

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

April 28, 2021

AGENCY MEMBERS PRESENT

Douglas Scarboro, Chair
R.G. Rick Chinn, Vice-Chair
Thomas Alsup
Laura Beth Brown
Paul Korth
Todd Taylor
Dr. Kenneth Patric
Jaclyn Harding, Designee for Comptroller
Lisa Jordan, Designee for Commerce & Insurance Commissioner

AGENCY MEMBERS ABSENT

Corey Ridgway
Keith Gaither, Designee for TennCare

AGENCY STAFF PRESENT

Logan Grant, Executive Director
Jim Christoffersen, General Counsel
Lowavia Eden-Hoback, Office and Resource Manager
Phillip Earhart, Deputy Director
Alecia Craighead, Information and Data Analyst
Dave Elenbaas, HSDA Health Data and Policy Administrator
Thomas Pitt, HSD Examiner

COURT REPORTER

April Daniel

GUESTS PRESENT

Cody Adams
David Alley
Amber Arnold
Graham Baker
Matthew Ballo
Camille Barkalow
Susan Bennett
Michelle Bertotti
Rhonda Blackwell
Tim Booher
Gaines Brake
Michael Brent
Chris Brown

Dere Brown
Wade Bryant
Brittney Burns
Charlotte Burns
Carlene Callis
Louis Caputo
Lorie Carpenter
Jenna Chapman
Anna-Lee Cockrill
Jodie Compton
Jeff Crawford
Matthew Davidson
Mila Davis
Weston Davis
Chad Deardorff
Hope Diprima
Joe Dritsas
Marely Duff
Janice Dyer
Sue Dyer
Ginna Felts
Mark Fisher
Thomas Ford
Julie Frazier
Lauren Gaffney
Cindy Garcia
Dr. Stephen Gondek
Warren Gooch
Mitch Graves
Jon Grayson
John Green
Patti Greenberg
Eliza Greer
Kathryn Grundy
Donovan Guidry
Dr. Oscar
Guillamondegui
Clint Hall
Sharon Hannah
Dyra Harris
Bruce Hartmann
Tara Hefner
Amy Higgins

Shelley Hix
Angie Hodges
Andrew Holt
Andy Hooper
Ravonne Hunt
Matt Johnson
Dr. Seth Karp
Rep. Kelly Keisling
Nancy Kramer
Matt Kroplin
Jefferson LeCates
Heather Leeper
Melissa Leone
Kim Lonney
Christine Lunger
Misty Maddox
Arthur Maples
Riley Mashburn
Beth McCaskill
Josh McCreary
Ian McFadden
Jennifer McGugin
B. McIntosh
John R. McLain
Doug Minter
Kimberly Montes
Michael Morrison
Patrick Nicks
Zachary Oatis
Jantzen Pendley
Michael Perley
Kathy Platt
Donna Pote
Steven Press
Ann R. Reed
Kristina Reich
Sylvia Richey
Heather Rohan
Dr. Stephan Russ
Grant Rutledge
Paul Rutledge
Luke Sampson
Trent Sansing

Greg Sassman
Mike Sherrod
Hamza Siddiqui
Bradley Simmons
Shelley Sircy
Lindsay Stencel
Dan Sullivan
Travis Swearingen
Kurt Tauer
Jerry Taylor
Adrian Thompson
Ava Tidwell
Brandon Todd
Byron Trauger
Meg Trus
Gary Uselton
Kimberly Ward
Brittney Watkins
Senator Bo Watson
Heyward Wells
Kimberly Wells
David Whelan
Heather Whitt
Stephanie Whitt
Kimberley Williams
John Wesley
Williamson
Brenda Wright
Jeanne Yeatman
Donna Young
Geoff Zimpelman

CALL TO ORDER:

The meeting was called to order at 8:30 a.m. by Mr. Scarboro with the following members present: Jordan, Korth, Brown, Harding, Patric, Alsup, Chinn, and Scarboro. A quorum was established with eight members being present. Taylor joined after roll call.

