

# HEALTH SERVICES AND DEVELOPMENT AGENCY

## MINUTES

February 27, 2019

### AGENCY MEMBERS PRESENT

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

### AGENCY MEMBERS ABSENT

Alsup, Thomas

### AGENCY STAFF PRESENT

Grant, Logan, Executive Director  
Farber, Mark, Deputy Director  
Christoffersen, Jim, General Counsel  
Eden-Hoback, Lowavia, Executive Assistant  
Earhart, Phillip, HSD Examiner  
Craighead, Alecia, Information and Data Analyst  
Grimm, Jeff, HSD Examiner

### COURT REPORTER

Daniel, April

### GUESTS PRESENT

Adams, Tim, CEO, Saint Thomas Health,  
Benford, Lacey, Director, Saint Thomas Health  
Benton, Tony, CEO, Tennova Healthcare  
Bishop, Ann, System Administrator, Baptist Memorial Health Care System  
Brown, Dere, Director of Health Planning and License/Certification, NHC  
Callia, Nick, Director, Elekta  
Canan, Kelli, Secretary, Waynesboro Healthcare  
Cappu, Dennis, Specialist, Elekta  
Conover, Janice, Community Advocate, St. Thomas West  
Cullison, Rebecca, SVP, Methodist Healthcare  
Cunningham, Christopher, Account Executive, St. Thomas Health  
Dickson, Paxton, M.D., Methodist Healthcare  
Dozier, Madeline, Project Manager, VUMC  
Duckett, Gregory, SVP/CLO, Baptist Memorial Health Care  
Eads, Judy, Consultant, Humphreys County Nursing Home  
Edgeworth, Mitch, CEO, VUMC  
Elrod, Dan, Esq., Butler Snow  
Estes, Blake, VP, St. Thomas Health  
Evans, Alex, Advocate, St. Thomas West Hospital  
Felts, Ginna, Business Development, Vanderbilt University Medical Center  
Fitzgerald, Bryce, Attorney, Kramer Rayson  
Fleming, Martin, M.D., Methodist Healthcare  
Gaffney, Lauren, Attorney, Methodist Healthcare  
Galín, Evan, Analyst, Saint Thomas Health  
Gooch, Warren, Esq., Kramer and Rayson, LLP

Greene, Dustin, CEO, TriStar Horizon  
 Karp, Seth, Chair/Surgical Services, VUMC  
 Kenley, William, Executive VP, Methodist Healthcare  
 Kerby, William, EVP, Methodist Le Bonheur Healthcare  
 Kimbell, Kevin, Consultant, The Strategy House  
 Kroplin, Matt, Attorney, Burr & Forman  
 Lansing, Jeremy, COO, Decatur County General Hospital  
 Limyansky, Bob, Partner, The Strategy House  
 Looney, Kim, Esq., Waller Lansden  
 Lunn, Rodney, CEO, PhyBus  
 Maples, Arthur, Director, BMHCC  
 Marais, Segen, Planner, Methodist Healthcare  
 McNair, Greg, Alliance Executive, St. Thomas Health  
 Meek, Taylor, Director, STH  
 Merriman, R., CSO, St. Francis Healthcare  
 Moore, Derek, Physician, St. Thomas Health  
 Oliver, Laurie, Director Transplant Programs, St. Thomas West Hospital  
 Phillips, Brant, Esq., Bass Berry Sims  
 Pinson, C. Wright, CEO, VUMC  
 Presser, Naftali, Physician, St. Thomas Health  
 Purkey, Rebecca, Program Director, Tennova Healthcare  
 Reed, Ann, R., RN., BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities  
 Roberts, Pam, CEO, Henderson County Community Hospital  
 Russell, Teresa, Nurse Leader, Tennova Healthcare  
 Schwab, Steve, M.D., University TN Health Science Center  
 Schwartz, Dave, Physician, University TN Health Science Center  
 Seaton, Shannon, CEO, Decatur County, General Hospital  
 Sherman, Mike, Sr. Financial Analyst, St. Thomas Health  
 Sims, Amber, CSO, Saint Thomas Health  
 Smotherman, Brian, CFO, TriStar Horizon  
 Stephenson, Kate, Esq., Trauger & Tuke  
 Swearingen, Travis, Esq., Butler Snow  
 Tahir, Fahad, CEO, St. Thomas West Hospital  
 Taylor, Jerry W., Esq., Burr & Forman  
 Trauger, Byron, Esq., Trauger and Tuke  
 Ugwueke, Michael, CEO, Methodist Healthcare  
 Weidenhoffer, Carol, Sr. Director, Methodist Healthcare  
 Wellborn, John, Consultant, Development Support Group  
 Wells, Kimberly, COO, TriStar Horizon  
 Wharton, Monica, CLO, Methodist Healthcare  
 Wilcox Jr., Allen Brian, M.D., Saint Thomas West Hospital  
 Williams, Barry, Esq., Bass Berry Sims

