

# HEALTH SERVICES AND DEVELOPMENT AGENCY

## MINUTES \*

June 24, 2015

### AGENCY MEMBERS PRESENT

Johnson, D. Lynn, Chair  
Doolittle, Robert S., Vice-Chair  
Burns, Charlotte  
Byrd, Claudia  
Fleming, Martin, M.D.  
Mills, Thom  
Wright, James  
Gaither, Keith, designee for the TennCare Director  
Austin, Jaclyn, designee for the Comptroller of the Treasury

### AGENCY MEMBERS ABSENT

Jordan, Lisa, designee for the Commissioner of Commerce and Insurance  
Flora, Mark, M.D.

### AGENCY STAFF PRESENT

Hill, Melanie, Executive Director  
Ausbrooks, Mark, Administrative Assistant III  
Christoffersen, Jim, General Counsel  
Craighead, Alecia, Statistical Analyst, III  
Earhart, Phillip, HSD Examiner  
Farber, Mark, Deputy Director  
Finchum, Rhonda, Administrative Officer  
Grimm, Jeff, HSD Examiner

### COURT REPORTER

Deen, Meschelle Manley

### GUESTS PRESENT

Behrens, Steven, Executive Sales Director Infusion Services, PENTEC  
Berry, Beth, Tennessee Hospital Association  
Biggs, Jeremy, C.A.O., Cumberland Medical Center  
Brent, Michael D., Esq., Bradley Arant Boult Cummings, LLP  
Brown, Clyde, M. D., Methodist LeBonheur Healthcare  
Brown, Ryan, Esq., ADI  
Carroll, Becky, Vice President, Parkridge Medical Center  
Crowe, Ginger, C.O.O., Neurosurgical Associates  
Duncan, Bruce, Assistant Vice President, National HealthCare Corporation  
Elrod, Dan H., Esq., Butler Snow  
Felts, Ginna, Business Development, Vanderbilt University Medical Center  
Fisher, Stanley, M.D., SLMBNI  
Gooch, Warren L., Esq., Kramer Rayson, LLP  
Grinder, Terry, Investigator, Tennessee Board of Pharmacy  
Hill, Ronald, Consultant, Business Development, Vanderbilt University Medical Center  
Jones, Elizabeth, Assistant Director, Division of Health Planning, Department of Health,  
Jackson, Tom, C.F.O, Parkridge Medical Center  
Kidd, Thomas, C.F.O., Macon County General Hospital  
Leshner, Jared, M.D. Fellow, Parkridge Medical Center  
Looney, Kim Harvey, Esq., Waller Lansden Dortch & Davis  
McHenry, Karen, Vice President of Nursing, PENTEC

Merville, Ladonna, Vice President, HAT  
Moore, Darrell, C.E.O., Parkridge Medical Center  
Moore, Larry E, C.F.O., Cumberland Medical Center  
Maples, Arthur, Director Government Operations, Baptist Memorial Health Care Corporation  
Nelley, Rachel C., Esq., Farris, Mathews, Bobango  
Owens, Pamela, Director of Home Care, National HealthCare Corporation  
Reed, Ann, R., RN, BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities  
Richardson, Michael, Vice President, Planning and Business Development, Covenant Health Services  
Rosenbaum, Dave, Vice President, Methodist LeBonheur Healthcare  
Robinson, James L. III, Senior Vice President, Methodist LeBonheur Healthcare  
Sansing, Trent, CON Director, TDH  
Schooley, William, M.D., Turner Surgery Center  
Slavin, Clifford, Pharmacy Manager, PENTEC  
Swearingen, Travis, Esq., Kramer Rayson, LLP  
Taylor, Jerry W., Esq., Burr & Forman  
Trauger, Byron R., Esq., Trauger & Tuke  
Tutor, Andrea, Analyst, Methodist LeBonheur Healthcare  
West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz  
Weidenhoffer, Carol, Director, Methodist LeBonheur Healthcare  
Winsett, Kimberly, Director of Imaging, Macon County General Hospital

### **ROLLCALL TO ESTABLISH QUORUM**

Mr. Johnson requested roll call to establish quorum.