DIRECTOR'S ANNOUNCEMENTS

- Phillip Earhart made the announcements on behalf of Logan Grant due to him being called into Legislative Hearings in regards to the CON reform bills.
- The June 23, 2021 meeting will be held in person and location will be announced once confirmed.

APPROVAL OF MINUTES

Mr. Scarboro presented the February 24, 2021 minutes for approval. The motion CARRIED [9-0-0] unanimously by voice vote. **APPROVED**

CONSENT CALENDER

West Cancer Center-Dyersburg, Dyersburg (Dyer County), TN CN2101-002

Request: The initiation of linear accelerator services located at 440 Wilkinson Drive, Dyersburg (Dyer County), TN 38024. This project involves the reorganization and transfer of ownership from Radiation Oncology Associates, P.C. to the West Clinic, PLLC. The proposed service area consists of Crockett, Dyer, Gibson, Lake, Lauderdale Counties. The estimated project cost is \$4,194,103.

Dr. Patric moved for approval with Ms. Harding providing the second.

Factual and Legal Basis for Approval:

Need – This project continues continuity of care for cancer patients in Crockett, Dyer, Gibson, Lake, Lauderdale counties. The service area will prevent unnecessary disruption of their treatment and plan of care. All the counties in the service area are considered to be medically underserved. The applicant is projecting to perform 5,000 linear accelerator procedures in year one of the project.

Economic Feasibility – The project will be funded by operating revenues of West Cancer Center - Dyersburg. According to the HSDA equipment registry, the applicant's linear accelerator \$971.00 average gross charge is below the statewide Tennessee 2019 linear accelerator first quartile charge of \$1,599.

Healthcare that Meets Appropriate Quality Standards – The applicant is Medicare and Medicaid certified. It will seek accreditation from the ASTRO - Accreditation Program for Excellence, as known as APEX.

Contribution to the Orderly Development of Healthcare – Approval of this project results in the ownership change of existing linear accelerator in Dyersburg, Tennessee, and it is the only unit in the applicant's five-county service area. The project does not involve the addition of new linear accelerator services in this service area.

Nine members voted to approve the application— Jordan, Patric, Korth, Brown, Taylor, Harding, Alsup, Chinn, and Scarboro. The motion CARRIED [9-0-0].

West Cancer Center-Jackson, Jackson (Madison County), TN CN2105-005

Request: The initiation of linear accelerator services located at 322 Hospital Boulevard, Jackson (Madison County), TN 38305. This project involves the reorganization and transfer of ownership from Radiation Oncology Associates, P.C. to the West Clinic, PLLC. The proposed service area consists of Carroll, Chester, Crockett, Gibson, Hardeman, Haywood, Henderson, and Madison Counties. The estimated project cost is \$5,664,625.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

Need – This project provides continuity of care for cancer patients in the Carroll, Chester, Crockett, Gibson, Hardeman, Haywood, Hardin, Hardeman, Henderson, and Madison County service area and will prevent unnecessary disruption of their treatment and plan of care. Six of the eight service area counties are considered to be medically underserved. The applicant is projecting to perform 3,000 linear accelerator procedures in year one of the project.

Economic Feasibility – The applicant has provided a financing letter from First Bank supporting the purchase up to 80 percent of the linear accelerator machine for a 60-month long term. The project will be funded by a combination of commercial loan and operating revenues of the West Cancer Center - Jackson. According to the HSDA equipment registry, the applicant's linear accelerator's \$974.00 average gross charge is below the statewide of Tennessee 2019 linear accelerator first quartile charge of \$1,599.

Healthcare that Meets Appropriate Quality Standards – The applicant is Medicare and Medicaid certified and will seek accreditation from the ASTRO - Accreditation Program for Excellence. It is known as APEX.

Contribution to the Orderly Development of Healthcare – Approval of this project results in the ownership change of an existing linear accelerator in Jackson, Tennessee. The project does not involve the addition of new linear accelerator services in the service area.

Nine members voted to approve the application— Jordan, Patric, Korth, Brown, Taylor, Harding, Alsup, Chinn, and Scarboro. The motion CARRIED [9-0-0].

