

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

OCTOBER 25, 2017

AGENCY MEMBERS PRESENT

Grandy, Joe, Chair
Korth Paul, Vice-Chair
Alsup, Thomas
Mills, Thom
Patric, Kenneth, M.D.
Gaither, Keith, designee for the TennCare Director
Harding, Jaclyn, designee for the Comptroller of the Treasury
Jordan, Lisa, designee for the Commissioner of Commerce and Insurance
Ridgway, Corey
Taylor, Todd

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Christoffersen, Jim, General Counsel
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, HSD Examiner
Eden-Hoback, Lowavia, Executive Assistant
Farber, Mark, Deputy Director

COURT REPORTER

Daniel, April

GUESTS PRESENT

Adams, Justin, Esq., Bone McAllester Norton PLLC
Allen, Brady, M.D., St Thomas
Brent, Michael, Esq., Bradley Arant Boult Cummings, LLP
Burns, Charlotte, V.P. Network Affiliates, TriStar
Butler, Scott, Rec. V.P., United Surgical Partners International
Caputo, Louis, CEO, TriStar StoneCrest Medical Center
Dyer, Sue, Esq., HCA
Elrod, Dan, Esq., Butler Snow
Estes, Blake, Executive Director, Saint Thomas Health
Evans, Tim, SVP, HCA ASD
Felts, Ginna, Business Development, Vanderbilt University Medical Center
Ferguson, Gordon, President/CEO, Saint Thomas Health
Fitzgerald, Bryce E., Esq., Kramer Rayson LLP
Gooch, Warren, Esq., Kramer Rayson LLP
Grant, Charles K., Esq., Baker Donelson
Hibdon, April, Manager, Saint Thomas Highlands Hospital
Kroplin, Matt, Esq., Burr and Forman
Limyansky, Bob, Partner, The Strategy House
Marville, LaDonna, VP
Neal, Kim, Nurse Practitioner, Saint Thomas Highlands Hospital
Perry, Joey, CEO
Reed, Ann, R., RN., BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities
Sellers, David M.D., Hospitalist, Saint Thomas Rutherford Hospital
Sharp, Alan, CFO, Saint Thomas Health
Sims, Amber, Chief Strategy Officer, Saint Thomas Health
Strong, Cynthia B., Saint Thomas
Swearingen, Travis, Esq., Butler Snow
Taylor, Jerry W., Esq., Burr & Forman
Trauger, Byron, Esq., Trauger and Tuke

Wachtel, Andy, CEO, Saint Thomas Health
Wellborn, John, Consultant
West, William, Esq., Baker Donelson
Whitlock, Marthagem, Assistant Commissioner, TDMHSAS PRF
Wilson, Dwayne, Director
Winick, Joe, SVP, Erlanger

ROLL CALL TO ESTABLISH QUORUM

Mr. Grandy requested a roll call to establish a quorum.

PRESENT: Jordan, Gaither, Ridgway, Mills, Korth, Alsup, Patric, Taylor, Grandy

Nine members were present. *Ms. Harding arrived at 9:30 a.m.*

DIRECTOR'S ANNOUNCEMENTS

- Both the State of Tennessee and the HSDA will be implementing a new website effective October 28th, 2017. Any bookmarked pages from the HSDA website will need to be re-established after October 28th due to the website change. The Agency's main web address will not change- www.tn.gov/hdda
- Appreciation was expressed to those who had previously responded to the customer service survey. Contacts for the October meeting will receive the survey within the next few days. Feedback is greatly appreciated.
- The audit committee will meet immediately after the Agency concludes its regular business. Audit committee members include Chairman Grandy, Ms. Jordan, Mr. Gaither, Dr. Patric, and Mr. Mills, who chairs the committee.

APPROVAL OF MINUTES

Mr. Grandy presented the August 23, 2017 minutes for approval.

