

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

February 24, 2021

AGENCY MEMBERS PRESENT

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

AGENCY STAFF PRESENT

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

COURT REPORTER

April Daniel

GUESTS PRESENT

Imad Abdullah
Tim Adams
Graham Baker
Michael Banks
Camille Barkalow
Michael Brent
S. Brinkley
Mayor Bill Brittain
Dere Brown
Wade Bryant
Joe Burchfield
Brittney Burns
Charlotte Burns
Mayor Gary Chesney

Chad Clabough
Dr. Jon Cornelius
Patti Cotton
Dr. David Crawford
Christopher Cunningham
Sue Dyer
Danny Edsell
Dan Elrod
Tim Evans
Ginna Felts
Bryce Fitzgerald
Susan Gant
Donovan Guidry
Chris Hartshorn
Joey Hassell
Jay Hinesley
Dr. Brett Inglis
EB Jackson-Bratcher
Jordan Johnson
Elizabeth Jones
Kyle Kopec
Matthew Kroplin
Peggy Leath
Laura Linn
Gordan Lintz
Dr. Jackie Livesay
Mayor David Livingston
Kim Looney
Ron Luke
Arthur Maples
Brian Marger
Ginger Martindale
Jennifer McGugin
Martin McKay
Trey McNear
Robyn Morrissey
Scott Nation
Dr. Keith Nord
Kristen O'Connor
Kathy Platt
Ruth Portacci
M. Ramey
Mayor Bill Rawls

Ann Reed
Mike Richardson
Katherine Rippey
Zach Roberts
Allison Rogers
Billy Rolfe
Grant Rutledge
John Snyders
Clark Spoden
Dan Sullivan
Travis Swearingen
Fahad Tahir
Jerry Taylor
Will Taylor
Byron Trauger
Wells Trompter
Todd Ussery
Rick Wagers
Senator Page Walley
David Whelan
Kari Widdifield
John Wesley Williamson
Daniel Winkler

CALL TO ORDER:

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

DIRECTOR'S ANNOUNCEMENTS

- The April 28, 2021 board meeting will be held by WebEx.
- Logan Grant introduced Tom Pitt as HSDA Examiner who filled the position of Phillip Earhart, after his promotion to Deputy Director.

APPROVAL OF MINUTES

Mr. Scarboro presented the December 12, 2020 minutes for approval. The motion CARRIED [10-0-0] unanimously by voice vote. **APPROVED**

CONSENT CALENDER

Haywood County Community Hospital, Brownsville (Haywood County), TN CN2012-037
 Request: The establishment of a 49-bed full service acute care hospital located at 2545 North Washington Avenue, Brownsville (Haywood County), TN 38012. The applicant is owned by Braden Health, Inc. The proposed service area consists of Haywood County. The estimated project cost is \$2,568,700.

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

Factual and Legal Basis for Approval:

Need – The applicant is proposing to establish a 49-bed rural acute care hospital facility in Haywood County, Tennessee, which does not have any existing licensed hospital beds, forcing residents to travel a minimum of 24 miles to the nearest hospital for emergency and inpatient services. Additionally, the applicant states that there is an increased bed need in this part of the west Tennessee region that is resulting from Covid-19, along with the closure of a rural hospital in the region in Perry County. The applicant is projecting 4,500 emergency department visits and 1,680 inpatient admissions in Year One, and 6,500 emergency visits and 2,280 inpatient admissions in Year Two.

Economic Feasibility – The applicant projects free cash flow of \$390,900 by Year Two of the project. The project will be funded by cash reserves through the applicant's owner, Braden Health, Incorporated, during the hospital starter period.

Healthcare that Meets Appropriate Quality Standards – The applicant will pursue Medicare and Medicaid certification and will seek accreditation from DNV GL.

Contribution to the Orderly Development of Healthcare – The 49-bed acute care hospital will contribute to the continuum of care in delivering a range of medical services available in Haywood County.

Ten members voted to approve the application— Ridgway, Jordan, Gaither, Patric, Korth, Brown, Taylor, Harding, Alsup, and Scarboro. The motion CARRIED [10-0-0].