PRESENT: Mills, Gaither, Wright, Doolittle, Burns, Austin, Byrd, Johnson

Eight members present.

### **DIRECTOR'S ANNOUNCEMENTS**

Melanie Hill, Executive Director, made general announcements regarding the following:

- 1) Instructions were provided for those providing testimony on the agenda items;
- 2) The number of applications scheduled for upcoming meetings - Zero for July (no meeting), ten for August, and possibly four for September.
- 3) The election of the Vice Chair will occur at the August Meeting;
- 4) The conflict of interest and ex parte discussion and an Audit Committee Meeting will be scheduled for the conclusion of the September meeting

### **APPROVAL OF MINUTES**

Mr. Johnson presented **May 27, 2015** minutes for approval.

Ms. Byrd moved for approval of the minutes as presented. Mr. Doolittle seconded the motion. The motion **CARRIED [8-0-0]. APPROVED by unanimous voice vote**

AYE: Mills, Gaither, Wright, Doolittle, Burns, Austin, Byrd, Johnson

NAY: None

### **STATE HEALTH PLAN UPDATE**

Elizabeth Jones, Assistant Director, Division of Health Planning, Department of Health, presented a brief update as follows:

1. Application of the Cardiac Catheterization service standards is resulting in confusion of utilization numbers, no specific discrepancies; The Division of Health Planning will be engaging stakeholders to make revisions.
2. Psychiatric bed revisions to the Criteria and Standards have been sent out for review.
3. Meeting with Perinatal Advisory Committee in July to begin work on the NICU revisions.
4. The State Health Plan is currently awaiting the Governor's approval.

### **CONSENT CALENDAR APPLICATION**

*Melanie Hill summarized the following Consent Calendar Application:*

Dr. Fleming arrived.

#### **Cumberland Medical Center - (Crossville, Cumberland County), TN - CN1504-011**

The construction renovation, and expansion of an existing building to create a new Emergency Department on the current hospital campus located at 421 South Main Street, Crossville (Cumberland County), TN 38555. The estimated project cost is \$6,369,682.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

1) Need—The need to upgrade and modernize the Emergency Department is demonstrated based upon the 4.1% increase in patient visits from 2010 to 2013 and the projections of 87% capacity on 25 treatment rooms by Year 2. As part of Cumberland's master plan study, major deficiencies were identified with space and function in the current Emergency Department. The specifics are detailed in Mr. Basler's letter; 2) Economic Feasibility – Covenant Health, the parent company of Cumberland Medical Center has sufficient cash reserves to complete the project. The hospital is a major participant in both Medicare and TennCare and although the Emergency Department typically does not generate a substantial amount of revenue by itself, it does serve as an important point of admission to the more profitable ancillary and inpatient services; and 3) Contribution to the Orderly Development of Health Care – The project does contribute to the orderly development of health care because a modern Emergency Department should dramatically improve operational inefficiencies by increasing clinical efficiency and productivity. The improved layout will meet modern building and life safety codes and will provide sufficient space to accommodate all the equipment needed to provide care. Since the existing ED will be able to continue to operate while the new one is being constructed, minimal disruptions are expected. Cumberland Medical Center has the appropriate contracts and transfer agreements in place and provides a substantial amount of charity care.

Mr. Doolittle moved for approval of the project based on Ms. Hill's justification. Ms. Burns seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Burns, Austin, Fleming, Byrd, Johnson  
 NAY: None

### **CERTIFICATE OF NEED APPLICATIONS**

**(Taken out of agenda order to accommodate travel difficulties experienced by an applicant)**

*Mark Farber summarized the following CON Applications:*

#### **Parkridge Medical Center - (Chattanooga, Hamilton County), TN - CN1503-007**

Ms. Burns recused.

