

**HEALTH SERVICES AND DEVELOPMENT AGENCY  
MINUTES  
SEPTEMBER 23, 2009**

**AGENCY MEMBERS PRESENT**

Koella, Carl, III, Chair  
Lammert, Gregory, Vice Chair  
Bishop, Jimmy  
Burns, Charlotte  
Gaither, Keith, designee for the TennCare Director  
Weaver, Faye, designee for the Comptroller of the Treasury

**AGENCY MEMBERS ABSENT**

Atchley, Bryan  
Handorf, Charles, M.D.  
Morris, John, designee for the Commissioner of Commerce and Insurance  
Jones, Clark

**AGENCY STAFF PRESENT**

Hill, Melanie, Executive Director  
Bobbitt, Melissa, Administrative Services Assistant III  
Christoffersen, Jim, Deputy General Counsel  
Craighead, Alecia, Statistical Analyst III  
Earhart, Phillip, Health Planner III  
Farber, Mark, Assistant Executive Director  
Finchum, Rhonda, Office Manager  
Wells, Phil, Health Planner III

**GUESTS PRESENT**

Anthony, Kim, CEO, Jamestown Regional Medical Center  
Barat, Guy, M.D., SkyRidge Medical Center  
Barham, Steve, Esq., Chambliss, Bahner & Stophel, P.C.  
Becker, Michael, P.A., Physician First  
Brierlen, Jeff, Consultant  
Bozeman, Michael, Consultant, Provision  
Brent, Michael D., Esq., Bradley Arant Boult Cummings, LLP  
Brooks, Todd, M.D., Best Nurses, Inc.  
Brotherton, Matthew, Kramer Rayson, LLC  
Brown, Bill, Consultant, Brown Group  
Brown, Will, Consultant, Brown Group  
Burnett, Hamilton, Jr.  
Buzzi, Klaus W., Consultant, USMD  
Chasan, Stuart A., M.D., Tennessee Urology Associates, PLLC  
Cherrington, Graham, Executive Vice President, NovaMed, Inc.  
Chin, Debbie  
Chin, Kevin, Southern Medical Clinics, LLC  
Congelton, Lee, M.D., Urologist, Tennessee Urology Associates, PLLC  
Corritore, Danell, Tennessee Department of Health