CuraHealth, Nashville (Davidson County), TN CN2101-004

Ms. Harding recused

Request: The relocation of CuraHealth Nashville, LLC, a 60-bed licensed long-term acute care hospital (LTACH), 1412 County Hospital Road, Nashville (Davidson County), TN to the TriStar Skyline Madison campus, located at 500 Hospital Drive, Madison (Davidson County), TN 37115. The proposed service area consists of Davidson, Williamson, Rutherford, Cheatham, Dickson, Sumner, Wilson, and Robertson Counties. The estimated project cost is \$3,017,250.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

Need – The applicant estimates staff occupancy of 63 percent in year of the project, increasing to 63.4 percent in Year Two. With an active wait list, of the only existing long-term acute care hospital in the eight-county service area, there's a growing demand for long-term acute care services in the region.

Economic Feasibility – The applicant projects free cash flow net balance plus depreciation of 4,785,000 in Year One, increasing to \$4,907,030 in Year Two. The project will be funded by cash reserves.

Healthcare that Meets Appropriate Quality Standards – The applicant is Medicare and Medicaid certified and will seek accreditation from The Joint Commission.

Contribution to the Orderly Development of Healthcare - Approval of the project results in the relocation of long-term acute care hospital beds to a more modern facility. The project does not involve the addition of new beds in the service area and will result in a bed neutral project.

Eight members voted to approve the application— Jordan, Patric, Korth, Brown, Taylor, Alsup, Chinn, and Scarboro. The motion CARRIED [8-o-o].

CERTIFICATE OF NEED APPLICATIONS

Three certificate of need applications were considered under TCA § 68-11-1609(b) which notes the conditions that must be met in order to grant a certificate of need—when the action proposed in the application is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, will provide health care that meets appropriate quality standards, and will contribute to the orderly development of adequate and effective health care facilities or services.

Phillip Earhart introduced each of the three applications under consideration with all three being approved.

NHC-Baptist Memorial Care Center, LLC, Collierville (Shelby County), TN CN2101-006

Request: The establishment of an 18-bed geriatric mental health hospital located at an unaddressed site at West Poplar Avenue and Shea Road, Collierville (Shelby County), TN 38017. The applicant is owned through a joint venture of National Healthcare Corporation (90.7%) and Baptist Memorial Health Care (9.3%). The proposed service area consists of Fayette, Hardeman, Shelby, and Tipton Counties. The Mississippi proposed service area will consist of Benton, Desoto, Marshall, and Tate Counties. The estimated project cost is \$6,540,471.

Mr. Taylor moved to approve the application with Dr. Patric providing the second.

Factual and Legal Basis for Approval:

Need – There's need to provide geri-psych services for a growing elderly population in the Collierville area. And even though there's 20 miles of distance, that can translate into a long haul. So I think for the local residents to be able to access those geri-psych services and being able to have the support of families and friends and such is really necessary to be close to those folks.

Economic Feasibility – The project is being funded by NHC through capital reserves. Also it was referenced that there will be positive cash flow in year two.

Healthcare that Meets Appropriate Quality Standards - Both of these or all three of these providers have a good reputation in the state as providing great care. They're going to be certified for Medicare and Medicaid services and, of course, licensed by the State of Tennessee.

Contribution to the Orderly Development of Healthcare – I don't think that approval of this project will negatively affect any other providers in the area.

Nine members voted to approve the application— Jordan, Patric, Korth, Brown, Taylor, Harding, Alsup, Chinn, and Scarboro. The motion CARRIED [9-o-o].

Starr Regional Medical Center - Athens, Athens (McMinn County), TN CN2101-001

Request: The initiation of diagnostic and therapeutic catheterization services at Starr Regional Medical Center-Athens, 1114 W. Madison Avenue, Athens (McMinn County), Tennessee 37303. The applicant is owned by Athens Regional Medical Center, LLC. The proposed service area consists of McMinn, Meigs, and Monroe Counties. The estimated project cost is \$5,048,865.

