

# HEALTH SERVICES AND DEVELOPMENT AGENCY

## MINUTES

October 28, 2020

### AGENCY MEMBERS PRESENT

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

### AGENCY MEMBERS ABSENT

Corey Ridgway  
Todd Taylor

### AGENCY STAFF PRESENT

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

### COURT REPORTER

April Daniel

### GUESTS PRESENT

Keith	Altshuler
Graham	Baker
Camille	Barkalow
Mike	Bivens

Steve	Bivens
Amy	Bower
Michael	Brent
Dere	Brown
Laura	Brown
Joe	Burchfield
Brittany	Cassell
Jennifer	Clark
Rob	Clark
Carla	Davis
Robyn	Diaz
Madeline	Dozier
Dan	Elrod
Ginna	Felts
Bryce	Fitzgerald
Pat	Flynn
Cindy	Frazier
Donovan	Guidry
Clint	Hall
Claire	Haltom
George	Hernandez
Reid	Jackson
Cornelius	Johnson
Elizabeth	Jones
Lasell	Jones
Bryan	Kaegi
Elyssa	Katz
Jeff	Keeling
Naya	Kehayes
Kenneth M.	Kisiel
Judi	Knecht
Matt	Kroplin
Kim	Looney
Elizabeth	Mann
Arthur	Maples
Kelvin A.	Massey
Colleen	McGreevy
Carey	McRae
Edward	Mowen
Ellis	Neufeld
Jeff	Ockerman
Arushi	Pandya
Brant	Phillips

Natalie	Price
Christopher	Puri
Jane	Raymond
Ann R.	Reed
Mike	Richardson
Allison	Rogers
James	Ross
Tony	Ruscella
Trent	Sansing
Randall	Sermons
Abraham	Sims
LaKeisha	Sisco-Beck
Walter	Smith
Katherine	Steuer
Jerry	Taylor
Sahlease	Taylor
Byron	Trauger
Ann	Turner
Elizabeth	Turner
Natalie	Turner
John	Wells
LaResa	Young

**CALL TO ORDER:**

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

**DIRECTOR'S ANNOUNCEMENTS**

- The December 16, 2020 board meeting will be held by WebEx.
- Logan Grant announced that Dr. Patric had been reappointed by the Governor’s Office.

**APPROVAL OF MINUTES**

Mr. Scarboro presented the August 26, 2020 minutes for approval.

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

## CONSENT CALENDER

### Rehabilitation Hospital of Knox County - Downtown, Knoxville (Knox County), TN CN2007-024

*Ms. Brown recused*

Request: The establishment of a 22-bed independently licensed rehabilitation hospital located at 1901 Clinch Avenue, Knoxville (Knox County), TN 37916. The proposed 29,954 SF project will occupy the 4<sup>th</sup> and 5<sup>th</sup> floors of Fort Sanders Regional Medical Center. If approved, Fort Sanders Regional Medical Center (Patricia Neal Rehabilitation Center) will relinquish 22 of 73 licensed inpatient rehabilitation beds upon completion. The applicant is owned by Covenant Health (50%) and Encompass Health Corporation (50%). **The estimated project cost is \$25,811,558.**

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

#### **Factual and Legal Basis for Approval:**

**Need** – The need for the approval has been met in that these beds were already in existence previously, and the beds were just on an inactive status. Anytime we can upgrade a facility in an area, we certainly want to do that.

**Economic Feasibility** – The applicant is projecting a favorable margin of 3.8 in the second year of operation, which would yield a little over \$100,000 in net profit. Financing for the project has been secured through a commercial loan issued by the Bank of Tennessee in the amount of \$7.1 million. There is an operating line of credit that has been confirmed by Carter County Bank and Bank of Tennessee, in the amount of \$1 million.

**Healthcare that Meets Appropriate Quality Standards** – It will be licensed by the State of Tennessee. Certified for participation by both Medicare and Medicaid program, and they will seek Joint Commission accreditation, as they have in all of their other facilities.

**Contribution to the Orderly Development of Healthcare** - The applicant will secure transfer agreements. Approval of this project will not negatively affect any other providers as the applicant is not requesting any additional beds.

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

#### **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 all five being approved.

**Rehabilitation Hospital of Knox County-West, Knoxville (Knox County), TN CN2007-023**

*Ms. Brown recused*

Request: The establishment of a newly constructed 51-bed inpatient rehabilitation hospital to be located at 10150 Kingston Pike, Knoxville (Knox County) 37922. If approved, Fort Sanders Regional Medical Center (Patricia Neal Rehabilitation Center) will relinquish 51 of 73 licensed inpatient rehabilitation beds upon completion. The proposed site is 12 miles southwest from Fort Sanders Regional Medical Center. The applicant is owned by Covenant Health (50%) and Encompass Health Corporation (50%). **The estimated project cost is \$37,105,128.**

Dr. Patric moved to approve the application with Ms. Jordan providing the second.