Cross, Cindy, Esq., Life Care Centers of America  
Cross, Linda  
Culp, Joe, Tennessee Department of Health  
Cunningham, Mark A., Esq., Chambliss, Bahner & Stophel, P.C.  
Day, Edwin W., Consultant  
DeBerry, Lois, Hon., State Representative  
Derryberry, Robin, Consultant, DRR  
Duncan, Bruce, Assistant Vice-President, National HealthCare Corporation  
Easley, Brent, Policy Analyst, Tennessee House of Representatives  
Edwards, Karen, Tennessee Dept. of Mental Health/Developmental Disabilities  
Elkins, Marilyn  
Elrod, Dan H., Esq., Miller & Martin  
Fisher, Craig, Director, Project Reseach, Mercy Health Partners  
Gooch, Warren, Esq., Kramer Rayson, LLP  
Good, Roger R., M.D., Urology Associates of Central Missouri  
Grayer, David W., Esq., Squire Sandero & Dempsey  
Green, Daniel M., M.D., University of Tennessee Medical Center  
Gregory, Luke, Senior Vice-President, Vanderbilt University Medical Center  
Griswold, Doug, Esq., Chambliss, Bahner & Stophel  
Hardaway, G.A., Hon., State Representative  
Harkness, Eric, Planning & Research Coordinator, Division of Health Planning, Tennessee Dept. of F. & A.  
Harris, Chris, M.D., Knoxville Urology Clinic  
Hatcher, Paul, M.D., University of Tennessee Medical Center  
Hatfield, R. Wayne, M.D., Tennessee Urology Associates, PLLC  
Hethcox, Craig, Regional Vice President, NovaMed, Inc.  
Hibdon, April, Program Director, White County Community Hospital  
Hill, Ronald, Vice President, Strategic Development, Vanderbilt University Hospital  
Hobbs, Paul, M.D., University of Tennessee Medical Center  
Kilpatrick, Sue, Administrator, Plaza Radiology  
Leaventhal, Mike, Tennessee Men's Health Network  
Lintz, Gordon, CAO, Thompson Cancer Survival Center  
Lodge, Richard, Esq., Bass, Berry & Sims, PLC  
Longstreet, Susan, Vice-President, Administration, Hospice of Chattanooga  
Looney, Kim Harvey, Esq., Waller, Lansden, Dortch & Davis  
Luchessi, Jane, Memorial Hospital  
Majors, Norman, Sr. Vice-President/CAO, University of Tennessee Medical Center  
Maples, Arthur, Director Strategic Analysis, Baptist Memorial Health Care Corporation  
Mazza, Jerry, M.D., Physician First  
McAfee, Rick, Life Care Centers of America  
McDearman, Scott, Esq., Grant, Konvalinka & Harrison, P.C.  
Meadows, Michael J., CEO, Livingston Regional Hospital  
Melvin, Terry, M.D., Interim CEO, Hospice of Chattanooga  
Merville, LaDonna, Hospital Alliance of Tennessee  
Meyer, Joseph T., M.D., Thompson Cancer Survival Center  
Miles, Chuck, Radiologist, SkyRidge Medical Center  
Morris, Steven A., M.D., Knoxville Urology Clinic  
Mountz, Rick, Regional Vice-President, Life Care Centers of America  
Nelson, Jane, Assistant Administrator, Blount Memorial Hospital  
Piechocki, John, Vice-President, Development, Horizon Health  
Pigg, Mike, Division Controller, Life Care Centers of America  
Poling, Becki, Director Hospital Services, Tennessee Dept. of Mental Health/Developmental Disabilities  
Portacci, Adam, Assistant Administrator, SkyRidge Medical Center  
Potter, Jeff, Vice President, Mercy Health Partners  
Rawiszzer, David, Sr. Vice-President/CFO, Hospice of Chattanooga  
Richardson, Michael, Vice-President, Covenant Health  
Richardson, Scott, Esq., Bradley Arant Boulton Cummings, LLP  
Rich-McLerran, Andrea L., CEO, Cumberland River Hospital  
Reisz, Cindy, Esq., Bass Berry & Sims  
Robinson, Melanie, Director, Mercy Health Partners  
Rumsey, Chester, Physicist, Thompson Cancer Survival Center

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Rutherford, Ann R., RN, BSN, MBA, Director of Licensure, Tennessee Department of Health  
Scothorn, James F., CEO, Tennessee Urology Associates, PLLC  
Sharp, Alan, CFO, Jamestown Regional Medical Center  
Shipp, Angela, Center Manager, Cleveland Imaging  
Simms, Martin, M.D., Cleveland Imaging  
Stephenson, Kate, Esq., Trauger & Tuke  
Stockard, Jeff, Vice-President/COO, Community Care, Inc.  
Talbot, Jim, Tennessee Hospital Association  
Talley, Rockey, M.D., Vice-Chief of Staff, Jamestown Regional Medical Center  
Tally, Sarah Lodge, Esq., Miller & Martin  
Tant, Bill, Administrator, Signature Health Care  
Taylor, Joel, CEO, White County Community Hospital  
Taylor, Jerry W., Esq., Farris, Mathews, Bobango, PLC  
Trauger, Byron R., Esq., Trauger & Tuke  
VanDeyne, Jan, Vice-President, Mercy Health Partners  
Wellborn, John L., Consultant, Development Support Group  
West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz  
Williams, Barry, Analyst, Bass Berry & Sims  
Williams, Regenna, President, Best Nurses, Inc.  
Winick, Joseph, Senior Vice-President, Erlanger Health System