Wellmont Medical Associates, Johnson City (Washington County), TN CN2012-038

Request: The establishment of an outpatient diagnostic center (ODC) and initiation of MRI services located at 301 Med Tech Parkway, Suite 100, Johnson City (Washington County), TN 37604. Diagnostic services to be provided include MRI (1.5 Tesla), CT, Ultrasound, and X-Ray services. The applicant is owned by Ballad Health. The proposed service area consists of Carter, Sullivan, and Washington Counties. The estimated project cost is \$2,983,522.

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

Factual and Legal Basis for Approval:

Need – The proposed project involves reclassification of existing hospital-based imaging services at its affiliate hospital, Johnson City Medical Center. As a freestanding ODC, it does not involve the addition of imaging services, including the MRI service in the service area. The applicant projects 11,361 total imaging procedures in Year One. And, in Year Two of the proposed project. The total project cost of the proposed project will be funded by cash reserves.

Economic Feasibility – The applicant projects free cash flow of \$779,498 in Year One and \$768,406 in Year Two. The project will be funded by cash reserves.

Healthcare that Meets Appropriate Quality Standards – The applicant will seek licensure of the proposed Outpatient Diagnostic Center with MRI by the Tennessee Department of Health, Medicare and Medicaid certification, and accreditation with the American College of Radiology.

Contribution to the Orderly Development of Healthcare – Approval of this project only results in the applicant's reclassification of existing hospital-based imaging center to a separately licensed Outpatient Diagnostic Center.

Ten members voted to approve the application- Ridgway, Jordan, Gaither, Patric, Korth, Brown, Taylor, Harding, Alsup, and Scarboro. The motion CARRIED [10-0-0].

Regional One Health, Memphis (Shelby County), TN CN2012-039

Request: The initiation of PET/CT services located at 1588 Union Avenue, Memphis (Shelby County), TN 38104. If approved, the existing PET/CT unit will be leased from West Cancer Clinic-Midtown (West) and operated as a department of Regional One Health. The application will not add to the number of PET units in Shelby County. The applicant is owned by Shelby County Healthcare Corporation, dba Regional One Health. The proposed service area is Shelby County. The estimated project cost is \$932,064.

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

Factual and Legal Basis for Approval:

Need – The applicant is proposing to continue the operation of an existing PET/CT service without any location change or the addition of a PET/CT unit in the service area. While this scanner has not met the minimum standard for the number of scans per year, it has provided a convenient accessible service for cancer patients in the Midtown area of Memphis, which concludes a higher minority population, greater percentage of TennCare patients, and a greater rate of mortality of cancer in the state.

Economic Feasibility – The applicant projects free cash flow of \$144,215 in Year One, increasing to \$175,509 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 and the American College of Radiology.

Contribution to the Orderly Development of Healthcare - Approval of this project results in the continuation of PET/CT services to oncology patients at an established location. The PET/CT service will operate as a department of Regional One Health, which already has transfer agreements with local hospitals.

Ten members voted to approve the application— Ridgway, Jordan, Gaither, Patric, Korth, Brown, Taylor, Harding, Alsup, and Scarboro. The motion CARRIED [10-0-0].

Rick Chinn joined the meeting.

CERTIFICATE OF NEED APPLICATIONS

Five 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 five applications under consideration with four being approved and one denied.

Oak Ridge Surgery Center, Oak Ridge (Anderson County), TN CN2007-018

Mr. Taylor recused

Request: The establishment of a single specialty ambulatory surgical treatment center (ASTC) located at 101 Donner Drive, Oak Ridge (Anderson County), TN 37830. If approved, the ASTC will provide interventional pain management procedures and injections in one (1) procedure room within a 3,484 square foot facility. The applicant is owned by Oak Ridge Surgery Center, LLC. The proposed service area consists of Anderson, Campbell, Loudon, Knox, Monroe and Roane Counties. The estimated project cost is \$994,650.

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

Factual and Legal Basis for Approval:

Need – This is necessary for Elite Pain Consultants to be able to have this surgery center and the procedure room to offer IV conscious sedation to their patients that are undergoing these pain management procedures. And, there is a growing need across the country, as we continue to have a need for conservative non-opioid treatment modalities.

Economic Feasibility – The applicant has provided support that they have adequate funding with a commercial loan up to \$750,000 from Southern Heritage Bank, and they have positive operating margins and cash flows in the first two years of the operation.

