



HEALTH FACILITIES COMMISSION
MEETING MINUTES
February 28, 2024

LOCATION: TN Department of Health Regulation Building, Iris Hearing Room, 665 Mainstream Drive, Nashville, TN 37243

COMMISSION MEMBERS PRESENT

Vince Pinkney, Vice-Chairman and Designee for TennCare
Joe Grandy
Laura Beth Brown
Charley Jerman
Greg Duckett
Dr. Scott Fowler
Nicole Sweitzer, Designee for Comptroller
Lisa Jordan, Designee for Department of Commerce, and Insurance

COMMISSION MEMBERS ABSENT

Mark Wainner
Rick Chinn, Chairman

COMMISSION STAFF PRESENT

Logan Grant, Executive Director
Phillip Earhart, Deputy Director
Jim Christoffersen, General Counsel
Alecia Craighead, Data and Analysis Administrator
Joel Clinton, Statistical Research Analyst
Lowavia Eden-Hoback, Office and Resource Manager
Thomas Pitt, HFC Examiner
Ann Reed, Deputy Director of Licensure and Regulation
Consuelo Baker, Executive Administrative Assistant
Katie Thomas,

COURT REPORTER

April Daniel

GUESTS PRESENT

Warren Gooch
Bryce Fitzgerald
Mike Brent
Gordan Ferguson

Clark Spoden
Travis Swearingen
Jerry Taylor
Byron Trauger
John Winters
Bryce Fitzgerald
Brandon Corbin
Christi Oliver
Conrad Cox
Dr. Youhanna AL-Tawil, M.D.
Neal Kelley
Abby Nix
Louis Caputo
Dere Brown
Lindsay E. Ray
Hilary Dennen
Jon Field
David Whelan
C W Pinson

CALL TO ORDER:

The meeting was called to order at 9:00 a.m. by Mr. Pinkney with the following members present: Sweitzer, Fowler, Duckett, Jordan, Brown, Grandy, Jerman and Pinkney. A quorum was established with eight members present.

DIRECTOR'S ANNOUNCEMENTS

The March 27, 2024, meeting will be held at the TN Department of Health Boards Regulation Building, Iris Hearing Room, Nashville, TN.

APPROVAL OF MINUTES

Mr. Pinkney presented the January 24, 2024, minutes for approval.

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

The motion CARRIED [8-o-o] unanimously by voice vote. **APPROVED.**

CERTIFICATE OF NEED APPLICATIONS

PC 557 eliminated TCA § 68-11-1616, which had provided that “each decision rendered by the Health Facilities Commission shall include written documentation and explanation of the factual and legal basis upon which the commission grants or denies the Certificate of Need.” PC 557 only requires this for applications that are denied.

Therefore, for applications filed on or after the effective date of the relevant portions of PC 557 (10/1/2021), a simple motion to approve an application will suffice, and a motion to deny must include an explanation of the factual and legal basis as to why one or more of the criteria have not been met.

One Certificate of Need application was considered under the regular CON agenda.

Phillip Earhart introduced the following, application under consideration and with one (1) being approved.

1. **Knox Endoscopy, Knoxville (Knox County), TN – CN2312-027**

Request: For the establishment of a single-specialty ambulatory surgical treatment center (ASTC) located at 1925 Town Center Blvd., Knoxville (Knox County), Tennessee. The ASTC will consist of 4 procedure rooms and 0 operating rooms and limited to the performance of endoscopy and gastroenterology procedures on patients up to age 26. The applicant is owned by Knox Ambulatory Surgery Center, LLC. Estimated project cost: \$7,601,064.

RECUSED: Wainner

Speaking on behalf of the applicant was Jerry Taylor.

Mr. Fowler moved for approval with Ms. Jordan providing the second.

Eight members voted to approve the application— Sweitzer, Grandy, Jerman, Brown, Jordan, Duckett, Fowler, and Pinkney. The motion CARRIED [8-0-0].

LIMITATION: Limited to the performance of endoscopy and gastroenterology procedures on patients up to age 26.

COMMISSION REVIEW

2. **Vanderbilt University Medical Center d/b/a Vanderbilt Rutherford Hospital Murfreesboro (Rutherford County), TN – CN2109-026AD Docket No.: 25.00-220022]**

Request: Appellate review of the Initial Order denying Certificate Of Need application (“CON”) No. CN2109-026AD for the establishment of a 42-bed community hospital facility and the initiation of diagnostic and therapeutic cardiac catheterization services at an unaddressed site on Veterans Parkway at the southeast intersection of Veterans Parkway and S.R. 840, Murfreesboro (Rutherford County), TN 37218.

Vanderbilt University Medical Center d/b/a Vanderbilt Rutherford Hospital will support changes to the Initial Order, including the approval of the CON application.

Saint Thomas Rutherford Hospital, TriStar Stonecrest Medical Center and Williamson Medical Center will oppose changes to the Initial Order, including the approval of the CON application.

RECUSED: Brown

Vanderbilt University Medical Center d/b/a Vanderbilt Rutherford Hospital
CN2109-026
Docket No.: 25.00-220022J

Review of the Administrative Law Judge's Initial Order denying the establishment of a 42-bed community hospital facility and the initiation of diagnostic and therapeutic cardiac catheterization services at an unaddressed site on Veterans Parkway at the southeast intersection of Veterans Parkway and S.R. 840, Murfreesboro (Rutherford County), TN 37218.

Travis Swearingen, Esq. addressed the Commission on behalf of Vanderbilt University Medical Center d/b/a Vanderbilt Rutherford Hospital in favor of amending the Initial Order's legal conclusions and issuing a Final Order approving CON application CN2109-026.

John E. Winters, Esq. addressed the Commission on behalf of Saint Thomas Rutherford Hospital in favor of adopting the Initial Order as the Final Order without changes, denying and revoking CON application CN2109-026.

M. Clark Spoden addressed the Commission on behalf of TriStar Stonecrest Medical Center in favor of adopting the Initial Order as the Final Order without changes, denying and revoking CON application CN2109-026.

Lindsay E. Ray, Esq. addressed the Commission on behalf of Williamson Medical Center in favor of adopting the Initial Order as the Final Order without changes, denying and revoking CON application CN2109-026.

Jim Christoffersen, the Health Facilities Commission's General Counsel, addressed the Commission, stating that the Initial Order should be amended to remove the revocation of the CON because this contested case was brought pursuant to T.C.A. §68-11-1610, which allows a party who has met certain pre-requisite conditions to appeal the predecessor Agency's decision to approve CON application CN2109-026; that is the only thing T.C.A. §68-11-1610 allows under this appeal. Christoffersen argued that revocation of a CON can be pursued under T.C.A. §68-11-1617, which does not state that a private party may initiate such an action; that would be a regulatory action initiated by Commission staff; therefore, the only possible outcomes in this contested case are approval or denial - not revocation.

Commission members questioned counsel for the parties.

Summation was provided by counsel for the parties.

Administrative Judge Mary Collier gave the Commission its charge.

Speaking on behalf of the applicant was Travis Swearingen, John Winters, Lindsay Ray, Clark Spoden.

Dr. Fowler moved for approval with Mr. Duckett providing the second.

Seven members voted to approve the application— Sweitzer, Grandy, Jerman, Wainner, Jordan, Pinkney, and Chinn. The motion CARRIED [6-1-0].

OTHER BUSINESS – Not Applicable

ADJOURNMENT

There being no further business, the meeting adjourned.



Logan Grant, Executive Director

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

