

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

December 11, 2019

AGENCY MEMBERS PRESENT

Scarboro, Douglas, Chair
Patric, Kenneth, M.D., Vice-Chair
Korth, Paul
Ridgway, Corey
Taylor, Todd
Harding, Jaclyn, Designee for Comptroller

AGENCY MEMBERS ABSENT

Alsup, Thomas
Brown, Laura Beth
Chinn, R.G. Rick
Gaither, Keith, Designee for TennCare
Jordan, Lisa, Designee for Commerce & Insurance Commissioner

AGENCY STAFF PRESENT

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

COURT REPORTER

Daniel, April

GUESTS PRESENT

Alley, Edmond, Regional V.P., Behavioral Health Group, LLC
Baddour, George, Jr, M.D., OrthoTennessee/UT Medical Center
Baker, Graham, Esq., Anderson and Baker
Brent, Mike, Esq., Bradley Arant
Brown, Dere, Director of Health Planning and License/Certification, NHC
Collins, Clay, CFO, The Village of Germantown
Cunningham, Benjamin Jr., CFO, UTMC
Davis, Clint, CEO, Twin Rivers Health and Rehabilitation
Deeson, Jon-David, CEO, OrthoTennessee
DeRousse, Rebecca, VP of Healthcare, The Village of Germantown
Eads, Judy, Owner, Key Management Associates
Fitzgerald, Bryce, Esq., Kramer Rayson, LLP
Fowler, Scott, M.D., CEO, Holston Medical Group
Franklin, J Wayne, Consultant, Franklin Healthcare Consultant
Gray, Ernie, M.D., Plaza Radiology, LLC
Hartmann, Bruce, Supervisor, UTMC
Mynatt, Roger, CEO, Jefferson Park at Dandridge
Owenbey, Kathy, Manager, East Tennessee Gastroenterology
Pearson, Pete, COO, OrthoTennessee
Robertson, Rebecca, Director of Clinical Services, Midsouth Interventional Pain Institute, LLC
Rogers, Tom, President/CEO, UT Research Park
Samuel, George, M.D./DO, East Tennessee Gastroenterology
Scott, Codie, Assistant Director, Midsouth Interventional Pain Institute, LLC
Sheehan, John, President, Elk River Health and Rehabilitation Center
Stephenson, Kate, Esq., Trauger and Tuke

Stewart, Eddie, Health Facilities Program Manager, Office of Health Care Facilities
Taylor, Jerry W., Esq., Burr & Forman
Teeter, Sue Kilpatrick, COO, Plaza Radiology, LLC
Teffeteller, Alyshia, ATC, OrthoTennessee
Trauger, Byron, Esq., Trauger and Tuke
Young, Laura, CNO, TDMHSAS

CALL TO ORDER:

The meeting was called to order at 8:30 a.m. by Mr. Scarboro with the following members present: Ridgway, Patric, Korth, Taylor, Harding and Scarboro. A quorum¹ was established with six members being present.

DIRECTOR'S ANNOUNCEMENTS

- The February 26, 2020 board meeting will be announced once a location is confirmed.

APPROVAL OF MINUTES

Mr. Scarboro presented the October 23, 2019 minutes for approval.

Dr. Patric moved for approval of the minutes as presented. Ms. Harding seconded the motion. The motion CARRIED [6-o-o] unanimously by voice vote. **APPROVED**

STATE HEALTH PLAN UPDATE

TDH Division of Health Planning Director Jeff Ockerman reported that there were not any updates since the last meeting.

CONSENT CALENDAR

Mr. Grant introduced the two applications under consideration, which were approved.

***BHG XII LLC dba BHG Murfreesboro Treatment Center, Murfreesboro (Rutherford County), TN CN1907-023**

Request: For the establishment of a non-residential substitution based treatment center for opiate addiction to be located at 630 Broadmor Boulevard, Murfreesboro, (Rutherford County), TN 37129. The applicant is owned by VCPHCS, LP which is a wholly owned subsidiary of TVG-BHG Intermediate III, LLC dba Behavioral Health Group, LLC (BHG). The estimated project cost is \$845,413.

