

**Local Advisory Council
Minutes
July 25, 2019 – 3:30 p.m.
Northeast State Community College - Blountville Campus
Room “BASLER L226”
2425 Highway 75, Blountville TN 37617**

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

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

Others Present: Larry Fitzgerald, COPA Monitor; Dennis Barry, Southwest Virginia Health Authority; Lina Zimmerman, Cooperative Agreement Analyst from the Virginia Department of Health; Brenden Rivenbark, Senior Policy Analyst from the Virginia Department of Health; Kevin Meyer, Cooperative Agreement Analyst from the Virginia Department of Health; Gary Miller, COPA Compliance Officer

CALL TO ORDER

The meeting was called to order by Chairman Phillips at 3:32 p.m. EDT.

DISCUSSION ON APPROVAL OF PRIOR MEETING MINUTES

A motion was made to approve the meeting minutes. Mr. Pohlgeers asked that the minutes from the April 16, 2019 meeting be amended to include the discussion he remembers having about an Ambulatory Surgery Center in Bristol. The motion was made to accept the meeting minutes with the aforementioned amendment. Dr. Latimer seconded the motion and the group voted on the motion to approve the minutes. The vote was 8 ayes and 0 nays. The motion was approved.

OFFICERS/ELECTIONS/TERMS

Mr. Ockerman apologized to the LAC members that they had not been told at the outset which of them had been given a 1 year, 2 year, or 3 year term. Considering all of them had completed a full year, the initial terms for each Member was extended by one year. Mr. Ockerman reminded them that each Member may be reappointed for a full three-year term after expiration of current term.

2 Year Term (1 year remaining)

Gary Mayes
Dan Pohlgeers
Dr. Jerry Miller

3 Year Term (2 years remaining)

Dennis Phillips
Dr. Linda Latimer
Dr. Brenda White-Write

Full 3 Year Term (3 years remaining)

Retired Major General Gary Harrell

Dr. Karen Shelton

Mr. Ockerman then explained that because Dennis Philips had served as Chair-Elect, he now moved into the role of Chairman. Dennis Phillips nominated Dr. Latimer for Vice Chair and Dr. White-Wright for Secretary again. Representative Hawk seconded the motion. The vote was 8 ayes and 0 nays. The motion was approved.

REVIEW CHARTER REVISIONS FROM ATTORNEY GENERAL'S OFFICE

Mr. Ockerman explained to the group that the Office of the Attorney General (AG) assumed legal responsibilities of the active supervision of the COPA. The AG's Office wanted this document to comport with the form of similar documents that the AG's Office prepares.

Mr. Ockerman noted there were two substantive changes:

1. Renaming Chair-Elect to Vice Chair
2. Adding the Department of Health Commissioner as having authority over restriction of LAC powers.

Mr. Ockerman requested that the group officially accept this updated version. Rep. Hawk made a motion to approve the revised charter. Mr. Pohlgeers seconded the motion. The vote was 8 ayes and 0 nays. The motion was approved.

DISCUSS LARRY FITZGERALD'S LETTER TO LAC

Mr. Fitzgerald, the COPA Monitor, told the group that he had read and wanted to respond to the six recommendations the LAC made to him in its annual report. Mr. Fitzgerald said he had a response for five of the six questions and that there may not be a practical way to investigate their question regarding physician turnover for last three years, but that he is meeting with officials at Ballad Health to see if there's a practical approach to achieving the goal of that request. Mr. Fitzgerald stated that the Terms of Certification (TOC) had not been violated in any of the other five areas and that the details of his findings were provided in his letter to the LAC.

Mr. Ockerman commented that the process for receiving public input worked the way it was designed to work. The LAC held the annual hearing, listened to public comments, and submitted a report with recommendations.

Mr. Pohlgeers asked Mr. Fitzgerald why it may not be practical to look at physician turnover for the last three years. Mr. Pohlgeers suggested that the credentialing department could pull information regarding privileges. Mr. Pohlgeers elaborated on additional possible data sources related to credentialing by specialty that may have a mechanism to provide the information by specialty. He emphasized the importance of physician recruitment and retention for the success of the COPA.

Dr. Miller added that he believed HMG had access to that type of data, and agreed that doctors leaving is a critical concern, but questioned how it could be determined that people were leaving because of the merger. He noted that there were no exit interviews to collect those details. Dr. Miller stated that from his experience, it had always been a challenge to get doctors to come to the region.

