

**Local Advisory Council
Minutes
September 11, 2018 – 6:00 p.m.
Northeast State Community College - Blountville Campus
Room “BASLER L226”
2425 Highway 75, Blountville TN 37617**

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

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

Others Present: Janet Kleinfelter, TN Deputy Attorney General; Larry Fitzgerald, COPA Monitor; Gary Miller, Interim COPA Compliance Officer

CALL TO ORDER

The meeting was called to order by Chairman Varney at 6:02 p.m.

WELCOME/INTRODUCTIONS

Stephanie Wilkinson, Attorney Advisor with the Federal Trade Commission Office of Policy Planning, introduced herself and stated that she was observing the meeting by phone.

Chairman Varney announced there were the two new LAC members: Dan Pohlgeers, MBA, OTR, CHT, owner and president of Sunesis Medical, a medical consulting business and an occupational therapist, and Karen Shelton, MD, Director of the Marion County Health Department in Virginia and an Obstetrics / Gynecology physician. Mr. Pohlgeers introduced himself to the group. Dr. Karen Shelton was detained at another meeting; Ms. Knecht reported that Dr. Shelton hoped she could join the meeting by phone at some point.

APPROVAL OF PRIOR MINUTES

Chairman Varney asked for questions of or corrections to the minutes from the previous meeting. In response to a question regarding access to Ballard’s patient satisfaction surveys, Mr. Ockerman and Ms. Kleinfelter explained that, in accordance with statute, the state first would have to confirm that the surveys do not contain competitively sensitive information that is non-disclosable. Discussion was held regarding what could be considered competitively sensitive information for an organization that has essentially been granted a monopoly, including, for example, Certificate of Need (CON) application proprietary information. Ms. Kleinfelter further explained that with regard to recruiting specialists, Ballard is competing against the rest of the nation and that recently passed legislation covers just those records that would be competitively damaging to Ballard if they were made public.

Dr. White-Wright made a motion to approve the June 6, 2018 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

Ms. Knecht gave a presentation on the TDH Active Supervision role and the regulatory responsibilities of the TDH. (A copy of the TDH PowerPoint presentation is attached as a supplement to these minutes).

Ms. Kleinfelter then responded to several questions that arose from the LAC's general discussion regarding the ability to terminate the COPA and the ability of Ballad Health to sell to another system. Ms. Kleinfelter explained that there are provisions for a Plan of Separation in the Terms of Certification (TOC) as well as provisions for other corrective actions; regarding a potential sale, Ms. Kleinfelter noted that the Attorney General would have to approve the sale under the Nonprofit Hospital Conveyance Act and any entity who bought the system would have to agree to be bound by the TOC. Ms. Kleinfelter added that a primary reason for the Active Supervision regulatory scheme is to try to identify issues before they get too complex to resolve.

The LAC members discussed the difficulty in improving population health, especially considering this Region's health statistics. Other members noted the financial and regulatory constraints added to Ballad's challenge.

Ms. Kleinfelter then presented information on the role of the AG's Office in Active Supervision and on the provisions in the TOC, which she suggested would answer most of the LAC's questions about how various scenarios could play out.

(A copy of the PowerPoint presentation from the AG's Office on the TOC is attached as a supplement to these minutes.)

Ms. Kleinfelter mentioned in her presentation that Ballad Health is required to submit Plans to TDH for review and approval. Dr. White-Wright stated that she, along with other members of the LAC, attended a community meeting at the Kingsport Chamber of Commerce in late July where Tony Keck reviewed with attendees a draft of Ballad Health's 3 year plan for community health improvements. Mr. Mayes asked if the LAC would have an opportunity to comment on the drafts that were submitted to the TDH. Mr. Ockerman responded in the negative, adding that to provide such an opportunity for comment before the plans were approved would be going beyond active supervision and cross into active management, which is not the LAC's role. Mr. Ockerman added that input would be welcome after the plans were finalized.

Representative Hawk asked for more clarification on Active Supervision vs Active Management. He said the public seems to be asking the LAC to get involved in Active Management. Ms. Kleinfelter responded.

The group decided to allow Ms. Kleinfelter to complete her presentation and then the group would schedule a follow up meeting soon to complete the rest of the night's agenda items.

The group asked Ms. Kleinfelter about provisions in the TOC that limited Ballad's ability to control the physician market. Some expressed concern that Ballad would employ increasing numbers of physicians and limit others' access to patient data. She explained that pursuant to the TOC, Ballad Health is required to ensure reasonable access to patient data. She also explained the provision in the TOC that no more than 35% of physicians practicing in any of several specialties may be physicians employed by Ballad.

NEXT STEPS

Chairman Varney proposed that the group wrap up the meeting and bring back the remaining presenters to speak at the next LAC meeting. All were in agreement. Gary Miller and Larry Fitzgerald thanked the group and agreed to come back and present at the next LAC's meeting. An LAC member asked Mr. Miller if he had received many complaints. Mr. Miller reported that he has received few complaints and that they were chiefly regarding Human Resources and Risk Management issues, but noted that he had recently received three complaints related to the consolidation of a cancer center in Johnson City that ultimately resulted in the relocation of an oncologist to Kingsport. Mr. Miller explained that the COO spoke with the complainants and that they offered the patients other physicians.

Chairman Varney asked to receive copies of the upcoming PowerPoint presentation in advance of the next meeting. Ms. Knecht agreed to email the presentation to the group.

Dr. Miller asked if the LAC had access to the COPA Compliance Office to discuss concerns. Ms. Kleinfelter advised LAC members to refer the public to the COPA Compliance Office or the COPA Monitor in order to prevent an LAC member from engaging in active management.

Chairman Varney proceeded to confirm the next meeting's agenda. The group agreed that the next meeting should include completing the remaining two presentations, a discussion on the LAC's role, a planning discussion on hosting the required annual public listening session, and a discussion on soliciting public input. The group agreed that the next meeting should begin at 5:00 pm and should take place sometime between mid-October and early November.

MEETING ADJOURNMENT

The meeting adjourned at 8:11pm