

Local Advisory Council
Minutes
October 25, 2018 – 5:00 p.m.
Northeast State Community College - Blountville Campus
Room “BASLER L226”
2425 Highway 75, Blountville TN 37617

Members Present: Dennis Phillips, Chairman Elect; Rep. David Hawk; Dan Pohlgeers; Dr. Linda Latimer; Dr. Jerry Miller; Gary Mayes; Dr. Karen Shelton; and Dr. Brenda White-Wright

Tennessee Department of Health (TDH) Staff Present: Judi Knecht, Population Health Program Manager, Division of Health Planning

Others Present: Larry Fitzgerald, COPA Monitor; Gary Miller, Interim COPA Compliance Officer

CALL TO ORDER

The meeting was called to order by Chairman Elect Philips at 5:03 p.m.

WELCOME/INTRODUCTIONS

Lina Zimmerman, Certificate of Public need Analyst from the Virginia Department of Health, introduced herself and stated that she was observing the meeting by phone.

Karen Shelton, MD, Director of the Marion County Health Department in Virginia and an Obstetrics / Gynecology physician, the newest member of the Local Advisory Council (LAC) introduced herself to the group.

APPROVAL OF PRIOR MINUTES

Mr. Pohlgeers asked for an addendum to the meeting minutes to reflect that he had asked a question concerning Article 9 in the TOC. His question was specifically about subsection A and B of 9.2, a provision regarding direct and indirect sales by accessors and assigns. He sought to understand the rules and conditions a purchasing entity was obligated to in the event of a sale by Ballad Health of a controlling portion of an asset.

Mr. Pohlgeers asked that the minutes from this meeting reflect that the discussion on Article 9 and the obligations of accessors and assigns in acquiring Ballad Health’s assets had occurred at the prior meeting.

Dennis Phillips asked to approve the motion to amend and meeting minutes. Dr. Miller seconded the motion. The motion was approved 8-0.

PRESENTATIONS FROM THE TENNESSEE DEPARTMENT OF HEALTH (TDH) AND THE ATTORNEY GENERAL'S (AG) OFFICE

Mr. Fitzgerald presented on his role as the COPA Monitor. He explained that he is independent, on contract with the Commissioner of Health and the Attorney General, and that Ballard can't fire him. He likened his role to that of a Public Accountant.

Mr. Fitzgerald instructed the LAC to first bring issues to Gary Miller, the COPA Compliance Officer. He stated that if the COPA Compliance Office does not satisfactorily address the issue, the LCA can then go to him. Mr. Fitzgerald shared that since his start date of June 1, he has engaged in a variety of activities, including: reviewing and researching patient account balances; researching issues related to pension plans, capital budgeting, rules around hiring a physician and analyzing Ballard's 3 year plans.

Mr. Gary Miller presented to the LAC on his role as the Interim COP Compliance Officer and the work of the COPA Compliance Office. He explained that he is employed by Ballard but cannot be terminated except with the consent of the Commissioner. He explained that he reports directly to the audit and compliance board and is responsible for the resolution of complaints. His office includes himself, a director, 2 analysts and an administrative assistant.

After reading the list of duties from the Terms of Certification (TOC), Mr. Miller stated that he generally helps Ballard management interpret the COPA, the TOC, and the Virginia Letter Authorizing a Cooperative Agreement, and tells them what they need to know to be in compliance. He concluded by explaining that some of his other functions include training on compliance throughout the organization and coordinating the submission of quarterly and annual reports to the state. Mr. Miller ended his presentation by stating that he thinks a lot of people across the country are looking at this model for population health especially in underserved areas.

The group asked Mr. Miller if complaints from the public should be directed to him. Mr. Miller answered that COPA compliance complaints should be directed to his office but that complaints about the COPA's effect that should go to the TDH. Mr. Miller added that he is also able to help someone who wants an interpretation of the COPA.

The group then gave examples of complaints they've received and asked to whom each should have been directed. One member asked about complaints related to anticipated changes to trauma centers. Rep. Hawk asked where complaints about management should be directed. Mr. Miller stated that complaints about management decisions should go to Ballard Management.