A major construction project requiring a capital expenditure greater than 5 million dollars at the main campus of Parkridge Medical Center at 2333 McCallie Avenue, Chattanooga (Hamilton County), Tennessee. The application proposes to remodel and expand floor space of several patient care and support departments, including the addition of a cardiac catheterization laboratory and a bone densitometry unit. The project does not include the addition of major medical equipment, initiation or discontinuance of any covered health care services, or affect the hospital's bed complement. Parkridge Medical Center, Inc. owns and operates five campuses with a consolidated license for 621 hospital beds. The 2333 McCallie Avenue campus, where this project is located, operates 275 of those beds. The estimated project cost is \$61,459,477.00.

Jerry Taylor, Esq., addressed the Agency on behalf of the applicant. Speaking in support were: Darrell Moore, Chief Executive Officer, Parkridge Medical Center, Becky Carroll, Vice President, Parkridge Medical Center; and Tom Jackson, Chief Financial Officer, Parkridge Medical Center.

Summation waived.

Mr. Wright moved for approval of the project based on: 1) Need – has been demonstrated by the plan to improve patient flow and other efficiencies, including new operating room and medical/surgical units, imaging, and catheterization lab; 2) Economic Feasibility – is met by the project being funded by cash reserves of the parent; and 3) The project does contribute to the orderly development of adequate and effective health. It is met in that this renovation will meet the needs of today's modern medical facilities in a carefully planned and coordinated project. . Mr. Doolittle seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Austin, Fleming, Byrd, Johnson  
NAY: None

**Methodist Healthcare-Memphis Hospitals d/b/a Methodist South Hospital - (Memphis, Shelby County), TN - CN1503-008**

Dr. Fleming recused.

A major construction project requiring a capital expenditure greater than \$5 million dollars that involves the renovation and expansion of the Emergency Department and related areas of the hospital campus at 1300 Wesley Drive, Memphis (Shelby County), Tennessee. The project does not involve an increase of the hospital's ED rooms, the addition of inpatient beds, or the initiation of services or addition of major medical equipment. Methodist Healthcare Memphis Hospitals owns and operates five campuses with a consolidated license for 1,583 hospital beds. The 1300 Wesley Drive campus, where this project is located, operates 156 of those beds. The estimated project cost is \$8,741,872.00.

Byron Trauger, Esq., addressed the Agency on behalf of the applicant. Speaking in support were: James Robinson, III, Chief Executive Officer, Methodist South; and Clyde M. Brown, Emergency Department M.D.

Summation waived.

Ms. Burns moved for approval of the project based on: 1) Need - There is a need for expansion and renovation to improve work flow and operational efficiencies due to the increased volumes that have occurred over the past few years, and it will also include private patient rooms, which will result in increased patient privacy to comply with HIPAA guidelines; 2) Economic Feasibility – is met by using cash reserves and projections of profitability in years one and two; and 3) Orderly Development - it contributes to the orderly development of health care by providing a newly expanded, renovated facility, with enlarged private patient rooms, with benefits to patient care, patient flow, patient privacy, and infection control, and it will not negatively impact other providers since there's not an increase in the number of ED beds in that service area. Mr. Mills and Mr. Wright seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Burns, Austin, Byrd, Johnson  
NAY: None

**Turner Surgery Center, LLC - (Nashville, Davidson County), TN - CN1503-009**

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Ms. Burns recused.

The establishment of a single specialty ambulatory surgical treatment center (ASTC) located at Suite 210, 28 White Bridge Road, (Davidson County), TN 37205. The one procedure room ASTC will be limited to implantation of spinal neuro-stimulator devices and other pain management procedures. The estimated project cost is \$547,150.00.

Dan Elrod, Esq, addressed the Agency on behalf of the applicant, and proposed the following conditions be placed on the certificate, if approved: The ambulatory surgical treatment center be limited to (1) patients of Neurosurgical Associates, P.C., (not including an successor entity resulting from a merger or acquisition); (2) pain management procedures; and (3) one procedure room.