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

¹ Quorum Requirement- Six members shall constitute a quorum. TCA §-68-11-1604(e) (3)

Factual and Legal Basis for approval:

Need - There are no existing opiate addiction treatment providers in the four-county service area. Currently, service area residents are required to travel out of the service area for OTP treatment. According to the data from the Department of Mental Health and Substance Abuse Services, there is an estimated 4,224 residents in the proposed service area with a pain reliever use disorder and 920 residents with a heroin use disorder. However, only 5.8 percent, which is 340 service area residents, received treatment in 2018, leaving 5,867 service area residents with an unmet need for opiate treatment. The applicant is projecting 165 clients in year one and 261 clients in year two;

Economic Feasibility – The project is economically feasible and will be funded through operating cash flow and cash reserves. The applicant provided a letter dated May 31st, 2019, from the accounting firm BDO that verified the applicant has cash reserves to fund the proposed project ;

Healthcare that Meets Appropriate Quality Standards – The applicant will seek accreditation by the Joint Commission;

Contribution to the Orderly Development of Healthcare – The applicant is an experienced and knowledgeable OTP provider evidenced by operating ten existing OTP clinics across Tennessee. The applicant has a letter of support from the Mayor of Rutherford County, Bill Ketron. In addition, the applicant has letters of support from State Representative Charlie Baum and State Senator Dawn White representing the state district where the proposed OTP will be located.

Six members voted to approve the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-o-o].

***Elk River Health and Rehabilitation of Ardmore, LLC, Ardmore (Giles County), TN CN1910-042**

Request: For the relocation and construction of the current 79 bed facility located at 25385 Main Street, Ardmore, Tennessee 38449. The replacement 74 bed facility will be located on an adjacent 9.6 acre parcel addressed as 24601 Union Hill Road, Ardmore, Tennessee 38449. The applicant is owned by Ocoee Foundation, Inc. (a Tennessee non-profit corporation). The estimated project cost is \$7,421,836.

Ms. Harding moved for approval with Mr. Taylor providing the second.

Factual and Legal Basis for approval:

Need – This project will transition nursing home residents from an aging 40- to 50-year-old institutional-style building to a newly constructed modern replacement facility. Construction of the new facility meets recommendations for facility modernization by the State Health Plan and Tennessee statute;

Economic Feasibility – The project will be funded with operating income and is projected to be financially feasible in year one. The applicant's owner, Ocoee Foundation, has adequate financial resources to cover operations if the applicant's projections are not realized;

Healthcare that Meets Appropriate Quality Standards – The applicant is licensed by the Tennessee Department of Health and is certified by Medicare and TennCare. Current ownership and management will continue. As of the date of application, the facility was in compliance with all federal and state licensure requirements, and their most recent Medicare quality measure rating was three stars;

Contribution to the Orderly Development of Healthcare – The applicant is replacing the current 40- to 50-year-old facility by constructing a new facility on an adjacent lot and is reducing the number of beds from 79 to 74. There should be no impact on the other two nursing homes in the service area, NHC Healthcare and Meadowbrook Health and Rehabilitation Center. The current manager of the facility also manages nine other nursing homes in Tennessee.

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

CERTIFICATE OF NEED APPLICATIONS

Seven 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.

Deputy Director Farber introduced each of the seven applications under consideration with six being approved and one being denied.²

East Tennessee Gastroenterology, PLLC, Cleveland (Bradley County), TN CN1903-004

Request: For the establishment of a single specialty endoscopy Ambulatory Surgical Treatment Center (ASTC) at 2404 Chambliss Avenue, NW, Cleveland (Bradley County), TN 37312. The proposed ASTC will have one procedure room. The applicant is owned by Dr. George Samuel. The estimated project cost is \$167,525.

Mr. Ridgway moved to deny the application with Dr. Patric providing the second.

Factual and Legal Basis for denial:

The application failed to meet the economic feasibility criterion related to the revenue assumptions that were provided in the application.

Six members voted to deny the application— Ridgway, Patric, Korth, Taylor, Harding, and Scarboro. The motion CARRIED [6-0-0].

Midsouth Interventional Pain Institute, LLC, Jackson (Madison County), TN CN1908-028

Request: For the establishment of an ambulatory surgical treatment center limited to the provision of pain management services, located at 2016 Greystone Square, Jackson, Madison County, Tennessee 38305. The applicant is owned by Midsouth Interventional Pain Institute, LLC. The estimated cost of this project is \$1,006,782.

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

Factual and Legal Basis for approval:

Need – The estimates of usage meet the criteria based on the state regulations. While there are some availability of some procedure rooms, that availability would not be as much as what will occur if this facility is approved, and currently those patients seem to be going elsewhere, probably to Germantown facility. With regard to access, it seems to meet all the access criteria in terms of travel time to be approved for those patients in the Jackson area and surrounding counties. There is public transit access nearby, and it improves the access in the multi-county based area that they're proposing to serve. And, also, they currently serve in other areas and will serve in this area TennCare and Medicare patients;

Economic Feasibility – Half of the total number is a cost for lease, which projected out seven years. MIPI, LLC, is a very successful company financially. They have the reserves and paperwork to prove that. So they'll pay for this out of reserves and then revenues with projected margins based on their other business in other areas of 36.5 percent the first year;

Healthcare that Meets Appropriate Quality Standards – They will seek licensure from TDH and certification from Medicare, TennCare and accreditation from AAAHC. In addition, they will fulfill other criteria by having two fellowship-trained board certified pain management anesthesiologists as physician staff members ;

Contribution to the Orderly Development of Healthcare - There is no opposition. Despite the fact that this will likely reduce some usage in the Jackson hospitals, but that usage, as the state numbers show, have been decreasing over the last three years, both at Jackson Hospital and in the multispecialty ASTCs in that area. The business with pain management and those types of facilities is a small percentage of their overall business. This will improve the care for those patients who are currently driving 75 miles from Jackson to Germantown.