Healthcare that Meets Appropriate Quality Standards – The applicant will pursue licensure through the Tennessee Department of Health and also accreditation through AAAHC.

Contribution to the Orderly Development of Healthcare – This proposed ASTC is practice-based and single-specialty and will only be serving EPC patients, so it will not have any adverse effect on any existing facilities. And there was no opposition for this application.

Ten members voted to approve the application— Ridgway, Jordan, Gaither, Patric, Korth, Brown, Harding, Alsup, Chinn, and Scarboro. The motion CARRIED [10-0-0].

Covenant Health Diagnostic Center South, Knoxville (Knox County), TN CN2010-031

Mr. Taylor recused

Request: The establishment of an Outpatient Diagnostic Center (ODC), at a currently unaddressed site on the southeast corner of Chapman Highway (US-441/SR-71) and Mountain Grove Drive in Knox County, TN 37920. The proposed ODC will provide the following imaging services: Mobile MRI (1.5T); CT (64-slice); X-Ray; Mammography; Ultrasound; Bone Density; Fluoroscopy; EKG; and Echocardiography. The proposed project will not include pediatric MRI services. The proposed service area consists of Knox and Sevier Counties. The applicant is owned by Covenant Health. The estimated project cost is \$11,498,692.

Ms. Jordan moved to approve the application with Mr. Ridgway providing the second.

Factual and Legal Basis for Approval:

Need – The project is needed to address the utilization demands at other Covenant facilities and to complement Covenant Health's network of healthcare services. The ODC is needed to adapt to the increase steerage of imaging patients to ODCs to decrease costs. There is also a need to address the increasing demand for outpatient diagnostic services due to population growth in the area and in aging population.

Economic Feasibility – The project can be funded by the parent's cash reserves and is expected to achieve positive cash flow in the first year of operation.

Healthcare that Meets Appropriate Quality Standards – The applicant will obtain licensure of the Department of Health and will seek Medicare and Medicaid certification and accreditation by the American College of Radiology.

Contribution to the Orderly Development of Healthcare –The project will provide better access to state-of-the-art imaging services and a lower-cost alternative to hospital-based imaging, especially to residents of Sevier County and south Knox County where no other ODCs exist. Since most patients referred to the ODC will be Covenant patients being steered from Covenant hospitals, there should not be a negative impact on nonaffiliated providers in this service area.

Ten members voted to approve the application— Ridgway, Jordan, Gaither, Patric, Korth, Brown, Harding, Alsup, Chinn and Scarboro. The motion CARRIED [10-0-0].

NOMA, PC, dba Sports, Orthopedics, and Spine, Jackson (Madison County), TN CN2011-034

Request: The initiation of a 1.5T MRI service at 111 Stonebridge Blvd, Jackson (Madison County), TN 38305. The proposed service area consists of Dyer, Decatur, Gibson, Hardeman, Madison, and McNairy Counties. The applicant is owned by Noma P.C. The estimated project cost is \$1,226,439.

Ms. Jordan moved for approval with Ms. Harding providing the second.

Factual and Legal Basis for Approval:

Need – The purpose of this CON is to approve the initiation of MRI services under a new corporate entity. The MRI referenced in this application is an existing physician practice-based unit. MRI services are still needed for the patients of Sports, Orthopedic and Spine, and this MRI is the only one in Madison County that has metal suppression technology, which allows MRIs on patients with metal in their bodies.

Economic Feasibility – The project can be funded by a commercial loan and is expected to basically break even in Year Two of operation. It's noted in the application that the applicant serves a large percentage of Medicare and TennCare patients, and the applicant intends to contract with all four TennCare MCOs and continue serving Tricare patients.

Healthcare that Meets Appropriate Quality Standards – The practice physicians are currently Medicare and Medicaid certified, and the applicant is accredited by the American College of Radiology, and the applicant commits to maintaining these certifications and accreditation.

Contribution to the Orderly Development of Healthcare - This project is not adding MRI services to the service area, and because its use will be limited to patients at Sports, Orthopedic and Spine, it will not have a negative impact on other MRI providers.

Eleven members voted to approve the application— Ridgway, Jordan, Gaither, Patric, Korth, Brown, Taylor, Alsup, Harding, Chinn and Scarboro. The motion CARRIED [11-0-0].