**Chairman Koella, called the meeting to order at 8:30 a.m. in Meeting Room 12, of The Legislative Plaza, Nashville, Tennessee.**

### **DIRECTOR'S ANNOUNCEMENTS**

Melanie Hill, Executive Director, made general announcements. Ms. Hill announced the following: 1) Dayton Medical Investors, LLC d/b/a Life Care Center of Rhea County, Project No. CN0906-028 and Surgery Center of Lebanon, Project No. CN0906-036 were deferred to the November meeting; 2) Item A on the General Counsel's Report, West Tennessee Cancer Center of Hardin County, Project No. CN0706-048 was deferred to the October Meeting; 3) The Audit Committee will meet at the conclusion of the November Meeting; 4) Due to holidays the November and December meetings are scheduled for November 18<sup>th</sup>, and December 16<sup>th</sup>; and 5) The meetings through December will be held at Legislative Plaza.

### **OTHER BUSINESS**

- 1) State Health Plan – Eric Harkness, Planning & Research Coordinator, Division of Health Planning, Finance & Administration discussed the status of the state health plan.

### **CONSENT CALENDAR**

*Melanie Hill summarized the following Consent Calendar application:*

#### **NovaMed Surgery Center of Chattanooga, LLC - (Chattanooga, Hamilton County) - Project No. CN0907-041**

The relocation of an existing ambulatory surgical treatment center (ASTC) from 1801 Gunbarrel Road to 1949 Gunbarrel Road, Chattanooga (Hamilton County), TN 37421. No beds or acquisition of major medical equipment is involved. Project Cost \$1,071,225.00.

Kim H. Looney, Esq., representing the applicant, was present to address the Agency. Present on behalf of the project were: Graham Cherrington, Executive Vice President, NovaMed, Inc.; and Craig Hethcox, Regional Vice President, NovaMed, Inc.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for the relocation based upon the lease expiring at the current location; 2) Economic Feasibility – The economic feasibility is met with cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Weaver seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella

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NAY: None

## **CERTIFICATE OF NEED APPLICATIONS**

*Mark Farber summarized the following CON applications:*

### **Plaza Radiology, LLC d/b/a Cleveland Imaging, LLC - (Cleveland, Bradley County) - Project No. CN0905-024**

The acquisition of a magnetic resonance imaging (MRI) unit and the initiation of MRI services. Other than the MRI no other major medical equipment, initiation of services nor discontinuance of health services are requested. Project Cost \$1,571,965.00.

Byron R. Trauger, Esq., representing the applicant, addressed the Agency. Martin Simms, M.D., Cleveland Imaging spoke on behalf of the project. Speaking in support were: Jerry Mazza, M.D., Physician First; Michael Becker, P.A., Physician First; Kevin Chin, Southern Medical Clinics, LLC; and Sue Kilpatrick, Administrator, Plaza Radiology. Present in support were: Kate Stephenson, Esq.; and Edwin Day, Consultant.

Opposing the project were: William H. West, Esq., representing SkyRidge Medical Center; Guy Barat, M.D., SkyRidge Medical Center; Adam Portacci, Assistant Administrator, SkyRidge Medical Center; Chuck Miles, Radiologist, SkyRidge Medical Center.

Mr. Trauger rebutted.

Mr. West summated for the opposition.

Mr. Trauger summated for the applicant.

Mr. Lammert moved for denial of the project based on they have not met the criteria: 1) Need – Although there have been issues that have come up in the testimony regarding quality that by itself would not be enough for this project to be needed; and 2) The project does not contribute to the orderly development of adequate and effective health care in this area as there is a large number of other providers that provide this service, and there are new providers coming on line. Ms. Burns seconded the motion. The motion CARRIED [4-2-0]. **DENIED**

AYE: Burns, Lammert, Weaver, Gaither,

NAY: Bishop, Koella

### **Knoxville Urology Clinic, P.C. - (Knoxville, Knox County) - Project No. CN0904-017 and Tennessee Urology Associates, PLLC - (Knoxville, Knox County) - Project No. CN0904-018 were presented together**