LAC'S PUBLIC INPUT PROPOSAL

After a brief presentation by Ms. Knecht on a proposed input process that included key informant interviews, public hearings, surveys, and online comment forms, the LAC members discussed options for public input. Mayor Phillips emphasized how important it is that the public be given an opportunity to express their opinions and concerns so that people feel like they are heard. He suggested the LAC have a meeting sponsored by the Chambers of Commerce, as they are capable and experienced in reaching out to the community and collecting public input. There was subsequent discussion regarding whether or not the COPA Monitor and the COPA Compliance Officer should attend the meetings. There was also discussion regarding whether all of the region's Chambers should be hold separate meetings or just the three large Chambers.

Mr. Pohlgeers suggested that a survey be made available on their websites as well.

DISCUSSION ON LAC'S ROLE & MISSION STATEMENT

Dr. White-Wright emphasized the importance of clarifying their role to the public and ensuring the public knows that the LAC is not a decision making body.

Mr. Pohlgeers added that the LAC is also not a punitive body but a connection between the public and the state. Others expressed the importance of being transparent and explaining information to the public to create buy-in and to avoid the people becoming concerned over inaccurate information.

The group then began a conversation about whether or not Ballad Health could oppose Certificates of Need/Certificates of Public Need (CONs/COPNs). Mr. Miller explained that there is a provision in the Terms of Certification (TOC) stating that Ballad cannot oppose a CON for a new applicant as long as that applicant accepts Medicare and Medicaid patients. Mr. Pohlgeers asked about Ballad's ownership interest in Ambulatory Surgery Centers (ASCs) and wondered if the TOC's Article 9 prohibited Ballad from opposing CONs of ASCs. Rep. Hawk asked generally about Ballad's assets that are affected by CONs.

PLAN PUBLIC LISTENING SESSION & NEXT LAC MEETING

The group returned to the subject of public input and the LAC's role. They discussed the role as explained in the TOC: Gathering public comment, host a public hearing, find out what the concerns of the public are, and report it to dept. The Council discussed the timing for hosting the public listening session. Ms. Knecht explained that the Public Hearing is to be held after Ballad Health's Annual Report is posted and the public has had a chance to review it.

The group revisited the pros and cons of holding one large hearing versus multiple hearings throughout the region. Ms. Knecht confirmed that only one annual hearing is required and the members acknowledged that time constraints may not allow for multiple hearings this first year. They discussed how to include Virginia in the public input process and how advertising should be effectively utilized to draw a good turn-out. Dr. Latimore mentioned that it is important to not just encourage people to air their complaints, but also to speak of the benefits from the COPA so far and we should remind the public of the purpose.

Mr. Mayes proposed that the Commissioner wants to know from the group how healthcare is moving forward and how the merger is working for Northeast Tennessee. The LAC is to report that information base on the annual report and the public input.

Dr. White-Wright suggested that the group communicate a clear message that states:

This is the Annual Report.

We are the LAC - here is our role.

And here is what we are here to discuss.

She emphasized that proactive, consistent, and transparent communication, led by the TDH communications team, will be key to a successful public input process.

Other ideas included a website (for people who are too shy to stand up in public), offering food (to draw a bigger crowd to meetings), straw polls, and coordination with the Chambers of Commerce. Dr. Shelton suggested developing questions to create a framework for the meetings. The group agreed that the next meeting date could not be set until the Annual Report was posted.

The group then reviewed the proposed Mission Statement. Members asked that the proposed Mission Statement be revised to specify which state's Department of Health it is advising and to spell out rather than abbreviate Certificate of Public Advantage. The group asked about their responsibility to seek public input from both states affected by the merger. Ms. Knecht explained that the Southwest Virginia Health Authority was the LAC's counterpart in Virginia. The group expressed a strong interest in coordinating with the SWVA Health Authority.

Mr. Pohlgeers asked for more clarification on the ASC CON/COPN question. Mr. Pohlgeers had concerns that the power of Ballad to oppose CONs had a lot of implications and that he and the public needed legal clarification on the whether or not Article 9 applies. Mr. Fitzgerald stated that he would have the Deputy Attorney General respond to M. Pohlgeers' question to ensure that a correct and thorough answer was given.

Mayor Phillips stated that he agreed that it was the LAC's job to let the state know if they think something is going wrong and then the state could take it up with Ballad but that these meetings not focus on one topic that may simply require a legal answer.

MEETING ADJOURNMENT

The meeting adjourned at 6:56 pm