Dr. Patric moved for approval of the minutes as presented. Mr. Ridgway seconded the motion. The motion CARRIED [9-0-0]. **APPROVED Unanimous voice vote.**

STATE HEALTH PLAN UPDATE

Division of Health Planning Director Jeff Ockerman from the Department of Health reported the following:

- Acute Care Bed Standards are out for their second round of review and comment.
- Revisions to Opioid Treatment Centers (nonresidential substitution-based opioid treatment centers) standards will probably be sent out next week.
- Since there is confusion with the new standards and criteria for Freestanding Emergency Departments, Division of Health Planning staff will work with Agency staff to develop an application template that will help make this process easier for everyone involved.

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON Applications:

Saint Thomas Highlands Hospital, Sparta (White County), TN CN1706-020

Mr. Ridgway and Mr. Korth recused.

The expansion of an existing geriatric inpatient psychiatric unit from 10 beds to 14 beds by redistributing four medical/surgical beds to psychiatric beds. If approved, the redistribution will be accomplished without increasing the hospital's 60-bed licensed capacity. The facility is located at 401 Sewell Road, Sparta (White County), TN 38583. The estimated project cost is \$358,226.

Warren Gooch and Bryce Fitzgerald, Esq., addressed the Agency on behalf of the applicant.

Summation waived.

Dr. Patric moved for approval of the project based on the following:

Need – The need showing increasing census and a projection that would be beyond the current capacity of the facility.;

Economic Feasibility – The revenues are there already. In terms of sponsoring, there's no additional bed billing, and it's projected that the earnings from particularly Medicare would cover the cost of the conversion;

Healthcare that Meets Appropriate Quality Standards - They currently have a quality plan. They are licensed by the Tennessee Department of Health and accredited by the Joint Commission and would continue that same quality plan;

Contribution to the Orderly Development of Healthcare – There is and will continue to take both Medicare and Medicaid and charity cases as they currently do, and there's no opposition in the community and the nursing community is in support.

Mr. Taylor seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Jordan, Gaither, Mills, Alsup, Patric, Taylor, Grandy
NAY: None

Saint Thomas Rutherford Hospital, Murfreesboro (Rutherford County), TN CN1707-021

Mr. Ridgway recused.

The addition of 72 medical/surgical beds which will increase the licensed bed capacity of the hospital from 286 beds to 358 beds, if approved. The hospital is located at 1700 Medical Center Parkway, Murfreesboro (Rutherford County), TN 37129. The estimated project cost is \$47,478,943.

Warren Gooch and Bryce Fitzgerald, Esq., addressed the Agency on behalf of the applicant.

Summation waived.

Dr. Patric moved for approval of the project based on the following:

Need – There is clearly an increasing population in Rutherford County, and there's also evidence of increased need within the hospital with over 90 percent capacity on those days and patients waiting in the emergency room to be admitted to that floor;

Economic Feasibility – Saint Thomas Rutherford is part of a larger Saint Thomas system, they have the financial capacity for the building that they're proposing. Also, the cost is less because of the anticipated growth, and this will be a vertical expansion of an already existing hospital;

Healthcare that Meets Appropriate Quality Standards - Accredited by the Joint Commission and licensed by the Department of Health. And as I stated earlier, there's certainly going to be better care for existing patients and those to come if they have -- if they're able to be easily moved from the emergency room to an existing med-surg bed;

Contribution to the Orderly Development of Healthcare - they take all payors, including charity care, so Medicare and Medicaid. There's no opposition. There are multiple letters of support, and they also serve in the capacity of referrals from adjacent and even some further away communities .

Ms. Jordan seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Gaither, Mills, Korth, Alsup, Patric, Taylor, Grandy
NAY: None

Ms. Harding arrived at 9:30 a.m. before this application.

Simultaneous Review- Saint Thomas Surgery Center CN1707-022

Mr. Ridgway and Mr. Korth recused.

The establishment of a 13,000 SF multi-specialty ambulatory surgical treatment center (ASTC) with two operating rooms and one procedure room located at 2779 New Salem Road, Murfreesboro (Rutherford County), TN 37128. The estimated project cost is \$16,228,645.

Mr. Byron Trauger addressed the Agency on behalf of the applicant.

Questions by members. Summation waived.