Six members voted to approved the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-o-o].

² Approve all or part of a certificate of need, upon any lawful conditions that the agency deems appropriate and enforceable on the grounds that those parts of the proposal appear to meet the applicable criteria. TCA §-68-11-1609 (a) (1)

The Village at Germantown, Inc., Germantown (Shelby County), TN CN1909-031

Request: For the addition of five Medicare-certified skilled nursing beds to The Village at Germantown's existing 50 Medicare-certified skilled nursing facility (SNF) bed nursing home. These beds are subject to the 2019-2020 125 nursing home bed pool. The applicant is owned by The Village of Germantown, Inc. The estimated project cost is \$59,000.

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

Factual and Legal Basis for approval:

Need – As a CCRC, the applicant would like to allow their residents to age in place. They are projecting occupancy at any level at 90 percent in 2020, and the bed need in Shelby County certainly greatly exceeds the request for the five beds;

Economic Feasibility – It's going to cost about \$59,000, and those expenses will be funded through current cash reserves;

Healthcare that Meets Appropriate Quality Standards – The applicant has met the quality standards requirement as it is certified by CMS and licensed by the State of Tennessee;

Contribution to the Orderly Development of Healthcare – The applicant meets the criteria as it has the transfer agreements with both the local hospitals. The addition of five-beds should not negatively affect any competitors.

Six members voted to approved the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-0-0].

Plaza Radiology, LLC dba Cleveland Imaging, Cleveland (Bradley County), TN CN1909-033

Request: For the acquisition and placing into service of one additional magnetic resonance imaging (MRI) unit, a 3.0 Tesla MRI at Cleveland Imaging, 2253 Chambliss Avenue NW, Suite 100, Cleveland, TN 37311. The applicant is owned by Plaza Radiology, LLC. The estimated project cost is \$2,228,675.

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

Factual and Legal Basis for approval:

Need – The need and utilization standard is outlined and will be met. Currently, there is overcapacity on those MRIs that exist in the service area. Many patients are being asked to go out of the service area to get needed services, particularly on emergency or urgent basis. The demonstration of access is appropriate for the service area with regards to where the facility will be located, and it will be the only outpatient MRI in the service area;

Economic Feasibility – The financing will be met with a loan, and there is a letter from First Tennessee Bank funding all the loan but also will be obtained from revenue with significant margins noted in the first year. Despite that, they will have 28 percent of their revenues from TennCare, so they'll be serving that population;

Healthcare that Meets Appropriate Quality Standards – The MRI they are bringing on board has been FDA certified, and they have transfer agreements in place. They will seek ACR accreditation, as they currently have for other existing MRIs. They will seek TennCare and Medicare certification. They have policies and procedures in place with regards to medical staff and other issues that are involved with that type of facility;

Contribution to the Orderly Development of Healthcare – There is no opposition. In fact, there is significant support from the physicians in the area demonstrated by the letters that were sent in. There will be minimal impact on other facilities because the other facilities are already significantly at overcapacity. There will be decreased travel time for patients that currently have to go out of the service area, decreased waiting time for patients, decreased cost for patients since this will be an outpatient facility. And on top of all of that, they will have the newer MRI, so improved technology of the 3T. And, in addition, with the evolution of healthcare and what we do, areas like breast cancer, lung cancer, fatty liver and some neurological issues are better served with this type of technology.

Six members voted to approved the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-0-0].

**Outpatient Diagnostic Center at Johnson City Center, Johnson City (Washington County), TN
CN1909-036**

Request: For the establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services at 3019 People Street, Suite 300, Johnson City, (Washington County), TN. The applicant is owned by Holston Medical Group, P.C. The estimated project cost is \$11,005,404.43.