OPPOSITION: Was filed by Sweetwater Hospital, Commissioner Joe Anderson, State Representative Lowell Russell, and Mayor Mitch Ingram.

Dr. Patric moved to approve the application with Mr. Taylor providing the second.

Factual and Legal Basis for Approval:

Need – I believe the numbers do show that there is a need in the service area as they have outlined, and there's a growing need as that population begins to age and also given the degree of heart disease that we do see nationwide, but in particularly in Tennessee, and being the number one cause of premature death in the United States and in Tennessee.

Economic Feasibility – It is quite feasible with the mothership cash reserves.

Healthcare that Meets Appropriate Quality Standards – They will seek licensure accreditation and certification that are needed to operate. But more than that, they've described what I believe is an extremely robust quality program, which is well in keeping with national standards.

Contribution to the Orderly Development of Healthcare – Despite the concerns of the Monroe County hospital, there is significant support from other providers in the area. This will provide a very high quality diagnostic and therapeutic intervention for people in that service area, and they will be taking all payers. And, also, they have provided for proper transportation and screening of patients before they have their interventions.

Seven members voted to approve the application— Jordan, Patric, Korth, Brown, Taylor, Harding, and Scarboro. Alsup and Chinn voted Nay. The motion CARRIED [7-2-0].

TriStar Skyline Medical Center, Nashville (Davidson County), TN CN2101-003

Mr. Taylor left the meeting.

Ms. Brown, and Ms. Harding recused

Request: The initiation of a burn unit that will be located at the TriStar Skyline Medical Center main campus at 3441 Dickerson Pike, Nashville, (Davidson County), Tennessee 37207. The applicant is owned by HTI Memorial Corporation. The proposed service area consists of 51 counties in Middle Tennessee, 39 counties in Southern Kentucky, and 7 counties in Northern Alabama; and the secondary service area consists of 27 counties in East Tennessee and 7 counties in Southeast Kentucky. The estimated project cost is \$5,411,637.

OPPOSITION: Was filed by Vanderbilt University Medical Center

Dr. Patric moved for approval with Mr. Alsup providing the second.

Factual and Legal Basis for Approval:

Need – Though there is some variant interpretation of what the numbers being reported mean it would appear that, at least most of the time, the numbers that are met for capacity at Vanderbilt at least allow for the regulatory interpretation that additional beds in the service area could still be warranted. On top of that is testimony there's probably an unmet need of those kinds of services simply because of, for lack of a better word, public and professional ignorance in the outlying surrounding communities.

Economic Feasibility – It clearly is within the realm of the mothership to pay for this.

Healthcare that Meets Appropriate Quality Standards – They will seek the ABA certification, and they will have all the other things, the licensure, Joint Commission accreditation that they currently enjoy. Plus, they'll be a part of a nationwide system that deals with this, and they clearly have staff on board already, including physician staff, that are well experienced in this whole area.

Contribution to the Orderly Development of Healthcare - There obviously is opposition from Vanderbilt. But there also is clearly lots of support from other people in the community, including legislative support and physician support. And, therefore, I think that all balances out in the end.

Four members voted to approve the application— Patric, Alsup, Chinn and Scarboro. Jordan and Korth voted Nay. The motion CARRIED [4-2-0].

BHG LXIV dba BHG Clinton Treatment Center, Clinton (Anderson County), TN – CN2011-035
(Withdrawn March 29, 2021)

General Counsel

Optum Infusion Services 305, LLC, Memphis (Shelby County), TN CN1606-022AM

Ms. Brown recused

Request to Modify Condition

CN1606-022A is conditioned to limit the scope of services to infusion of immune globulin (“IVIG”) pharmaceuticals only. Optum seeks a modification of that condition to expand the scope of services to allow for infusion of all pharmaceuticals dispensed by Optum pharmacies.

Other than immune globulin pharmaceuticals, Optum will not be authorized to provide cancer directed and cancer support therapies.

The service area impacted by this request is limited to the following West Tennessee counties: Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, Madison, McNairy, Obion, Shelby, Tipton and Weakley.