Speaking in support were: William Schooley, M.D. Owner, Turner Surgery Center.

Summation waived.

Mr. Doolittle moved for approval of the project based on 1) Need – the need is there, as demonstrated by his long track record. It's financially feasible because of the minimal capital investment and the resources that Dr. Schooley brings to the table. And along with the limitations that were proposed, limiting this to pain management, and to Neurosurgical Associates, and one procedure room, such as limited to the patients of Neurosurgical Associates, PC, but also not including a successor entity resulting from a merger or acquisition; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care, because it provides another more convenient location for patients that need this procedure. Mr. Wright seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Austin, Fleming, Byrd, Johnson  
NAY: None

**Baptist Memorial Group, Inc. d/b/a Baptist Medical Group - (Germantown, Shelby County), TN - CN1503-010**

Dr. Fleming recused.

The initiation of magnetic resonance imaging (MRI) services in leased space on the campus of Baptist Rehabilitation-Germantown, 2100 Exeter Road, Germantown (Shelby County), Tennessee, as part of the medical group's practice. An existing 1.5 Tesla fixed MRI unit owned and operated by Baptist Rehabilitation-Germantown will be transferred to Baptist Medical Group as part of the project. Other than the change in operation, no change in site, equipment or imaging services will change as a result of the project. The estimated project cost is \$1,262,000.00.

Dan Elrod, Esq., addressed the Agency on behalf of the applicant.

Summation waived.

Mr. Wright moved for approval of the project based on 1) Need – clearly exists in the market, as demonstrated by the information in the ensuing application; 2) Economic Feasibility – the project is economically feasible and cash reserves are available; and the projected financial information that was provided; and 3) The project does contribute to the orderly development of adequate and effective health care continuing to provide accessibility to all patients and pay sources in the area. Ms. Burns and Mr. Doolittle seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Burns, Austin, Byrd, Johnson  
NAY: None

**Simultaneous Review:**

**Implanted Pump Management, LLC - (Knoxville, Knox County), TN - CN1407-027 and Pentec Health, Inc. - (Nashville, Davidson County), TN - CN1411-046**

Mr. Mills recused.

**Presentations:**

**Implanted Pump Management, LLC - (Knoxville, Knox County), TN - CN1407-027**

The establishment of a home care organization and the initiation of home health services limited to intrathecal pump services. The parent office will be located at 200 Prosperity Place #102, Knoxville (Knox County), TN 37932. There are no branch offices proposed for this project. The service area includes all 95 counties in Tennessee. The estimated project cost is \$13,038.00.

Melissa Hess, Director of Nursing, and Rachel Nelley, Esq., addressed the Agency on behalf of the applicant.

Speaking in opposition were: Dan Elrod, Esq., on behalf of National HealthCare Corporation. Kim Looney, Esq., on behalf of Pentec, Inc.

Present in opposition were: National HealthCare Corporation, Pentec, Inc.

Previously not speaking but responding to Agency member questions from the Department of Health were: Ann Reed, Director of the Licensure Section in the Division of Health Care Facilities and Terry Grinder, D.Ph., Investigator for the Board of Pharmacy.

**Pentec Health, Inc. - (Nashville, Davidson County), TN - CN1411-046**

The establishment of a home care organization and the initiation of home health services limited to intrathecal pump infusion and Ig-G replacement therapy services in all counties in Tennessee except Hancock, Perry and VanBuren Counties. The parent office will be located in leased space at 424 Church Street, Suite 2000, Nashville, TN. No branch offices are proposed. The applicant plans to utilize Pentec Health's existing pharmacy whose compounding branch site is located at the parent office at 4 Creek Parkway in Boothwyn, PA. The pharmacy has an active Tennessee license. The estimated project cost is \$142,028.00.

Kim Looney addressed the Agency on behalf of the applicant.

