SYSTEMS, LIKE HALIFAX AND MEMORIAL, CANNOT FULFILL THEIR PUBLIC PURPOSES UNLESS THEY CAN EXPAND THEIR GEOGRAPHIC FOOTPRINT

A. The Trial Court's Ruling Threatens the Viability of JDCH's Pediatric Operations, Limiting District Residents' Access to Pediatric Care

Memorial's decision to expand JDCH's pediatric specialty operations outside of its geographic boundary was not self-serving. Rather, the decision was driven by Memorial's promise to provide its residents with access to high-quality, highly-specialized pediatric care, regardless of ability to pay. With increasing pressure from payors to deliver quality pediatric care at lower costs, the need to create additional revenue streams became vital to JDCH's survival. Although economic pressures exist in every segment of health care, pediatrics is most affected. Faced with

Medicaid payment rates that do not cover costs, children's hospitals must find ways to increase their patient base in desirable payor markets to maintain revenues and support the specialized services they provide or they will simply not survive. In Memorial's case, the trial court's decision, if upheld, will preclude JDCH from rendering indispensable pediatric care in the north part of its own county and beyond, will undermine Memorial's public purpose and will result in the closure of hospital programs and perhaps the hospital itself.

1. JDCH and Its Extra-Boundary Operations Provide Critical Services to South Florida's Children.

No child in need of medical care will ever be turned away, regardless of ability to pay. That was Memorial's promise to Mr. Joe DiMaggio when he donated his name to Memorial's newly constructed children's hospital. Memorial has kept its promise to Mr. DiMaggio and has provided medical care to every child passing through JDCH's doors, irrespective of the family's ability to pay. Through the hard work of its caring staff and the strong fiscal stewardship of its Board of Commissioners and leadership, Memorial has done so while simultaneously reducing the District's millage rate so that not a single tax payer dollar is currently used to support JDCH nor any Memorial facility.⁵

⁵ Indeed, in June 2012, State Senator Rene Garcia, former Chair of both the Senate Healthcare Regulation Committee and the House Healthcare Innovation Committee, praised Memorial for being an exemplary public health system, stating, "[Memorial] has been, and continues to be, a model public health system.... Through good

JDCH is a full-service pediatric hospital that treats acute illnesses, performs transplants, cares for critically-ill premature babies, treats trauma-related injuries and provides other life-saving treatment, all in a child-friendly environment. *About Us*, Joe DiMaggio Children's Hospital at Memorial, [www.https://www.jdch.com/about](https://www.jdch.com/about) (last visited June 12, 2018). In its first year of operation, 90 JDCH staff physicians admitted 2,000 patients. *Id.* Today, JDCH has 224 licensed beds and more than 800 medical staff physicians, representing over 50 specialties. (A: 030, 032-033). In 2016, JDCH treated over 69,000 pediatric patients in its Emergency Department, admitted 9,538 children and performed 7,455 surgeries, making it one of the busiest hospitals in the region. (A: 031). Since 1998, JDCH has been ranked among the nation's top 50 children's hospitals and has received numerous awards for outstanding medical care and patient satisfaction. *See Why Choose Joe DiMaggio Children's Hospital*, Joe DiMaggio Children's Hospital at Memorial, <https://www.jdch.com/about/why-choose> (last visited June 12, 2018).

As the closest children's hospital, JDCH services patients from North Miami-Dade County, North Broward County, Palm Beach County and beyond. In fact, approximately, 60% of JDCH's inpatients come from outside its District. (A: 038-

governance, sound management, leadership, and dedication to doing what is in the best interest for the community, [Memorial is a] model of what a public health system should be. As such an exemplary model, [Memorial's] management methods and techniques should serve as an example for Florida." June 14, 2012, Letter from State Senator Rene Garcia to Memorial's Board of Commissioners. (A: 040).

39). To service these patients, JDCH operates pediatric specialty facilities both within and beyond its geographic boundary.⁶ Specialized services in these facilities include general surgery, nephrology, neurology, pulmonology, orthopedics, endocrinology, otolaryngology, rehabilitation and sports medicine. (A: 033). These facilities are essential to both the well-being of Florida's children and JDCH's economic viability, as children receive medical care close to home, when possible, and those diagnosed with acute needs are referred to JDCH for treatment. This permits JDCH to provide seamless continuity of care to children in need while increasing patient volumes to support the hospital's specialized operations. Ken Roorda & Clark Basslet, *How Collaboration Can Drive Success at Your Children's Hospital*, ECG Mgmt. Consultants 2 (Feb. 5, 2015), <http://www.ecgmc.com/thought-leadership/whitepapers/how-collaboration-can-drive-success-at-your-childrens-hospital>.