## **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, Patric, Scarboro, Brown, Chinn, Taylor, and Harding. A quorum<sup>1</sup> was established with nine members being present. Mr. Ridgway arrived at 8:44 a.m. after roll call.

## **DIRECTOR'S ANNOUNCEMENTS**

- Logan Grant introduced himself as the newly appointed Executive Director replacing Melanie Hill.
- The April 24, 2019 board meeting location will be announced when it is confirmed.

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

## APPROVAL OF MINUTES

Mr. Scarboro presented the December 12, 2018 minutes for approval.

Dr. Patric moved for approval of the minutes as presented. Mr. Chinn seconded the motion. The motion CARRIED [9-0-0] 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 three applications under consideration, which were approved.

### \*West Surgery Center, Memphis (Shelby County), TN CN1809-040

Request: The establishment of a multi-specialty ASTC with four operating rooms and one procedure room. at 7945 Wolf River Road, Germantown (Shelby County), TN 38138. The West Surgery Center was a collaboration between Methodist Le Bonheur Healthcare (Methodist), the University of Tennessee Health Science Center (UT), and the West Clinic. The business relationship between the three parties ended effective January 1, 2019. Since the surgery services currently provided are billed as an outpatient hospital department of Methodist, it is necessary for the West Surgery Center to apply as an ASTC for outpatient surgery as a result of the change in ownership. The applicant is owned by The West Clinic, P.C. The estimated project cost is \$6,198,422.16.

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

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

**Need** – Need is demonstrated since the same services will be provided at the same site to the same service area population. This change of ownership will not disrupt patient services nor result in a decrease in utilization;

**Economic Feasibility** – The project meets the economic feasibility criteria because adequate funding is available via loan. The costs are based upon the fair market value of an existing site and equipment, and the services are currently being highly utilized. Net charges for the service will decrease, and positive cash flow is projected in the first year;

**Healthcare that Meets Appropriate Quality Standards** – The project meets the quality standards criteria since West Cancer Center will continue to be accredited by the American College of Radiology. Additionally, the affiliation with OneOncology should permit collaboration on best practices in the field of oncology;

**Contribution to the Orderly Development of Healthcare** – The orderly development criteria is met as the applicant will continue to have contractual agreements in place, serve the Medicare and Medicaid/TennCare population, and continue its transfer agreement with Methodist Le Bonheur

Healthcare. Staffing is in place as the current staff are expected to transition to West Clinic employment. There's no duplication of services since it's simply a change of ownership of existing services.

