

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

August 22, 2018

AGENCY MEMBERS PRESENT

Scarboro, Douglas, Chair
Patric, Kenneth, M.D., Vice-Chair
Alsup, Thomas
Brown, Laura Beth
Chinn, R.G. Rick
Korth, Paul
Ridgway, Corey
Taylor, Todd
Gaither, Keith, Designee for TennCare

AGENCY MEMBERS ABSENT

Jaclyn Harding
Lisa Jordan

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Christoffersen, Jim, General Counsel
Craighead, Alecia, Information and Data Analyst
Earhart, Phillip, HSD Examiner
Eden-Hoback, Lowavia, Executive Assistant
Farber, Mark, Deputy Director

COURT REPORTER

Daniel, April

GUESTS PRESENT

Boyd, Kenny, CEO, MRH
Brent, Michael, Esq., Bradley Arant Boult Cummings, LLP
Brown, Dere, Director of Health Planning and License/Certification, NHC
Burns, Charlotte, SVP, TriStar Health
Calendine, Chad, President, Premier Radiology
Elrod, Dan, Esq., Butler Snow
Felts, Ginna, Business Development, Vanderbilt University Medical Center
Fitzgerald, Bryce, Esq., Kramer and Rayson, LLP
Gaw, Mark, CFO, PhyData, LLC
Gooch, Warren, Esq., Kramer and Rayson, LLP
Locke, Chris, CEO, Saint Francis Hospital-Bartlett
Looney, Kim, Esq., Waller Lansden
Mangrum, Tim, M.D., Saint Thomas Medical Group
Moyers, Phillip, M.D., Radiology Alliance
Phillips, Brant, Esq., Bass Berry Sims
Reed, Ann, R., RN., BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities
Taylor, Jerry W., Esq., Burr & Forman
Trauger, Byron, Esq., Trauger and Tuke
Vetter, Stacia, AVP, NHC
Wellborn, John, Consultant, Development Support Group
Williams, John, M.D., Saint Thomas Medical Partners

CALL TO ORDER:

The meeting was called to order at 8:30 a.m. by Ms. Hill with the following members present: Scarboro, Gaither, Korth, Brown, Chinn, Patric, Taylor, and Alsup. A quorum¹ was established with eight members being present.

DIRECTOR'S ANNOUNCEMENTS

- Laura Beth Brown and Rick Chinn, Jr. were welcomed as new board members.
- Mr. Korth was recognized for his service as vice-chair during the previous term.
- The October 24 and December 12 board meetings will be held at the Cordell Hull Building.

ELECTION OF OFFICERS

Mr. Scarboro was elected as Chairman with Mr. Ridgway, Mr. Gaither, Mr. Korth, Dr. Patric, Ms. Brown, Mr. Chinn, Mr. Taylor, and Mr. Alsup voting aye. Mr. Scarboro abstained from the vote [7-0-1].

Dr. Patric was elected as Vice-Chairman with Mr. Ridgway, Mr. Gaither, Mr. Korth, Ms. Brown, Mr. Chinn, Mr. Taylor, Mr. Alsup and Chairman Scarboro voting aye. Dr. Patric abstained from the vote [7-0-1].

Mr. Ridgway arrived at 8:35 after the election of officers.

APPROVAL OF MINUTES

Mr. Scarboro presented the June 27, 2018 minutes for approval.

Mr. Korth moved for approval of the minutes as presented. Mr. Taylor seconded the motion. The motion CARRIED [9-0-0] unanimously by voice vote. **APPROVED**

STATE HEALTH PLAN UPDATE

TDH Division of Health Planning Assistant Director Elizabeth Jones reported the following regarding updates to the standards and criteria for certificate of need:

Psychiatric Services- After a small technical correction is completed, the criteria and standards will be sent out for public comment.

Satellite Emergency Department Facility- The application guide is complete and available.

Cardiac Catheterization- The standards will be updated next year via an advisory committee due to the technical nature.

¹ Quorum Requirement- Six members shall constitute a quorum. TCA §-68-11-1604(e) (3)

Megavoltage Radiation Therapy, Inpatient Rehabilitation Services and Home Health- These standards will be updated next year via the standard process of public hearings, revisions and public comment.

Meetings to receive public input are planned for the first week in October. The dates will be finalized shortly with the public being notified of the dates.

CERTIFICATE OF NEED APPLICATIONS

Three certificate applications were considered under TCA § 68-11-1609(b) which notes the conditions that must be met in order to grant a certificate of need—when the action proposed in the application is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, will provide health care that meets appropriate quality standards, and will contribute to the orderly development of adequate and effective health care facilities or services.