2. As Pediatric Care Becomes Regionalized, Geographic Expansion is Essential to JDCH's Survival

a. Pediatric specialists are a scarce commodity

Memorial's expansion into Palm Beach and elsewhere was driven by its need to create revenue streams to maintain critical services for its residents. With the closing of St. Mary's pediatric heart program, housed in a Palm Beach for-profit

⁶ These pediatric specialty centers are strategically located in Hollywood, Boca Raton, Coral Springs, Miramar, Weston, and soon, Wellington. (A: 033-036).

hospital,⁷ and recognized shortages in pediatric doctors, Palm Beach County is in dire need of specialized pediatric care. Before deciding to construct its new pediatric center in Palm Beach County, Memorial performed a medical staff demand study. The results were consistent with national trends⁸ and confirmed a shortage of care in pediatric specialty areas. The study projected that, between 2017 and 2022, existing pediatric physician shortages in Palm Beach County would persist in Allergy/Immunology, Invasive Cardiology, Dermatology, Hematology/Oncology, Infectious Disease, Nephrology, Neurology, Pulmonology and Rheumatology. (A: 041-043). Sadly, the study confirmed that children in Palm Beach County – a county

⁷ St. Mary's Pediatric Cardiothoracic Surgery program closed after CNN aired a report indicating the program had a higher mortality rate than other similar programs around the country. *See CNN report on Florida hospital leads to heart surgery program closure*, <https://www.cnn.com/2015/08/17/health/st-marys-medical-center-investigation/index.html> (last visited on June 28, 2018).

⁸ “A shortage of pediatric subspecialists and pediatric surgical specialists currently exists in the U.S., and this shortage is likely to intensify because of the growing number of children with chronic health problems and special care needs.” Mary E. Rimsza, *et.al*, *Financing Graduate Medical Education to Meet the Needs of Children and the Future Pediatrician Workforce*, 137 AM. ACAD. OF PED. 1 (2016) <http://pediatrics.aappublications.org/content/pediatrics/137/4/e20160211.full.pdf> (last visited June 29, 2018). *See also* William T. Basco & Mary E. Rimsza, *Pediatrician Workforce Policy Statement*, 132 AM. ACAD. OF PED. 390, 395 (2013), <http://pediatrics.aappublications.org/content/pediatrics/132/2/390.full.pdf> (last visited June 29, 2018); *Pediatric Workforce Shortages Persist*, <https://www.childrenshospitals.org/Issues-and-Advocacy/Graduate-Medical-Education/Fact-Sheets/2018/Pediatric-Workforce-Shortages-Persist> (last visited June 13, 2018). Christopher G. Dawes, *Meeting the Demand for Pediatric Specialty*, *Becker's Clinical Leadership & Infection Control* (Dec. 17, 2015), <https://www.beckershospitalreview.com/quality/meeting-the-demand-for-pediatric-specialty-care> (last visited June 13, 2018).

without a dedicated children's hospital – receive neither timely nor necessary pediatric care.

b. Extra-boundary operations are essential to increase JDCH's market presence and revenue streams

While serving the acute medical needs of South Florida's children is of paramount importance, Memorial's decision to expand operations outside of its boundary is directly linked to its continued ability to serve District residents. A large geographic presence is particularly important in the pediatric market since pediatric care has become highly regionalized. (A: 044-054) (finding that pediatric hospital care in Florida has become regionalized and increasingly dependent on referral centers). To remain viable in this regionalized market, JDCH must grow in scale to attract top pediatric specialists and draw adequate patient volumes to support its specialties, which require significant operational and technological investments. *See, e.g.,* Edward Levine, M.D., and Alex Harris, *The new scale imperative for children's hospitals*, <https://healthcare.mckinsey.com/new-scale-imperative-childrens-hospitals> (last visited June 18, 2018) (discussing how children's hospitals can build scale to ensure future sustainability and impact). Many of JDCH's specialized services, like those offered through the Heart Institute and Hematology/Oncology Program, require a large patient base to survive. The patient population of the District is simply not large enough to support these operations.