#### **Presentations:**

#### **Knoxville Urology Clinic, P.C. - (Knoxville, Knox County) - Project No. CN0904-017**

The establishment of an ambulatory surgical treatment center (ASTC) limited to radiation therapy, the initiation of megavoltage radiation therapy services, and the acquisition of a linear accelerator currently owned and operated by Baptist Hospital West. The proposed facility will provide radiation therapy services at Knoxville Urology Clinic, P.C.'s offices located on the Baptist Hospital West campus at 10820 Parkside Drive, Knoxville, TN, 37934, as part of a prostate cancer treatment and education center. No other health services will be initiated or discontinued and no inpatient beds or services will be affected. Other than the linear accelerator, no other major medical equipment will be acquired. Project Cost \$2,182,373.00.

#### **Tennessee Urology Associates, PLLC - (Knoxville, Knox County) - Project No. CN0904-018**

The establishment of an ambulatory surgical treatment center (ASTC) limited to radiation therapy, the initiation of megavoltage radiation therapy services, and the acquisition of a linear accelerator currently owned and operated by Baptist Hospital West. The proposed facility will provide radiation therapy services at Tennessee Urology Associates, PLLC's offices located on the Baptist Hospital West campus at 10820 Parkside Drive, Knoxville, TN, 37934, as part of a prostate cancer treatment and education center. No other health services will

be initiated or discontinued and no inpatient beds or services will be affected. Other than the linear accelerator, no other major medical equipment will be acquired. Project Cost \$2,505,625.00.

**Support:** J. Scott McDearman, Esq., representing the applicant, addressed the Agency. Speaking in support of the project were: Steven A. Morris, M.D., Knoxville Urology Clinic; David W. Grayer, Esq., Squire Sandero & Dempsey; Lee Congelton, M.D.; Hamilton Burnett, Jr.; Mike Leaventhal, Tennessee Men's Health Network; Brent Easley, Policy Analyst, on behalf of Representative Dennis Roach, Tennessee House of Representatives; Warren L. Gooch, Esq. representing Mercy Health Services; Craig Fisher, Director, Project Reseach, Mercy Health Partners; Chris Harris, M.D., Knoxville Urology Clinic; and James F. Scothorn, CEO, Tennessee Urology Associates, PLLC. Present in support of the project were: Roger R. Good, M.D., Urology Associate of Central Missouri; and Klaus W. Buzzi, Consultant, USMD; Stuart A. Chasan, M.D., Tennessee Urology Associates, PLLC; and R. Wayne Hatfield, M.D., Tennessee Urology Associates, PLLC.

**Opposition:** Opposing the project were: Dan H. Elrod, Esq., representing Covenant Health, and Thompson Cancer Survival Center; Jerry W. Taylor, Esq. representing University of Tennessee Medical Center; Daniel M. Green, M.D., University of Tennessee Medical Center; Paul Hatcher, M.D., University of Tennessee Medical Center; and Jane Nelson, Assistant Administrator, Blount Memorial Hospital. Present in opposition of the project were: Norman Majors, Sr. Vice-President/CAO, University of Tennessee Medical Center; Joseph Winick, Senior Vice-President, Erlanger Health System; Joseph T. Meyer, M.D., Thompson Cancer Survival Center; Chester Rumsey, Physicist, Thompson Cancer Survival Center; Gordon Lintz, CAO, Thompson Cancer Survival Center; and Mike Richardson, Vice-President, Covenant Health.

**Rebuttal:** James F. Scothorn, CEO, Tennessee Urology Associates, PLLC, and Dr. Steven Morris rebutted.

Ann Rutherford, RN, BSN, MBA, Director of Licensure, Tennessee Department of Health responded to questions from the members.

**Summation:**

Mr. Elrod, and Mr. Taylor provided summation for the opposition.

Mr. McDearman provided summation for the applicant.