Mr. Pohlgeers explained that tracking changes in departure patterns would help the state evaluate the success of retention and recruitment efforts. He added that this information would also help the state evaluate the importance and usefulness of the cap on employed physicians as mandated by the Terms of Certification (TOC). With that information he believed the state could better consider if the cap should stay in place, be strengthened, or relaxed.

Dr. Miller stated that he would also like to see if there is an increase in departures over the last year, though he didn't think findings could be necessarily tied to the merger. He wondered whether or not those trends were different for specialists or primary care. He agreed that having providers was critical to ensuring people can access service.

Mr. Mayes added that the area had a particular challenge in recruiting providers due to the high disease burden and number of TennCare patients. He mentioned recent health assessments that clearly indicated there was a strong demand for doctors in the area.

Dr. White-Wright stated that she understood provider shortages were an issue across the nation but for those in the community it only matters that the issue directly affects them. She added that the community was aging and that for many it may difficult to accept so much change. She described her own experiences as a patient receiving primary care and wife of a patient seeking oncology care in the area and stated that all entities needed to do a better job of communicating, especially with the aging population.

Mr. Fitzgerald stated that he understood the LAC's concerns and that the LAC wanted this information, and therefore committed to acquire and provide it.

After a brief discussion on the future of health care, the changing national landscape, and persistent regional health issues, Dr. Latimer suggested that the group focus more on the Population Health work being done as a result of the COPA.

Mr. Mayes requested that this council allot time on the upcoming agenda and on ongoing agendas for a look at the monetary commitments made by Ballad Health and a discussion on Population Health.

Mr. Pohlgeers asked if the COPA Monitor's answer on page six of his letter that the move of Wellmont Cancer Center was not a material change to the service line was an answer from legal.

Mr. Fitzgerald and Mr. Ockerman both confirmed that the answer was from the state's Office of the Attorney General.

REVIEW COPA COMPLAINT FORM & WEBSITE

Ms. Knecht reported on the percentage of complaints on various topics that were sent to LAC:

Possible COPA violations - approximately 15%

- Changes in charges
- Employee pay
- Wrongful termination

Non-COPA complaints – approximately 35%

- Cleanliness
- Staffing & ED wait times
- Personal experiences
- Billing

Concerns (about TDH processes & authority) – approximately 50%

- Conflicts of interest
- Consolidation (impact on travel time, concerns)

Perceived lack of active supervision (scoring, not being present, not sufficiently responsive)
Ballad's Plan of separation
Misc. (daycare, not receiving care at an urgent clinic)

Chair Phillips stated that anything related to the hospitals is considered COPA-related in the public's eyes and that the public doesn't seem to know that prior to the merger the systems were losing millions a year in part because of the contracts that were in place before the merger, which he felt were unsustainable. Chair Phillips then pointed to the report from Mr. Fitzgerald, which stated that after an investigation, the Monitor found that overall Ballad had not cut personnel pay, however, the public hears about the outliers and thinks that is the real story. Chair Phillips stated that the ED wait times did seem to be a real issue and he asked what the state could do about it.

Mr. Ockerman stated that TDH had also heard concerning ED wait time stories and that the COPA Monitor was looking into the issue, that he had contacted TDH's Division of Health Care Facilities to see if they monitor ED wait times as a standard practice, and that at the federal level, the Joint Commission is responsible for facility safety and identifies deficiencies, though he did not know their schedule for doing so.

Dr. Miller shared a story about visiting the ED after hearing distressing stories from people in the community and verifying that the complaints. He stated that hearing stories about the excessive wait times and the cancer center closing and not being able to respond or do anything about those issues was demeaning. He stated that Ballad's poor communication was worsening the public's negative perception of Ballad and the COPA. Dr. Miller ended by adding that he was on the board of the pharmacy and was concerned with what looked to him like a violation of a contract.

Mr. Ockerman stated that learning about Dr. Miller's involvement in the board of pharmacy prompted a review of the LAC's Conflict of Interest (COI) form. As a result of the review, the Attorney General's Office provided TDH with a new COI policy and Disclosure form that is more aligned with the Governor's COI policy that is used across the state.

Representative Hawk asked for help with a full and complete explanation of the LAC's authority on the TDH website. Another member noted that the local news outlets often misstate the LAC's role.

Mr. Ockerman suggested that he may ask the Department to issue a press release or have a media campaign to explain the role of the LAC and to get it to the media so that the roles are clarified to the public. Chair Phillips expressed his strong support for Mr. Ockerman's proposal.