In fact, Florida regulations governing health planning for highly-specialized

programs, like Pediatric Open Heart Surgery and Organ Transplantations, recognize the need for scale and award programs on a regional basis. *See, e.g.*, Fla. Admin. Code Ann. R. 59C-1.033(7) (2018) and Fla. Admin. Code Ann. R. 59C-1.044 (2018) (dividing, for health planning purposes, all 67 counties in Florida into just five service areas for Pediatric Open Heart Surgery and Organ Transplantations Programs). Because “pediatric specialty planning inherently requires large populations,” Memorial must be able to expand JDCH’s clinical operations beyond its geographic boundary to care for those children requiring specialty services. *See Roorda, supra*. Without the ability to place specialists where the children are, JDCH will not attract the patient base necessary to support its District operations. More importantly, conditions will go undiagnosed and children will be harmed. In the case of open heart, transplant and other specialized programs regionalized by state regulation, the existence of nearby pre-and post-acute care may make the difference between the life and death for a child.⁹

Expansion is also necessary to draw a favorable payor mix, which is vital for safety-net hospitals, like Halifax and Memorial, to offset the economic burden associated with servicing indigent patients, many of whom are either uninsured or largely dependent on governmental insurance. The need for a favorable payor mix

⁹ The District boundaries are just 4.07 miles north and 3.15 miles south of JDCH. (A: 055). Should the trial court’s decision be upheld, Memorial would not be able to deliver home health services to a child less than 5 miles from JDCH.

is even more critical in pediatrics, as the largest payor of children services, Medicaid, pays the lowest rate of reimbursement. *Florida Snapshot of Children's Coverage, How Medicaid, CHIP, and the ACA Cover Children*, <https://ccf.georgetown.edu/wp-content/uploads/2017/02/Florida-Medicaid-CHIP-new-v2.pdf> (last visited June 29, 2018). In FY2016, 2.4 million Florida children were covered by Medicaid, as are more than 50% of JDCH's patients. *Id.* Because Medicaid reimbursement rates are nearly 30 percent less than Medicare, these lower payment rates jeopardize the economic viability of JDCH's operations. Memorial must therefore extend its pediatric services to capture a larger favorable payor base to increase income and cover costs.

c. JDCH's extra-boundary operations are necessary to deliver vital preventative care and facilitate continuity of care

Public hospitals must be able to operate outside of their districts to deliver accessible primary and specialty care and to allow easy access across the continuum of care for patients. For JDCH and the children it serves, this is not an option but a necessity, given that 58.6% of total patient visits for fiscal year 2018 came from outside its geographic boundary. (A: 038-039). JDCH's specialized programs draw an even higher percentage of patients from outside the District: 74.2% in the pediatric cardiac program; 61.8% in the pediatric neuroscience program; and 69.9% in the orthopedic program. *Id.*

Without JDCH's ancillary facilities, pediatric patients would wait weeks or,

in some cases, months to see a specialist or would have to travel long distances to access the care they need. *Dawes, supra*. Delay in treatment can lead to greater morbidity and mortality, increased emergency room visits, excessive travel, substantial hardship and financial burdens for families. *Id. See also* Ashby F. Walker *et. al., Geographic Access to Endocrinologists for Florida's Publicly Insured Children With Diabetes*, 24 AM. J. MANAGED CARE SP103, SP106 (2018) (reporting that working-poor families, many of whom do not have FMLA protections, suffer significant loss of income when taking time off from work to accommodate medical visits). The operation of ancillary pediatric offices outside of the District is essential to effectively manage the entire continuum of pediatric care and to achieve the public mission of removing barriers of care and maintaining a healthy population.

d. District residents benefit from JDCH's specialty operations

Expansion ultimately reduces the tax burden on District residents. By expanding outside its geographic boundary, Memorial can increase cost efficiencies, improve its competitive position, enhance its reimbursement rates and widen access to services, all of which bolster Memorial's financial strength. Memorial's growth strategy has enabled it to absorb an increasing level of uncompensated care while maintaining the lowest millage rate in its history. *Memorial Maintains Strong Financial Position*, <http://annualreport.mhs.net/financials.html> (last visited June 20, 2018). In fact, for the last three years, no tax monies were used to fund District

capital costs or operations. *Id.* In order to fulfill its stated legislative purpose without unduly burdening its residents with increased taxes, Memorial must be able to operate in ways that allow it to maximize reimbursement while creating efficiencies and economies of scale—something achieved by operating outside its boundaries.