Speaking in support were: Karen McHenry, Pentec; Steve Fisher, M.D.; Cliff Slavin, Pentec; and Steve Behrens, Pentec.

Speaking in opposition were: Dan Elrod, Esq. on behalf of National HealthCare Corporation and Rachel Nelley, Esq., on behalf of Implanted Pump Management.

Previously not speaking but responding to Agency member questions from the Department of Health were: Ann Reed, Director of the Licensure Section in the Division of Health Care Facilities and Terry Grinder, D.Ph., Investigator for the Board of Pharmacy.

**Rebuttals**

Melissa Hess rebutted for Implanted Pump Management.

Kim Looney, Esq. rebutted for Pentec.

**Summations**

Rachel Nelley, Esq., summated for Implanted Pump Management.

Kim Looney, Esq., summated for Pentec.

**Motions**

Kim Looney, Esq., summated for Pentec.

**Motions**

**Implanted Pump Management, LLC - (Knoxville, Knox County), TN - CN1407-027**

Dr. Fleming moved for approval of the project based on: 1) Need – With regard to the need for the implantable pump management and we have numbers that vary, but there is approximately 2,000 people in Tennessee with pumps that need to be managed by a skilled nurse's capability that, in my perspective, is not available readily now, and we need that for the state; 2) Economic Feasibility – With the estimated project cost being nominal, at \$13,038, to cover 95 counties in Tennessee, the economic feasibility is there because it will be covered by the cost of the care; and 3) The project does contribute to the orderly development of adequate and effective health care will be driven by the physician need and patient need, and as that need makes itself available, they will be available to address it. Mr. Doolittle seconded the motion. The motion CARRIED [8-0-0].

**APPROVED**

AYE: Gaither, Wright, Doolittle, Burns, Austin, Fleming, Byrd, Johnson

NAY: None

**Pentec Health, Inc. - (Nashville, Davidson County), TN - CN1411-046**

Dr. Fleming moved for approval of the project based on: 1) Need – With regard to the need for the implantable pump management and we have numbers that vary, but there is approximately 2,000 people in Tennessee with pumps that need to be managed by a skilled nurse's capability that, in my perspective, is not available readily now, and we need that for the state; 2) Economic Feasibility - the economic feasibility being the total project cost of \$142,028, which will be covered by the reimbursement for the care; and 3) The project does contribute to the orderly development of adequate and effective health care, The project will be driven by the fact that as the need arises they will address it, so as physicians and patients need it, they will be able to address that need in any of the 92 counties in Tennessee. Mr. Doolittle seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Wright, Doolittle, Burns, Austin, Fleming, Byrd, Johnson

NAY: None

**GENERAL COUNSEL'S REPORT**

*Jim Christoffersen summarized the following CON modification requests:*

Mr. Johnson left the meeting. Vice-Chairman Doolittle presided over the remaining Agency business.

**The Village at Germantown Skilled Nursing Facility, Germantown (Shelby County), TN - CN1310-039A**

Dr. Fleming recused.

On January 22, 2014, the Agency unanimously approved the addition of twenty (20\*) Medicare-certified skilled beds to its existing thirty (30) Medicare skilled bed nursing home, with an estimated project cost of \$5,641,539. A nine month extension, from March 1, 2016 to December 1, 2016, is being requested.

Byron Trauger, Esq., addressed the Agency on behalf of the applicant.

Mr. Mills moved for approval of the project for a 9 month extension of the expiration date from March 1, 2016 to December 1, 2016. Ms. Burns seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Burns, Austin, Byrd  
NAY: None

**Horizon Medical Center Emergency Department, Dickson (Dickson County), TN – CN1202-008A**

Ms. Burns recused.