**Factual and Legal Basis for Approval:**

**Need** – There currently is a bed need. This will be bed neutral and relocate beds to a more convenient place for patients. It also addresses certain physical constraints that are needed toward the advances that we've seen in rehabilitation treatment, and it upgrades the facilities that currently exist.

**Economic Feasibility** – It is well within the reserves and financing with both institutions that will be involved in this.

**Healthcare that Meets Appropriate Quality Standards** – Both institutions are currently meeting all quality requirements. They will be Medicare and Medicaid certified.

**Contribution to the Orderly Development of Healthcare** – There is no opposition to this. There is modest support from the community. It will improve the transition of healthcare from acute care to rehabilitation.

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

**Jackson Madison Surgery Center, Jackson (Madison County), TN CN2007-020**

*Mr. Alsup excused himself from the meeting. Ms. Harding lost connection.*

Request: The establishment of a multi-specialty freestanding ambulatory surgical treatment center (ASTC) in the current location of West Tennessee Surgery Center located at 700 West Forrest Avenue, Suite 100, Jackson (Madison County), TN 38301. If approved, the 31,453 SF facility consisting of 10 operating rooms will convert from a licensed hospital-based outpatient surgery center operated by Jackson-Madison County General Hospital to a licensed ASTC. The applicant is owned by Jackson Madison Surgery Center, LLC which is 100% owned by the Jackson-Madison County General Hospital District. **The estimated project cost is \$19,939,873.**

Dr. Patric moved to approve the application with Ms. Jordan providing the second.

**Factual and Legal Basis for Approval:**

**Need** – This project is needed to respond to cost reduction pressures by converting the more expensive hospital-based outpatient surgery center to a lower cost freestanding multi-specialty ASTC.

**Economic Feasibility** – It's noted that 93 percent of the project cost is the fair market value of the ten-year building lease. The remaining cost can be funded by the hospital's cash reserves. The project is expected to have positive cash flow in year two and generate positive net income in year three of operation.

**Healthcare that Meets Appropriate Quality Standards** – The applicant will continue to provide the same services as an ASTC that it is currently providing as a hospital-based surgery center. As a freestanding ASTC, the applicant will obtain the required Department of Health licensure, will seek Medicare and Medicaid certification, and will seek accreditation by the American Association for Accreditation for Ambulatory Surgery Facilities.

**Contribution to the Orderly Development of Healthcare** – Since this is simply a conversion of an existing facility to a different type of entity, there will be no ORs or procedure rooms added to the service area and no negative impact on existing ASTCs. The ASTC will have a transfer agreement with Jackson - Madison County General Hospital, and converting this facility to an ASTC will provide better access to lower cost outpatient surgeries and procedures.

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

**St. Jude Children's Research Hospital Home Care, Memphis (Shelby County), TN CN2007-021**

*Ms. Brown recused. Mr. Alsup excused himself from the meeting.*

Request: The establishment of a home health agency and to initiate home health services exclusively restricted to patients of St. Jude Children's Research Hospital, with a principal office located at 545 Danny Thomas Place, Memphis (Shelby County), TN 38105. The applicant is owned St. Jude Children's Research Hospital, Inc. **The estimated project cost is: \$181,594.**

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

**Factual and Legal Basis for Approval:**

**Need** – There is a need with regards to the very specialized type of care that comes out of St. Jude for the home care, and in particularly in the pediatric realm compared to other home health agencies that are available in this service area. There also is a growing need, and we have no idea how long it's going to continue to exist. Having reduced visits to a hospital facility by any kind of patient unless it's absolutely needed, in particularly, for the frail sorts of patients that are being treated at St. Jude because of the Covid pandemic. And this reduces the other types of travel burdens that are needed for children.

**Economic Feasibility** – The costs are clearly within the reserves of St. Jude's and the ALSAC Foundation.

**Healthcare that Meets Appropriate Quality Standards** – The home health Agency would be able to obtain the same type of certification, licensure, and accreditation the facility has.

**Contribution to the Orderly Development of Health** – This is a very specialized type of care and care model that is used at St. Jude's. It allows them to continue that care through the home healthcare. There's no opposition, and massive support for the endeavor. They will continue to serve all populations, including TennCare and indigent care, as they have for many years.