B. Public Hospitals Must be Able to Compete Against Private and For-Profit Hospitals to Survive

Today’s competitive healthcare market requires public hospitals to diversify and expand their services to compete with private and for-profit hospitals. When for-profit hospitals decline service to indigent patients, those patients turn to safety-net hospitals like Memorial and Halifax for treatment. In FY2017, Memorial provided \$859 million in uncompensated care, none of which was funded by tax dollars. *Id.* Memorial cannot meet its legislative mandate to care for all residents of its District without the ability to increase its income through extra-boundary operations.

Examination of the growth patterns of competing hospitals makes the risk in remaining confined to a geographic boundary clear. Nicklaus Children’s Health Systems (“NCHS”), located in Miami, Florida, operates more than a *dozen* outpatient centers extending from Palm Beach County to Miami-Dade County. *About Nicklaus Children’s Hospital*, Nicklaus Children’s Hospital, <https://www.nicklauschildrens.org/about-us> (last visited June 28, 2018). By leapfrogging into Memorial’s service area, NCHS seeks to capture JDCH’s patient base, a base needed to support JDCH’s specialized programs. Similarly, Hospital

Corporation America (“HCA”), a for-profit operator of health care facilities, is expanding into markets bordering Memorial’s District, and in fact, is building a new hospital,¹⁰ literally on Memorial’s geographic boundary line. Neither HCA nor NCHS have a legislative mandate to care for patients without means. Indeed, HCA’s growth strategy is driven by profit. Public hospitals must be able to compete with healthcare giants like HCA and direct competitors like NCHS if they are to fulfill their public purposes without relying on tax revenues to fund operations.

C. The Legislature Expects Public Hospitals to Operate Outside Their Geographic Boundaries to Serve Public Health Needs

Because of their public mission, the Legislature has tasked public hospitals, like Halifax and Memorial, to render services outside their geographic boundaries to vulnerable and at-risk populations. To date, Memorial has received over \$6.5 million in grant money to fund projects that serve residents in the whole of Broward County and beyond. (A: 056-057). As recently as this year, in response to potential terror attacks, natural disasters and incidents such as the Parkland school shooting, the Legislature designated Memorial as operator of a \$1 million program designed to save lives by providing immediate on-site medical triage utilizing a special medical-disaster vehicle staffed by Memorial clinicians. (A: 058-059). Under this legislative

¹⁰ See Maria Castellucci, *HCA East Florida to invest \$650 million in facilities*, Modern Healthcare (July 8, 2016), <http://www.modernhealthcare.com/article/20160708/NEWS/160709927> (last visited on June 28, 2018).

program, Memorial is not limited to its boundaries. To the contrary, Memorial is charged with providing emergency medical services wherever needed. This grant provides clear evidence that the Legislature intends for Memorial to operate outside its boundary as needed for the public good.

Another state-awarded operation, South Florida Community Care Network d/b/a Community Care Plan (“CCP”), a Florida Medicaid HMO, is owned by Memorial and NBHD. Launched in 2000, CCP provides needed high-quality and cost-effective care to South Florida’s Medicaid population. In 2016, CCP surpassed all other Florida Medicaid plans to earn the state’s highest cumulative quality rating (A: 064), while still maintaining low per-member administrative costs. (A: 060-063) Due to its track record, in April 2018, CCP was awarded a five-year contract by Florida’s Agency for Healthcare Administration to continue operating in and outside its boundaries. (A: 065-067). By effectively managing and improving the health of its insureds, including over 10,000 enrollees who live outside of Memorial’s District, CCP was able to return a 2016 profit of over \$12 million.

These initiatives are but two examples of the many services Memorial and other special tax districts provide outside their boundaries to bring critical services to local communities. Through these programs and initiatives, the Legislature and governmental agencies have directed special tax districts to operate on a regional basis and render critical services to populations both within and outside their

districts. In Halifax’s case, the evolution of its Enabling Act clearly demonstrates the Legislature’s intent to allow Halifax to grow beyond its geographic boundary as necessary to fulfill its public purpose.

II. The Legislature Granted Halifax the Powers Necessary to Fulfill its Public Purpose and Remain Competitive in the Health Care Industry

When the Legislature created Halifax in 1925, the challenges facing public hospitals were vastly different than today. Unsurprisingly, as the healthcare industry evolved, the Legislature expanded Halifax’s powers under its Enabling Act. Of note, in 1991, the Legislature signaled its intention to provide Halifax with the ability to expand its operations beyond its geographic boundary. Recognizing that the healthcare industry was in turmoil, the Legislature made the following finding:

Section 1. The Legislature finds the health care industry is under *financial stress* and *further finds that private sector cooperation and coadventures with the district in the delivery of health care services in Volusia County are in the public interest and carry out a public function.*

(A: 069) (emphasis added) (the “1991 Act”).