WITHDRAWN OPPOSITION: Regional One Health, Baptist Memorial, The West Clinic, and West Tennessee Health Care.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

I move for approval of the modification on the basis of recommendation of Agency staff.

Seven members voted to approve the application— Jordan, Patric, Korth, Alsup, Harding, Chinn and Scarboro. The motion CARRIED [7-0-0].

Optum Infusion Services 305, LLC, Memphis (Shelby County), TN CN1702-008AM

Ms. Brown recused

Request to Modify Condition

CN1702-008A is conditioned to limit the scope of services to infusion of immune globulin (“IVIG”) pharmaceuticals only. Optum seeks a modification of that condition to expand the scope of services to allow for infusion of all pharmaceuticals dispensed by Optum pharmacies.

Other than immune globulin pharmaceuticals, Optum will not be authorized to provide cancer directed and cancer support therapies.

The service area impacted by this request is limited to the following East Tennessee counties: Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union and Washington.

WITHDRAWN OPPOSITION: University of Tennessee Medical Center, Covenant/Thompson Cancer Survivor Institute, Tennessee Cancer Specialists, Tennessee Oncology Practice Society and Chattanooga-Hamilton County Hospital Authority dba Erlanger Health System.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

I move for approval of the modification on the basis of recommendation of Agency staff.

Seven members voted to approve the application— Jordan, Patric, Korth, Alsup, Harding, Chinn and Scarboro. The motion CARRIED [7-0-0].

Woodridge of West Tennessee, LLC, dba Perimeter Behavioral Hospital of Jackson, Jackson (Madison County), TN CN1910-043AM

Request for modification of implementation of CON by temporarily using underutilized geriatric psychiatric beds for the approved 16 additional child and adolescent psychiatric beds until new construction per the CON is completed.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

I move for approval of the modification on the basis of recommendation of Agency staff.

Mr. Alsup's call dropped and did not vote.

Seven members voted to approve the application— Jordan, Patric, Korth, Harding, Brown, Chinn and Scarboro. The motion CARRIED [7-0-0].

Coram Alternate Site Services dba Coram/CVS Specialty Infusion Services, Knoxville (Knox County), TN CN1406-017AM

Ms. Brown recused

Home health agency limited to providing infusion services and nursing services necessary for the administration of infusion services to Coram's pharmaceutical patients in 30 East Tennessee counties.

Also limited from participating in Medicare and TennCare.

Request for modification to allow Coram to participate in Medicare under the Medicare Part B Home Infusion Therapy (HIT) program, but specifically excluding chemotherapy related infusions.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

I move for approval of the modification on the basis of recommendation of Agency staff.

Seven members voted to approve the application— Jordan, Patric, Korth, Alsup, Harding, Chinn and Scarboro. The motion CARRIED [7-0-0].

Coram Alternate Site Services dba Coram/CVS Specialty Infusion Services, Knoxville (Knox County), TN CN1406-018AM

Ms. Brown recused

Home health agency limited to providing infusion services and nursing services necessary for the administration of infusion services to Coram's pharmaceutical patients in 25 West Tennessee counties.

Also limited from participating in Medicare and TennCare.

Request for modification to allow Coram to participate in Medicare under the Medicare Part B Home Infusion Therapy (HIT) program, but specifically excluding chemotherapy related infusions.

Dr. Patric moved for approval with Ms. Jordan providing the second.

Factual and Legal Basis for Approval:

I move for approval of the modification on the basis of recommendation of Agency staff.

Mr. Alsup's call dropped and did not vote.

Six members voted to approve the application— Jordan, Patric, Korth, Harding, Chinn and Scarboro. The motion CARRIED [6-0-0].

Mr. Christoffersen provided a Contested Case Update.

Mr. Earhart provided an Annual Continuing Need/Quality Measures Report Update.

ADJOURNMENT

There being no further business, the meeting adjourned.



Logan Grant, Executive Director

HSDA Minutes provide a brief summary of agency actions. A detailed record of each meeting (recording and transcript) is available upon request by contacting the HSDA office.