**Motions:**

**Knoxville Urology Clinic, P.C. - (Knoxville, Knox County) - Project No. CN0904-017**

Mr. Lammert moved for denial of the project based on: 1) Need – The need has not been established. There are ample services and service providers in this area that provide these services; 2) and the project does not contribute to the orderly development of adequate and effective health care overall in this area. Ms. Weaver seconded the motion. The motion CARRIED [5-1-0]. **DENIED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither  
NAY: Koella

**Tennessee Urology Associates, PLLC - (Knoxville, Knox County) - Project No. CN0904-018**

Mr. Lammert moved for denial of the project based on: 1) Need – The need is not established as there are ample service providers in the area that provide these services effectively; and 2) The project will not contribute to the orderly development of adequate and effective health care. Ms. Weaver seconded the motion. The motion CARRIED [5-1-0]. **DENIED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither  
NAY: Koella

**Hospice of Chattanooga, Inc. - (Cleveland, Bradley County) - Project No. CN0906-026**

The establishment of a sixteen (16) bed residential hospice facility to be located on approximately 50 acres of vacant land. The estimated total space required for the proposed facility is 16,740 square feet. The service area includes Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea and Sequatchie Counties in Tennessee and multiple counties in Georgia. Hospice of Chattanooga, Inc. is currently licensed to provide hospice services in these counties. Project Cost \$6,501,172.00.

Doug Griswold, Esq., representing the applicant, addressed the Agency. Terry Melvin, M.D., Interim CEO, Hospice of Chattanooga spoke on behalf of the project. Speaking in support were: Marilyn Elkins; David Rawiszer, Sr. Vice-President/CFO, Hospice of Chattanooga; and Susan Longstreet, Vice-President, Administration, Hospice of Chattanooga. Present in support of the project were: Steve Barham, Esq.; and Mark A. Cunningham, Esq.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for these services in the community as there is currently not a residential hospice in the primary service area; 2) Economic Feasibility – The project’s economic feasibility is met with cash reserves, foundation funds and commercial loan; and 3) The project does contribute to the orderly development of adequate and effective health care as this service will add to the continuum of care and the overall care of the community in serving patients and serving family members. Ms. Weaver seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella  
NAY: None

**Hospice of Chattanooga, Inc. - (Chattanooga, Hamilton County) - Project No. CN0906-025**

The establishment of a sixteen (16) bed residential hospice facility located on the campus of The Health Center at Standifer Place. The estimated total space required for the proposed facility is 9,003 square feet. The service area includes Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea and Sequatchie Counties in Tennessee and multiple counties in Georgia. Hospice of Chattanooga, Inc. is currently licensed to provide hospice services in these counties. Project Cost \$2,197,040.00.

Doug Griswold, Esq., representing the applicant, addressed the Agency. Terry Melvin, M.D., Interim CEO, Hospice of Chattanooga spoke on behalf of the project. Present in support of the project were: Mark A. Cunningham, Esq.; Steve Barham, Esq.; David Rawiszer, Sr. Vice-President/CFO, Hospice of Chattanooga; and Susan Longstreet, Vice-President, Administration, Hospice of Chattanooga.

Mr. Lammert moved for approval of the project based on: 1) Need – There is a need for these services in this area; 2) Economic Feasibility – The project’s economic feasibility is met with foundation funds and operating revenues; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Burns seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella  
NAY: None

**Jamestown Regional Medical Center - (Jamestown, Fentress County) - Project No. CN0906-027**

The establishment of a ten (10) bed geriatric psychiatric program and the initiation of psychiatric services. Ten (10) existing medical/surgical beds will be converted to geriatric psychiatric beds. The number of licensed beds will not change. No other services will be initiated or discontinued and no major medical equipment is requested. This project will require approximately 5,300 square feet of space to be renovated. Project Cost \$314,135.00.