Mr. Mills moved for approval of the project based on the following:

Need – The applicant states that there are 1,750 patients that travel from their proposed five-county service area to facilities in Davidson and Williamson County. Approving this application would reduce travel and provide a more convenient option for their patients. The five-county service area is expected to grow by eight-and-a-half percent by 2021, whereas statewide growth for the same time period will only be 4.4 percent. The 65-plus population is projected to grow 20.8 percent by 2021 in the proposed service area compared to just under 16 percent for the statewide for the same time period. The ASTC formula does support the need for two additional operating rooms and one procedure room. And based on these projections, the applicant will meet the minimum optimal operating services in the second year of this project.

Economic Feasibility – The CFO of Saint Thomas attests to the cash reserves being available \$2.85 million, along with the Senior VP of Pinnacle Financial Partners, providing \$6.7 million for financing. The applicant does project that there will be profitability in both the first two years of operation;

Healthcare that Meets Appropriate Quality Standards – The applicant will apply for accreditation by the Joint Commission of Accreditation for Healthcare Services. They will seek licensure from the Tennessee Department of Health, and they will apply for certification from Medicare and Medicaid

Contribution to the Orderly Development of Healthcare – this new facility will decompress the Davidson and Williamson counties, Saint Thomas facilities, the ASTCs of the Saint Thomas system in those counties. It will provide services closer to home where people -- where existing patients live. It will provide a more cost-effective solution versus services being rendered in a hospital setting. And with the growth of Davidson and

Williamson counties, it makes it more difficult to travel outside the service area, involves a much longer commute time for the patient. With the goal of treating existing patients, there should be no adverse effect to other providers, and there is no opposition to this application

Ms. Jordan seconded the motion. The motion CARRIED [8-0-0]. **APPROVED** .

AYE: Jordan, Gaither, Mills, Alsup, Harding, Patric, Taylor, Grandy
NAY: None

Simultaneous Review- StoneCrest Surgery Center, Smyrna (Rutherford County), TN – CN1707-023

Mr. Ridgway and Mr. Korth recused.

The establishment of a 13,000 SF multi-specialty ambulatory surgical treatment center (ASTC) with two operating rooms and one procedure room located at an unaddressed site on the campus of StoneCrest Medical Center located at 200 StoneCrest Boulevard, Smyrna (Rutherford County), TN 37167. The estimated project cost is \$10,556,553.

Jerry Taylor, Esq., addressed the Agency on behalf of the applicant.

Questions by members. Summation waived.

Ms. Jordan moved for approval of the project based on the following:

Need – There is a need to establish an ASTC in north Rutherford County. The existing multi-specialty ASTC ORs are operating at over capacity, and with the population growth of the area, the demand for both OR and procedure availability is expected to increase, and the project will also free up the StoneCrest Hospital operating room availability for more complexed surgeries;

Economic Feasibility – The project is financially feasible. It can be funded by a cash reserve from the parent and is expected to be profitable in the first year of operations;

Healthcare that Meets Appropriate Quality Standards – It is expected that the ASTC will provide healthcare that meets quality standards as the applicant will obtain Department of Health licensure as an ambulatory surgical treatment center. It will apply for Medicare and Medicaid certification and will seek accreditation from the Accreditation Association For Ambulatory Healthcare;

Contribution to the Orderly Development of Healthcare – The project contributes to the orderly development of healthcare. It will contribute to the orderly development of healthcare by providing lower cost alternatives to hospital-based surgical services, and since most of the cases projected that will be performed at the ASTC will come from StoneCrest Hospital, an affiliate of the applicant. It is not expected that there will be a negative impact on other ASTCs in the service area.

Ms. Harding seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Gaither, Mills, Alsup, Harding, Patric, Taylor, Grandy
NAY: None

GENERAL COUNSEL'S REPORT

Chattanooga-Hamilton County Hospital d/b/a Erlanger East Hospital – CN1502-005A

Erlanger East Hospital (EEH), a 43* bed satellite hospital operating under the 788 bed license of Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Medical Center (EMC), was approved for the expansion of its cardiac catheterization services, previously limited to diagnostic procedures, to include interventional (therapeutic) cardiac catheterization services located at 1755 Gunbarrel Road, Chattanooga (Hamilton County), TN 37416.