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

Factual and Legal Basis for approval:

Need – The applicant has shown that there's an underserved population in the service area it proposes to serve. This will give the patients more choice and lower costs. Their utilization projections meet the standard, and probably as important is that the capacity in the area for the current MRIs is at 95.4 percent;

Economic Feasibility – Although this is an expensive venture, half of the expense is tied up in lease, construction and leased medical equipment. The agency has a line of credit that meets the financial need for this project. They have cash reserves, and they expect their revenues to give a margin of about 34 percent in the first year;

Healthcare that Meets Appropriate Quality Standards – They will be licensed by TDH and will be certified by TennCare, Medicare and accredited by ACR. They have ACR protocols in place. The equipment has been FDA approved. Transfer policies are also in place, and their ACR safety guidelines will be met;

Contribution to the Orderly Development of Healthcare – There is significant support from the physicians and even groups in the area that are not related to HMG. There's no opposition. And, this is a medically underserved area which takes care of significant numbers of TennCare and Medicare patients.

Six members voted to approved the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-o-o].

Cherokee Farm Orthopedic Surgery Center, LLC, Knoxville (Knox County), TN CN1909-037

Request: For the establishment of an ambulatory surgical treatment center (ASTC) located at an unaddressed lot on the University of Tennessee Cherokee Farm Campus east of the intersection of Osprey Way and Accelerator Way, Knoxville (Knox County), TN 37920. The ASTC will include five operating rooms (ORs) with two additional shelled ORs for future use. The five operating rooms subject to this application will primarily be used for, but not limited to, orthopedic surgical cases performed by OrthoTennessee, P.C. d/b/a University Orthopedic Surgeons. The applicant is owned by Ortho Tennessee, P.C. If the CON is approved, Ortho Tennessee is expected to hold 75% of the ownership interest, and University Health Systems, d/b/a UT Medical Center is expected to hold the remaining 25% ownership interest. The estimated project cost is \$19,829,307.

Mr. Ridgway moved for approval with Ms. Harding providing the second with the condition that this CON is limited to Musculoskeletal surgeries.

Factual and Legal Basis for approval:

Need – This is a high growth specialty, and the demand for orthopedic surgery continues to climb in the particular market. There has been closure of a hospital and ASC that has resulted in a capacity crunch for ORs, and these cases will actually be moving from the UTMC hospital setting, a large portion of them, to this newly-established ASTC establishing a need ;

Economic Feasibility – The ASC is projected to be profitable in year two, and the project has secured financing through First Tennessee Bank and would be a loan taken out by the surgery center itself;

Healthcare that Meets Appropriate Quality Standards – Ortho Tennessee and the University alignment establishes a commitment to quality, and they will seek appropriate certifications for their ASC;

Contribution to the Orderly Development of Healthcare – The nature of this partnership and alignment between a successful orthopedic group and a well-respected institution like University of Tennessee Medical Center certainly demonstrates orderly development, and there is no opposition present.

Six members voted to approved the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-o-o].

Jefferson Park at White Pine, White Pine (Jefferson County), TN CN1909-038

Request: For the establishment of a 30 bed nursing home at 1513 Main Street, White Pine (Jefferson County), TN. These beds are subject to the 2019-2020 125 nursing home bed pool. The applicant is owned by Jefferson County Nursing Home, which is a component of Jefferson County, which is a governmental entity. The estimated project cost is \$8,561,534.

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

Factual and Legal Basis for approval:

Need – The applicant has demonstrated need for these 30 beds that will be constructed and functioned in the greenhouse concept. The provision of services utilizing this concept has been extremely successful, and the applicants in the Dandridge location will certainly fulfill that need to the folks at the new location. The provision of long-term care services in the greenhouse concept greatly enhances the customer experience when compared to the traditional long-term care setting;

Economic Feasibility – While the project per square foot costs are above the third quartile, the average square footage cost of new construction for long-term care facilities, the uniqueness of the greenhouse concept would offer such a much improved living environment that it greatly outweighs that cost. Also, the project will be funded by issuing general obligation bonds up to \$11 million. The resolution to issue those bonds, were approved and signed by the Mayor of Jefferson County;

Healthcare that Meets Appropriate Quality Standards – The applicant will seek licensure by the State of Tennessee and certification for participation in both Medicare and Medicaid programs;

Contribution to the Orderly Development of Healthcare – It will secure provider agreements and is appropriate in the community, is offering new and desirable ways to provide long-term care services to the community, and no other provider should be negatively affected by the approval of this application.

Six members voted to approved the application— Ridgway, Patric, Korth, Taylor, Harding and Scarboro. The motion CARRIED [6-0-0].

GENERAL COUNSEL'S REPORT

Contested Case Update

Mr. Christoffersen provided an update on contested cases.

Annual Continuing Need/Quality Measures Report Update

Mr. Farber provided an update on Annual Continuing Need and Quality Measures

OTHER BUSINESS

ADJOURNMENT

There being no further business, the meeting adjourned.

A handwritten signature in black ink, appearing to read "Logan Grant", written over a horizontal line.

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 at 615-741-2364.