On May 23, 2012, by a 8-1 vote, the Agency approved the establishment of a satellite Emergency Department (ED) facility at Horizon Medical Center's Natchez Medical Park campus, which is located less than one-half mile south of Exit 172 on I-40 in Dickson (Dickson County), TN. The project is the fourth of a series of projects for which Horizon Medical Center has sought approval from the Agency as a part of a multi-phased master facility plan to eventually relocate its aging hospital facility. Located at 109 Natchez Park Drive, the freestanding, satellite ED will adjoin and be physically connected to the diagnostic services in the Natchez Ambulatory Care Center. A one month extension is being requested, from July 1, 2015 to August 1, 2015.

Jerry Taylor, Esq., addressed the Agency on behalf of the applicant.

Mr. Wright moved for approval of the project for a 1 month extension of the expiration date from July 1, 2015 to August 1, 2015. Ms. Byrd seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Austin, Fleming, Byrd  
NAY: None

**Natchez Surgery Center, Dickson (Dickson County), TN – CN1002-011A**

Ms. Burns recused.

On May 26, 2010, the Agency unanimously approved the establishment of an ambulatory surgical treatment center (ASTC) with 3 operating rooms and 3 procedure rooms. Upon approval CN0801-001A was to be surrendered which is for a similar facility at this site. The intent of this application was to change the project's organizational form to permit physician ownership participation. When the 6 new surgical rooms are licensed and operational, Horizon Medical Center will cease to staff 5 of its operating and procedure rooms. The estimated project cost was \$ 13,073,892.00. A 24 month extension is being requested, from July 1, 2015 to July 1, 2017.

Jerry Taylor, Esq., addressed the Agency on behalf of the applicant.

Mr. Mills moved for approval of the project for a 24 month extension of the expiration date from July 1, 2015 to July 1, 2017. Mr. Wright seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Doolittle, Austin, Fleming, Byrd  
NAY: None

**Hemophilia Preferred Care of Memphis, Memphis (Shelby County), TN – CN1201-002A**

Dr. Fleming recused.

On June 27, 2012, the Agency unanimously approved the establishment of a home care organization to provide home health services limited to serving those patients suffering from hemophilia or similar blood disorders who are also patients of the pharmacy operated by Hemophilia Preferred Care of Memphis at 852 South Cooper Street, Memphis (Shelby County), TN. The service area will be Shelby County. The estimated project cost was \$43,000.00. A six month extension is being requested, from August 1, 2015 to February 1, 2016.

William H. West, Esq., addressed the Agency on behalf of the applicant.

Previously not speaking but responding to Agency member questions were: Ann Reed, Director of Licensure, Tennessee Department of Health.

Based on the testimony of Ann Reed, Director of Licensure, the applicant requested a 9 month extension instead of the original request of a six month extension.

Mr. Wright moved for approval of the project for a 9 month extension of the expiration date from August 1, 2015 to June 1, 2016. Mr. Mills seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Burns, Doolittle, Austin, Byrd  
NAY: None

### **Macon County General Hospital, Lafayette (Macon County), TN – CN9904-030A**

On July 28, 1999, the Health Facilities Commission (predecessor to the Agency) unanimously approved the initiation of mobile MRI services 1 day per week, with an estimated project cost of \$1,003,000. Macon County General Hospital seeks the removal of the limitation of 1 day per week.

Thomas Kidd, Chief Financial Officer, Macon County General Hospital, addressed the Agency on behalf of the applicant.

Ms. Burns moved for approval of the request to remove the limitation of one-day-per-week services for MRI and allow full time operation of the leased MRI unit. Mr. Mills seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Mills, Gaither, Wright, Burns, Doolittle, Austin, Fleming, Byrd  
NAY: None

### **CONTESTED CASES UPDATE**

Mr. Christoffersen provided an update on contested cases.

### **ADJOURNMENT**

There being no further business, the meeting adjourned.



Melanie M. Hill, Executive Director

\* Minutes provide only a brief staff summary of the meeting and are not intended to be an all-inclusive report. The HSDA maintains a detailed record of each meeting (recording and transcript) that is available upon request by contacting the HSDA office at 615-7412364.