Deputy Director Farber introduced each of the three applications under consideration with all three being approved.

The three approved applications and the factual and legal basis² for the decisions follow:

Antioch Outpatient Diagnostic Center and Premier Radiology-Antioch were heard under Simultaneous Review procedures.

Ms. Brown and Mr. Ridgway recused on both applications.

Antioch Outpatient Diagnostic Center, Antioch (Davidson County), TN CN1805-020A

Request: The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services. The proposed ODC will be located in leased space located at 5380 Hickory Hollow Parkway, Suite 101, Antioch (Davidson County), TN. The applicant is owned by Tennessee Imaging Services, LLC (TIS) which is owned by American Radiology Holdings, P.C (ARH). ARH is wholly owned by Dr. Curtis Pickert, MD. The estimated project cost is \$8,646,512.

Mr. Taylor moved for approval including an additional year for completion with Mr. Alsup providing the second.

Factual and Legal Basis for approval:

Need – The applicant will construct this in the fastest growing area of Nashville in Antioch. There's currently no public ODCs available to serve the area and certainly will be much more convenient for the patients and decrease wait times;

Economic Feasibility – The project is being fully funded by a cash grant by MedEx and they also are predicting, in year two, a positive cash flow;

² Approve all or part of a certificate of need, upon any lawful conditions that the agency deems appropriate and enforceable on the grounds that those parts of the proposal appear to meet the applicable criteria. TCA §-68-11-1609 (a) (1)

Healthcare that Meets Appropriate Quality Standards - They will be licensed by the State of Tennessee, certified by Medicare and TennCare, and will apply for accreditation by the American College of Radiology;

Contribution to the Orderly Development of Healthcare - This project doesn't duplicate any services and will not negatively impact any other provider.

Seven members voted to approved the application— Gaither, Korth, Patric, Chinn, Taylor, Alsup, and Scarboro. The motion CARRIED [7-0-0] with the certificate of need being granted.

Premier Radiology-Antioch, Antioch (Davidson County), TN CN1805-021A

Request: The establishment of an Outpatient Diagnostic Center (ODC) and the initiation of magnetic resonance imaging (MRI) services. The proposed ODC will be locatd in a new building under construction located at 3754 Murfreesboro Pike, Antioch (Davidson County), TN. The applicant is owned by Middle Tennessee Imaging, LLC d/b/a Premier Radiology which is owned by Saint Thomas Health (53.86%), NOL, LLC (42.15%), and Murfreesboro Imaging Partners (3.99%). The estimated project cost is \$3,558,788.

Mr. Taylor moved for approval of the project with Mr. Alsup providing the second.

Factual and Legal Basis for approval:

Need - There certainly is a need for these services in the Antioch area as there are no current providers providing this service. Due to traffic congestion, it will certainly help make it more convenient for the patients to obtain these services that have been basically nonexistent in this area;

Economic Feasibility - The applicant will finance the project through a commercial loan, and also the applicant projects a favorable net operating income in year one;

Healthcare that Meets Appropriate Quality Standards - They will be licensed by the State of Tennessee, certified by both Medicare and TennCare, and accredited by the American College of Radiology;

Contribution to the Orderly Development of Healthcare - The project will not have any negative impact on any other providers. The applicant will be contracted with all major insurance providers and will have a transfer agreement established with all Saint Francis [sic] affiliated hospitals.

Seven members voted to approve the application— Gaither, Korth, Patric, Chinn, Taylor, Alsup, and Scarboro. The motion CARRIED [7-0-0] with the certificate of need being granted.

Bartlett, ASC, LLC, Bartlett (Shelby County), TN – CN1806-026

Mr. Ridgway recused.

Request: The relocation of a previously approved but unimplemented CON (CN1605-020) for an ambulatory surgical treatment center from Kate Bond Boulevard, Bartlett (Shelby County) to 7845 US Highway 64, Bartlett (Shelby County). The applicant is owned by USP Tennessee, Inc., which is owned by United Surgical Partners International (USPI). The estimated project cost is \$10,035,666.19.

Dr. Patric moved for approval of the project with Mr. Korth providing the second.

Factual and Legal Basis for approval:

Need – This is an extension of a previously approved request, and from the information provided, there really hasn't been much change with regards to need, and there is a demonstrated need in the Bartlett area. The mix has changed a bit in terms of what the usage would be in terms of the specialty;

Economic Feasibility – Saint Francis system appears to be able to fully fund that, along with the other projects they have there;

Healthcare that Meets Appropriate Quality Standards – The system is already Joint Commission accredited, and I expect that they will be approved by the same organizations as well as the state and Medicare;

Contribution to the Orderly Development of Healthcare – There is no opposition and there is support despite the fact that the orthopedists decided to go a different route.