Richard Lodge, Esq., representing the applicant, addressed the Agency. Speaking in support of the project were: Rocky Talley, M.D., Vice-Chief of Staff; Bill Tant, Signature Health Care; Edwin Day, Consultant; and Kim Anthony, CEO, Jamestown Regional Medical Center. Alan Sharp, CFO, Jamestown Regional Medical Center was present in support of the project.

Speaking in opposition of the project were: Jerry W. Taylor, Esq. representing White County Community Hospital; Andrea L. Rich-McLerran, CEO, Cumberland River Hospital; William West, Esq. representing Livingston Regional Hospital; Michael J. Meadows, CEO, Livingston Regional Hospital; and John Piechocki, Vice-President, Development, Horizon Health.

Mr. Lodge rebutted.

Mr. Taylor and Mr. West provided summation for the opposition.

Mr. Lodge provided summation for the applicant.

Mr. Lammert moved for approval of the project based on: 1) Need – The project will meet a need for those patients who are not receiving services because their families have chosen not to travel to other facilities that are in adjacent counties; 2) Economic Feasibility – The project's economic feasibility is met with cash reserves of the current company; and 3) The project does contribute to the orderly development of adequate and effective health care by providing a needed service in a very geographically rural and economically challenged area of Tennessee. Mr. Bishop seconded the motion. The motion CARRIED [5-1-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Koella  
NAY: Gaither

**Dayton Medical Investors, LLC d/b/a Life Care Center of Rhea County - (Dayton, Rhea County) - Project No. CN0906-028**

The relocation and replacement of an eighty-nine (89) bed nursing home from 7824 Rhea County Hwy., Dayton, (Rhea County), TN 37321, to an unaddressed site on Manufacturers Road, Dayton, (Rhea County), TN. The applicant seeks the addition of thirty (30)\* Medicare skilled beds, thus increasing the total of beds from 89 to 119. The facility will be certified for both Medicare and Medicaid. No other services will be initiated or discontinued,

**DEFERRED TO THE NOVEMBER MEETING**

**Highland Park Medical Investors, LLC dba Life Care Center of Stones River - (Antioch, Davidson County) - Project No. CN0906-029**

The relocation of previously approved Certificate of Need, CN0706-047A for the construction of a replacement nursing home facility containing 124 beds. The present site is located adjacent to 5710 Knob Road, Nashville (Davidson County), TN. An address has not been assigned to the new site. The site is on Murfreesboro Road and occupies the space between LaVergne Couchville Pike and Hickory Woods Drive, Antioch (Davidson County), TN. No other services will be initiated or discontinued and no major medical equipment is requested. The number of licensed beds will not change. The facility will be certified for both Medicare and Medicaid participation. Project Cost \$18,953,630.00.

Sarah Lodge Tally, Esq., representing the applicant, addressed the Agency. Speaking in support of the project were: Rick McAfee, Life Care Centers of America; and Linda Cross. Present in support were: Mike Pigg, Division Controller, Life Care Centers of America; and Rick Mountz, Regional Vice-President, Life Care Centers of America.

Bruce Duncan, Assistant Vice-President, National HealthCare Corporation, responded to questions from members.

Ms. Weaver moved for approval of the project based on: 1) Need – There is a need for this facility since it was lost from the system; 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. Mr. Bishop seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella  
NAY: None

**Nashville Medical Investors, LLC dba Life Care Center of Old Hickory - (Old Hickory, Davidson County) - Project No. CN0906-030**

The relocation and replacement of a 159 bed nursing home (Life Care Center of Nashville) presently located at 701 Porter Road, Nashville (Davidson County), TN 37206. The new site is located at 1250 Robinson Road, Old Hickory (Davidson County), TN 37138. No other services will be initiated or discontinued, and no major medical equipment is requested. The number of licensed beds will not change. The facility will be certified for both Medicare and Medicaid participation. Project Cost \$21,735,446.00.

Sarah Lodge Tally, Esq., representing the applicant, addressed the Agency.