The application specified that therapeutic cardiac catheterization services would be provided to low-risk patients while high risk cardiac patients will be referred to EMC.

Request for modification to perform therapeutic cardiac catheterization without limitation, to include high risk cardiac patients.

*NOTE TO AGENCY MEMBERS- At the time CN1502-005A was filed, Erlanger was in the process of implementing CN0405-047AE which included the construction of a 4-story patient tower and the transfer of 79 beds(in phases) to Erlanger East. Nine beds had already been added at the time CN1502-005A was filed. CN0405-47AE is now complete. The total bed count at Erlanger East is 113 beds.

Joseph Winick addressed the Agency on behalf of the applicant.

Mr. Ridgway moved for approval of the project.

Ms. Jordan seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Jordan, Gaither, Ridgway, Mills, Korth, Alsup, Harding, Patric, Taylor, Grandy
NAY: None

Contested Case Update

Mr. Christoffersen provided a brief update.

Request for Agency Review

Mr. Ridgway and Ms. Harding recused.

HCA Health Services of Tennessee, Inc. d/b/a TriStar Southern Hills Medical Center, Emergency Department at I-65, Old Hickory Boulevard exit, Brentwood (Davidson County), TN 37027 - CN1412-050D
Docket No.: 25.00-130740J

Request by HCA Health Services of Tennessee, Inc. d/b/a TriStar Southern Hills Medical Center to review the Administrative Law Judge's Initial Order denying the establishment of a freestanding emergency department near the Old Hickory Blvd. exit at I-65.

Mr. Christoffersen explained that the initial order would be reviewed at a future meeting if the Agency chose to exercise its discretion to review it. He noted the Agency would sit in an appellate capacity in such review and would have an administrative law judge there to assist and advise on matters of law.

Presenting on behalf of TriStar Southern Hills Medical Center Emergency Department at I65 was Jerry Taylor.

Vanderbilt University Medical Center, represented by Travis Swearingen, and Williamson Medical Center represented by Bill West, requested a denial of the initial order.

Mr. Taylor provided rebuttal.

After questions and discussion by the members, Dr. Patric moved to deny the review based upon the following:

There's no particular information that makes me think that the original decision by the Agency and then the decision by the ALJ upholding that decision is somehow an error, and that if there is an error, if there is one at all, it would be some type of legal error, and that is best heard in a higher court.

Ms. Jordan seconded the motion. The motion CARRIED [8-0-0].

AYE: Jordan, Gaither, Ridgway, Mills, Korth, Alsup, Harding, Patric, Taylor, Grandy
NAY: None

OTHER BUSINESS

IMPLEMENTATION OF PC 1043-QUALITY MEASURES REPORTING

TCA § 68-11-1609 (h) The agency shall maintain continuing oversight over any certificate of need that it approves on or after July 1, 2016. Oversight by the agency shall include requiring annual reports concerning continued need and appropriate quality measures as determined by the agency. The agency may impose conditions on a certificate of need that require the demonstration of compliance with continued need and quality measures; provided that the conditions for quality measures may not be more stringent than those measures identified by the applicant in the applicant's submitted application.

- A. CON Continuing Oversight Options
- B. Continuing Need/Quality Measures Annual Reporting Form
- C. CON Application Revisions

Mr. Farber briefly reviewed revisions to the CON Application form to incorporate Quality Measures language and discussed the development of the Quality Measures Reporting form. Agency Members then discussed five options for reviewing quality measures reporting.

Dr. Patric moved for approval of option number four which would include a review of projects not meeting a particular quality standard.

Ms. Jordan seconded the motion. The motion CARRIED

Unanimous Voice Vote

ADJOURNMENT

There being no further business, the meeting adjourned.



Melanie M. Hill, Executive Director

* Minutes provide only a brief staff summary of the meeting and are not intended to be an all-inclusive report. The HSDA maintains a detailed record of each meeting (recording and transcript) that is available upon request by contacting the HSDA office at 615-741-2364.