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

**Heart and Soul Hospice, Nashville (Davidson County), TN CN2007-025**

*Mr. Alsop returned to the meeting but abstained.*

Request: The establishment of a Hospice agency with a principal office located at 402 BNA Drive, Suite 305, Nashville (Davidson County), TN 37217. The applicant is owned by Heart and Soul Hospice, LLC. **The estimated project cost is \$104,082.**

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

**Factual and Legal Basis for Approval:**

**Need** – There is a need for this project to educate and build relationships within the African American and other minority communities to overcome a misunderstanding and mistrust of end-of-life planning and hospice services, which has led to this population being underserved.

**Economic Feasibility** – The cost to implement this project is minimal and Mr. Turner, the majority owner, has committed to providing the funding. The project is expected to experience positive cash flow in the second year of operation.

**Healthcare that Meets Appropriate Quality Standards** – The applicant will obtain licensure from the Department of Health, will seek Medicare and Medicaid certification and accreditation by Community Health Accreditation Partner. The owners have experience operating hospice agencies in Michigan and Tennessee with a focus on reaching out to the underserved and minority community.

**Contribution to the Orderly Development of Healthcare** - The applicant intends to develop working relationships with area hospitals, physicians and community providers. Has already developed collaborative relationships with the faith community, which is very important in reaching the targeted population. Because the agency will focus on serving the currently underserved African American and minority community, it is not expected that other hospice providers in the service area will be significantly impacted.

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

**Watauga Orthopaedics Center, Kingsport (Sullivan County), TN CN2007-022**

*Mr. Korth recused. Ms. Brown joined the meeting.*

Request: The establishment of an ambulatory surgical treatment center (ASTC) for orthopaedic related surgical cases and procedures located in a building to be constructed on a site located on the south side of Wallace Alley Street, approximately 0.1 miles from its intersection with Harry Steadman Drive, Kingsport (Sullivan County), Tennessee 37663. The applicant is owned by Watauga Surgical Partners, LLC. **The estimated project cost is \$17,318,907.**

**OPPOSITION: Was filed by Holston Valley Ambulatory Surgery Center.**

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

**Factual and Legal Basis for Approval:**

**Need** – There is a need for a single-specialty ASTC designed and equipped specifically for orthopedics to address the projected increase in the number of total joint replacements that will be performed in ASTCs to reduce cost. By having an ASTC dedicated solely to orthopedics, the facility will address the need for larger ORs, specialized equipment, and specially trained staff. The applicant's participating surgeons have testified that they have experienced difficulties getting OR time at other ASTC providers, which has resulted in surgeries being performed in a higher cost hospital setting.

**Economic Feasibility** – The project can be funded with a commercial loan and is expected to realize positive cash flow and net income in year one of operation.

**Healthcare that Meets Appropriate Quality Standards** – The applicant will obtain Department of Health licensure, seek Medicare and Medicaid certification, will seek accreditation by the Accreditation Association of Ambulatory Healthcare. And all cases will be performed by surgeons affiliated with Watauga Orthopaedics who are board certified or are board eligible.

**Contribution to the Orderly Development of Healthcare** – The ASTC's surgeons have privileges at five area hospitals, and this project will provide improved access to the lower cost alternative hospital-based surgery.

**Six members voted to approve the application— Jordan, Gaither, Patric, Harding, Alsup and Scarboro. Brown and Chinn voted nay. The motion CARRIED [6-2-0].**

**General Counsel**

**Livingston Regional Hospital, Livingston (Overton County), TN CN1903-005A**

- On 6/26/19 the HSDA approved the conversion of 4 rehabilitation beds and 2 acute (medical-surgical) beds to psychiatric beds, to increase its geriatric-psychiatric unit from 10 to 16 beds.
- Livingston Regional Hospital seeks to modify the CON to redistribute all 6 beds from acute (medical-surgical) beds to psychiatric beds.

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

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



### Petition for Declaratory Order

- The City of Cleveland, Tennessee has filed a Petition for Declaratory Order, seeking the initiation of a contested case to void CN2005-016A, issued to Cleveland Comprehensive Treatment Center.
- The Agency will decide whether to initiate a contested case.

Dr. Patric moved for denial with Mr. Scarboro providing the second.

### Factual and Legal Basis for Denial:

I will move to deny the request based on the rationale that was laid out in the staff memo.

**Nine members voted to deny the request— Jordan, Gaither, Patric, Korth, Brown, Harding, Alsup, Chinn and Scarboro. The motion CARRIED [9-0-0].**

### ADJOURNMENT

There being no further business, the meeting adjourned.



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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.