Mr. Lammert moved for approval of the project based on: 1) Need – As a result of the relocation and replacement the need is met; 2) Economic Feasibility – The project's economic feasibility is met with a commercial loan; and 3) The project does contribute to the orderly development of adequate and effective health care by allowing these beds to come back online to serve the population in this part of Davidson County. Mr. Bishop seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella  
NAY: None

**Surgery Center of Lebanon - (Lebanon, Wilson County) - Project No. CN0906-036**

The establishment of an ambulatory surgical treatment center (ASTC) with three (3) operating rooms, and one (1) procedure room. Project Cost \$4,376,825.00.

**DEFERRED TO THE NOVEMBER MEETING**

**GENERAL COUNSEL'S REPORT**

*Jim Christoffersen summarized the following requests for modifications:*

**West Tennessee Cancer Center of Hardin County - (Savannah, Hardin County) - Project No. CN0706-048A**

Request for an eighteen (18) month extension of the expiration date from December 1, 2009 to May 1, 2011 and modification to eliminate the ambulatory surgical treatment center (ASTC) licensure request as the Department of Health licensing rules no longer require an ASTC license for a radiation therapy facility, and Jackson-Madison can operate the facility as an outpatient department of the hospital. This project was approved at the September 26, 2007 meeting for the establishment of a single specialty ambulatory surgery treatment center (ASTC) limited to radiation therapy services; the initiation of linear accelerator services; and the relocation of linear accelerator equipment located at Jackson-Madison County General Hospital to a space to be built by (and adjacent to) Hardin Medical Center. The project cost is \$3,880,460.00.

**DEFERRED TO THE OCTOBER MEETING**

**Best Nurses, Inc. - (Memphis, Shelby County) - Project No. CN0705-041A**

Request to remove limitation of private duty nursing from Certificate of Need (CON), so that the home health agency can seek Medicare certification. This project was approved on October 24, 2007 with the private duty nursing limitation placed on the CON as part of the motion. The applicant applied to establish and initiate a home health agency to provide outpatient care to homebound patients in Shelby, Fayette and Tipton counties.

Regenna Williams, President, was present to address the Agency. Representatives G.A. Hardaway and Lois DeBerry spoke on behalf of the project.

Ms. Weaver moved for approval of the removal of the limitation of private duty nursing from the Certificate of Need for Best Nurses, Inc., so this home health agency can seek its Medicare certification. Mr. Bishop seconded the motion. The motion CARRIED [4-1-1]. **APPROVED**

AYE: Burns, Bishop, Weaver, Koella  
NAY: Gaither  
ABSTAINED: Lammert

**Cyberknife of Chattanooga - (Chattanooga, Hamilton County) - Project No. CN0901-003A**

Request to transfer ownership to Erlanger Health System, and for the Certificate of Need to reflect that services provided are for hospital services. Erlanger will continue to contract with Cyberknife of Chattanooga, LLC to supply CyberKnife services, as well as management and other services. This project was approved on April 22, 2009 for the establishment of an ambulatory surgical treatment center (ASTC) limited to the provision of radiation therapy services, and the initiation of linear accelerator services. This project is a joint venture entity with two members: Chattanooga Hamilton County Hospital Authority d/b/a Erlanger Health System (51% owner) and Community Care, Inc. (49% owner). The expiration date is June 1, 2011 and the project cost is \$7,308,209.00.

Michael Brent, Esq., representing the applicant, addressed the Agency. Present in support of the request were: Joseph Winick, Sr. Vice President, Erlanger Health System; and J. Scott Richardson, Esq.

Mr. Lammert moved for approval of the transfer of ownership to Erlanger Health System as requested. Ms. Burns seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Burns, Bishop, Lammert, Weaver, Gaither, Koella  
NAY: None

**MINUTES**

The minutes of the August 26, 2009, meeting were accepted by unanimous voice vote.

**ADJOURNMENT**

There being no further business, the meeting adjourned.

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Melanie M. Hill, Executive Director

MMH/mab