Lebanon Surgicenter, Lebanon (Wilson County), TN CN2011-033

Ms. Brown, Ms. Harding, and Mr. Ridgway recused

Request: The establishment of a multi-specialty ambulatory surgical treatment center with two (2) operating rooms and one (1) procedure room located at an undeveloped site west of South Hartmann Drive and North of Willard Hagan Drive (adjacent to 920 South Hartmann Drive) in Lebanon (Wilson County), Tennessee 37090. The proposed service area consists of Wilson County. The applicant is wholly owned by Surgicare of Lebanon, LLC. The estimated project cost is \$12,910,712.

OPPOSITION: Was filed by Vanderbilt Wilson County Hospital and St. Thomas/USP Surgery Centers, LLC.

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

Factual and Legal Basis for Denial:

Two reasons: The application does not meet the need standard, based off the unused capacity at the current facilities in the service area. And it also doesn't meet orderly development as I don't feel it would improve the access to care, and it's certainly a duplication of unnecessary services at this time.

Eight members voted to approve the denial of the application— Jordan, Gaither, Patric, Korth, Taylor, Alsup, Chinn and Scarboro. The motion CARRIED [8-0-0].

Morristown Hamblen Hospital Association dba Morristown Hamblen Healthcare System, Morristown (Hamblen County), TN CN2011-036

Mr. Alsup excused himself from the meeting.

Request: The establishment of a newly constructed Freestanding Emergency Department (FSED) to be licensed and operated as a satellite emergency department of Morristown-Hamblen Healthcare System. The 27,050 SF eight (8) treatment room facility will be located 4.7 miles from the host hospital at a currently unaddressed site at the intersection of 400 South Bellwood Road and 700 Merchants Greene Boulevard in Morristown (Hamblen County), Tennessee, 37920. The proposed project will also initiate MRI services at this location, by relocating an existing 1.5T MRI unit from the main hospital campus. The proposed service area consists of Hamblen County. The applicant is owned by Covenant Health. The estimated project cost is \$16,917,374.

OPPOSITION: Was filed by Tennova Healthcare Jefferson Memorial Hospital.

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

Factual and Legal Basis for Approval:

Need – There has been and appears to be increased utilization in the ER services for the current facility since the closure of the other hospital in 2018. Owing to some of the socioeconomic ethnicity issues in that particular area, particularly the county, the complexity of the patients in the emergency room, as we heard from the medical director there, mean that there is more waiting time and even more medical complexity. And all of this being done in a 50-year-old facility with no reasonable way for updating or expanding.

Economic Feasibility – While the freestanding unit will not break even for at least three years, they can rely on the reserves of the mothership and other revenue and financing.

Healthcare that Meets Appropriate Quality Standards – They will seek all the required licensure, certification, and accreditation that will be required, and the current mothership already has all of those in place.

Contribution to the Orderly Development of Healthcare – There is broad based support from the physicians, local physicians, local business, and officials. And, again, rather than looking at this as a, quote, piecemeal, unquote, approach, I view it as a more rational incremental planning approach and see that the decision of approving this is consistent with other decisions that we've made such as in the Clarksville area.

Nine members voted to approve the application— Ridgway, Jordan, Gaither, Patric, Korth, Brown, Taylor, Harding, and Scarboro. Chinn voted nay. Alsup abstained. The motion CARRIED [9-1-1].

BHG LXIV dba BHG Clinton Treatment Center, Clinton (Anderson County), TN – CN2011-035
(Deferred to April 2021 Meeting)

General Counsel
Optum Infusion Services 305, LLC, Memphis (Shelby County), TN CN1606-022A

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.

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.

OPPOSITION: Was filed by Baptist Memorial, Regional One Medical Center, West Tennessee Health Care, and The West Clinic.

(Deferred to April 2021)

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

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.

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.

OPPOSITION: Was filed by University of Tennessee Medical Center, Covenant/Thompson Cancer Survivor Institute, Tennessee Cancer Specialists, Tennessee Oncology Practice Society and Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Health System.

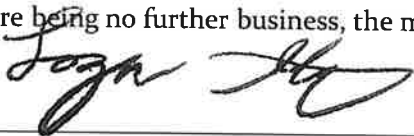
(Deferred to April 2021)

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.