Dr. Latimer questioned having the word "advisory" in the title.

Dr. White-Wright noted that the LAC advises the Commissioner but not Ballad. She added that many people will not go to the website, but many (especially seniors) do trust their newspaper. Dr. White-Wright encouraged a simple message that clarifies their role to the community. She stated that the message should emphasize the fact that LAC members are not employees but community volunteers, that they have a defined role and purpose, and that they are not in positions of authority over Ballad.

Chair Phillips proposed additionally having a contact card that lists phone numbers to call for different complaints that LAC members can pass out when community members approach them asking for help. He suggested that most of the communications problems should be addressed by Ballad as a high percentage of the complaints they receive are about things the LAC can't do much about.

Mr. Mayes reminded the group that this frustration is discussed at every meeting and stated that the root problem may be a system design issue. He explained that the LAC exists because it was a recommendation made by the Index Advisory Group but now that it has been stood up and members find it demeaning and complain that they get a lot of grief, he wonders if this committee is truly valuable to the commissioner or if this may be a flawed design.

Several members expressed support for exploring the design question but Dr. Miller added that many of the difficulties of the LAC role could have been eased if Ballard's communications were better. Several noted that though morale in Kingsport is down, they were highly supportive of HVMC's CEO Lindy White and her efforts to turn things around.

NEXT PUBLIC INPUT PROCESS:

Mr. Ockerman opened the discussion. He explained that while there seemed to be an interest in hearing from the public at each LAC working meeting, there was a desire to ensure public comments were truly related to the COPA and suggested that having people submit comments in writing for discussion at the next meeting would allow members to sort the comments in advance to identify relevant ones that the group could discuss at the meeting.

Chair Phillips described the pros and cons of this prescreened comments approach versus a fully open approach.

Dr. White-Wright recommended a subcommittee consider and deliberate options offline and bring back a recommendation to the larger group.

Dr. Latimer expressed concerns that if the LAC tells individuals that they are only concerned with COPA violations that the public may think the LAC doesn't care about them.

Chair Phillips asked if the state was OK with the LAC having a private sub-committee meeting. Mr. Ockerman confirmed that the AG's Office had said it was permissible.

Dr. White-Wright made a motion for the subcommittee to meet and provide a recommendation to the LAC on a process for receiving public input at quarterly meetings. Dr. Miller seconded the motion. The vote was 8 ayes and 0 nays. The motion was approved.

Rep. Hawk, Dr. White-Wright, D. Latimer, Dr. Shelton, and Mr. Pohlgeers, agreed to be on the subcommittee. Dr. Miller received confirmation from Mr. Ockerman that a TDH representative must be in attendance.

DISCUSS SCHEDULE OF MEETINGS FOR THE YEAR

Dr. Miller then requested that the Commissioner attend the next meeting. Chair Phillips also requested the Commissioner's attendance at the next meeting. Mr. Ockerman told the group we would work to coordinate that.

It was agreed that the next quarterly meeting should occur toward the end of October and that in January the LAC would hold the Public Hearing, assuming that the Ballard Annual report is posted in November, giving the LAC and the public more than 30 days to review in advance of the Public Hearing. The group expressed an interest in meeting before the LAC Annual Report was due.

The group confirmed that at the next meeting the LAC would like to meet Dr. Piercey, discuss population health, and consider the public comment recommendation from the subcommittee.

Dr. Miller asked Mr. Ockerman if he could explain the recent public outcry over Ballad's merging of Assets. Mr. Ockerman stated that Ballad is required to maintain a Plan of Separation with the state. In the event that when we score and Ballad didn't pass, then the Plan could go into effect. The Plan on file now states that Ballad will not merge assets for the first 18 months of the COPA period. The end of this month is the end of that first 18 month period. Still, the Plan can only be put in place if the COPA is withdrawn. The COPA is not withdrawn, that Plan is not in place, and so that 18 month time period has no relevance.

Dr. Miller asked if anything of consequence came out of the FTC's recent meeting on COPAs. Mr. Ockerman answered that the FTC had expressed an interest in conducting a study. He stated that the Ballad COPA has not been in effect long enough to produce a score and really not long enough for them to conduct a useful study. To intervene, the FTC would have to find that the state has not performed enough active supervision.

MEETING ADJOURNMENT

Dr. White-Wright asked that the minutes show the LAC's appreciation for the staff support provided by Ms. Knecht.

The meeting adjourned at 5:10 p.m.