Eight members voted to approve the application—Gaither, Korth, Patric, Brown, Chinn, Taylor, Alsup, and Scarboro. The motion CARRIED [8-0-0] with the certificate of need being granted.

GENERAL COUNSEL'S REPORT

Extension Request:

NHC Healthcare – CN1604-014A: Request for a 3 year extension, from 10/1/18 to 10/1/21 due to a possible change in ownership transaction.

The CON was unanimously approved on 8/24/16 for the addition of 10 Medicare certified SNF beds to the existing 94 bed dually certified skilled nursing facility and renovation of 12 existing patient rooms. The estimated project cost was \$4,806,490.

Mr. Ridgway moved for approval with Mr. Taylor providing the second.

Nine members voted to approve the request— Ridgway, Gaither, Korth, Patric, Brown, Chinn, Taylor, Alsup, & Scarboro. The motion CARRIED [9-0-0] with the extension request being approved.

Modification Request:

Maury Regional Hospital d/b/a Maury Regional Medical Center – CN0210-103AM and CN1307-026A: Request for modification from mobile to fixed PET/CT Scanner.

Ms. Brown recused.

CN0210-103AM was approved on 1/22/2003, for the initiation of mobile PET services 1 day per week at the hospital campus. The CON was subsequently modified to 3 days per week.

CN1307-026A was unanimously approved on 10/23/13, for the relocation of its megavoltage radiation therapy service from MRMC's main campus at 1224 Trotwood Avenue, Columbia (Maury County), to the Columbia Mall at 6508 South James Campbell Boulevard, Columbia (Maury County), a distance of approximately one mile. The megavoltage radiation therapy service consisted of two (2) linear accelerators and its PET/CT service consisting of one mobile PET Scanner. The project included the building of shell space for a future fixed PET/CT Scanner.

Dr. Patric moved for approval with Mr. Korth providing the second.

Eight members voted to approve the request— Ridgway, Gaither, Korth, Patric, Chinn, Taylor, Alsup, & Scarboro. The motion CARRIED [8-0-0] with the request for modification from mobile to fixed PET/CT Scanner being approved.

Contested Case Update

Mr. Christoffersen provided the following update:

Baptist Memorial Hospital CN1705-018D—Baptist appealed the denial of its certificate of need application for a satellite emergency department facility in Arlington, which is in far northeastern Shelby County, Tennessee. The trial is underway at the Nashville School of Law.

Premier Radiology, CN1803-014A—Sumner Regional Medical Center appealed the approval of the certificate of need application for the establishment of an outpatient diagnostic center and the initiation of magnetic resonance imaging services in Gallatin, Tennessee.

Rulemaking

Initiation of the rulemaking process to modify the Agency's Rules to permit electronic filings of documents, including applications and petitions for contested cases, in accordance with procedures set by Agency staff.

Mr. Christoffersen briefly explained that this rule change would permit the public to file documents electronically, including applications and petitions for contested cases.

Dr. Patric moved for approval with Mr. Ridgway providing the second.

Nine members voted to approve the request— Ridgway, Gaither, Korth, Patric, Brown, Chinn, Taylor, Alsup, & Scarboro. The motion CARRIED [9-0-0] with the request for rulemaking to modernize the certificate of need process being approved.

OTHER BUSINESS

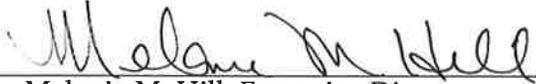
Conflict of Interest/ Ex Parte Discussion—Mr. Christoffersen provided an overview of the conflict of interest provisions in the statute and explained the recusal process. He also explained ex parte discussions and the prohibition of such once a letter of intent for a project had been filed.

Quality Measures Update—Mr. Farber addressed the quality measures requirements implemented as a result of PC 1043, Acts of 2016 and provided an update on implementation.

Executive Director position—Ms. Hill reported that the Department of Human Resources had advised her that since the position was executive service, there was no set procedure to follow.

ADJOURNMENT

There being no further business, the meeting adjourned.


Melanie M. Hill, Executive Director

HSDA Minutes provide a brief summary of agency actions. A detailed record of each meeting (recording and transcript) is available upon request by contacting the HSDA office at 615-741-2364.