As explained in the Committee on Community Affairs Final Bill Analysis, the Legislature wanted to provide Halifax’s board “with *more latitude* in financial management through the following means: ... *the authority to form not-for-profit and for-profit corporations; the authority to enter into joint ventures; ...* and the publication of a consolidated financial statement.” (A: 073) (emphasis added). The Legislature thus expanded Halifax’s corporate powers, giving it the ability to set up

for-profit corporations in addition to non-profit corporations. (A: 069). The Legislature also added the following language to Section 12 of the 1991 Act, clearly indicating that it expected Halifax to expand beyond its geographic boundary:

The district is authorized to pay ... all other reasonable and necessary expenses, including, but not limited to those expenses of the type normally incurred in the establishment, operation, repair, maintenance, expansion, and diversification of a modern integrated system for the delivery of health care services consisting of hospitals, clinics, health maintenance organizations, ambulatory care facilities, managed care facilities, other alternative delivery systems, self-insurance, risk retention programs, captive insurance companies, and support organizations....

(A: 070-071) (underline and strikethrough original).

The proposed changes were adopted in the final version of the 1991 Act and are identical to those found in the 2003 Act. (A: 023). By adding words like “expansion,” “diversification,” “modern integrated system” and “other alternative delivery systems,” the Legislature anticipated that Halifax would need to grow beyond its borders if it was to remain competitive in the healthcare market. By definition, a modern integrated healthcare system embodies growth and coordination of services among various operating units, including but not limited to hospitals, outpatient centers, specialty physician practices, nursing homes, rehabilitation centers and other forms of alternate delivery systems like telemedicine.¹¹ *See*

¹¹ The growth of telemedicine as an alternative healthcare delivery system will undoubtedly cause every public healthcare system to operate outside its geographical boundaries. The rise of telemedicine, home health models of care and other alternate

generally Integrated Health Care Literature Review, Essentials Hospital Institute at 2, <http://essentialhospitals.org/wp-content/uploads/2013/12/Integrated-Health-Care-Literature-Review-Webpost-8-22-13-CB.pdf> (last visited on June 15, 2018).

The 1991 Act also created exceptions to the bidding requirements set forth under Section 19 of the 2003 Act when compliance with such requirements would hinder Halifax’s ability to compete with private hospitals, signaling the Legislature’s intent for Halifax to remain competitive in the evolving healthcare marketplace. Per the revised Section 19(3), Halifax is not required to comply with certain bidding requirements if doing so would be detrimental to patient care or cause Halifax to lose business to a private hospital. Section 19(3) states:

(3) The bidding requirements in subsection (1) shall not apply to prosthetic devices, pacemakers, or other surgically implanted devices or materials if the delay incident to complying with such bidding requirements could adversely affect patient care *or could cause the patient to elect to have the implant surgery performed at a private hospital which is not bound by such bidding requirements.*

(A: 025) (emphasis added).

In ruling that Halifax could not operate hospitals beyond its geographic boundary, the trial court failed to consider the provisions above. Rather than interpret the Act in its entirety as required under well-established principles of statutory

delivery systems makes it impossible to define “operating,” as set forth in Section 5 of Halifax’s Enabling Act, opening up the litigation flood gates and wasting taxpayer dollars.

interpretation, the trial court improperly interpreted Section 5 of the Enabling Act in isolation. *See State v. Knighton*, 235 So. 3d 312, 316 (Fla. 2018) (recognizing that “[s]tatutory interpretation is a holistic endeavor” and thus, a statutory clause cannot be read in isolation but must be read within the context of the whole statute); *Larimore v. State*, 2 So. 3d 101, 114 (Fla. 2008) (same). Worse yet, the ramifications of the trial court’s ruling are devastating not just for Halifax, but for all public hospitals operating under similar enabling acts, as the effect is to deny these hospitals the ability to compete in a highly-competitive healthcare environment. The ultimate result of the trial court’s ruling would diminish and, in some cases, entirely eliminate public access to vital medical care, including pediatric care.

CONCLUSION

For the foregoing reasons, Memorial respectfully requests that this Court reverse the trial court’s final order and find that the Enabling Act allows Halifax to provide services and establish, construct, operate, and maintain hospitals and other facilities outside its geographic boundary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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CERTIFICATE OF COMPLIANCE

I certify that the font used in this brief is Times New Roman 14-point and in compliance with Fla. R. App. P. 9.210(a)(2).

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