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

**\*Tennessee Home Health, Cleveland (Bradley County), TN CN1811-048**

Request: The relocation of its principal office from 7625 Hamilton Park Drive, Suite 16, Chattanooga (Hamilton County), to an existing branch office at 2650 Executive Park NW, Suite 3 Cleveland (Bradley County). Tennessee Home Health is licensed to serve Bledsoe, Bradley, Grundy, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, and Sequatchie Counties. No counties are being added or deleted due to this project. If approved, the current parent office will close after the move to Cleveland. The applicant is owned by LHCG LXII, LLC. Tennessee Health Care Group, LLC is the sole member of LHCG LXII, LLC. LHC Group, Inc. is the sole member and manager of Tennessee Health Care Group, LLC. LHC Group, Inc. is a publicly traded corporation listed on the NASDAQ under ticker "LHCG". The estimated project cost is \$256,875.

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

**Factual and Legal Basis for approval:**

**Need** – The need to relocate the principal home health agency office to the adjoining county will reduce administrative costs for the agency. The principal office will actually be closer to the majority of the patients served;

**Economic Feasibility** – The majority of the project cost is based upon the lease cost, which is already being paid. With reduced administrative costs, the agency will operate more efficiently;

**Healthcare that Meets Appropriate Quality Standards** – Tennessee Home Health is licensed in good standing by the Tennessee Department of Health and accredited by The Joint Commission;

**Contribution to the Orderly Development of Healthcare** – The project contributes to the orderly development of health care since the relocation results in reduced administrative costs with no impact on patient care. Existing contracts are in place and there is no duplication of services.

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

**\*Metro Knoxville HMA, LLC dba Tennova Healthcare, North Knoxville Medical Center, Knoxville (Knox County), TN CN1812-051**

Request: The relocation of 18 of the 30 licensed inpatient rehabilitation beds located at 900 E. Oak Hill Avenue, Knoxville (Knox County), TN to a new site at 7447 Andersonville Pike, Knoxville (Knox County), TN 37938. If approved, the 18 inpatient rehabilitation beds will be relocated 5.2 miles from the main North Knoxville Medical Center campus and will operate as a satellite department of North Knoxville Medical Center. The applicant is owned by Metro Knoxville HMA, LLC d/b/a Tennova Healthcare. The estimated project cost is \$1,923,825.

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

**Factual and Legal Basis for approval:**

**Need** – Need is met, as the existing 30-bed unit served 565 patients last year, averaging approximately 19 patients per day. The new site is only 7.6 miles from the PRMC site and only 5.2 miles from NKMC;

**Economic Feasibility** – Economic Feasibility is met as Community Health Systems, the parent company, has committed to funding the project. The 30-month lease cost at slightly over \$1.5 million is the main driver of the project costs. The majority of the remaining costs are attributable to necessary improvements to meet life safety code requirements. The project is expected to operate with positive margins within the first year;

**Healthcare that Meets Appropriate Quality Standards** – Quality Standards will be met as the hospital's license is in good standing; accredited by The Joint Commission with the rehabilitation unit holding CARF accreditation;

**Contribution to the Orderly Development of Healthcare** – Orderly Development is demonstrated, as this is an existing unit, which currently receives approximately 82% of its patients from its own system. The unit will operate as a satellite department of the hospital and is moving to a less congested area which will most likely better serve the primarily Medicare population which is the bulk of its patients.

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

**CERTIFICATE OF NEED APPLICATIONS**

Three 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 six applications under consideration with four being approved.<sup>2</sup>

**Methodist Healthcare-Memphis Hospitals dba Methodist Le Bonheur Germantown Hospital, Germantown (Shelby County), TN CN1810-045**

*Mr. Ridgway recused.*

Request: The change of location of a linear accelerator that was approved but not implemented under CN1602-009A. The applicant proposes to change the previously approved location of the linear accelerator from Methodist University Hospital, located at 1211-1265 Union Avenue, Memphis, TN 38104 to a medical office building located on the Methodist Hospital Germantown campus located at 7655 Poplar Avenue Germantown (Shelby County), TN 38138. The applicant is owned by Methodist Le Bonheur Healthcare. The estimated project cost is \$17,038,068.

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

**Factual and Legal Basis for approval:**

**Need** – Although there is some question about the various legalities of it, there was a previous CON granting a linear accelerator to the Methodist system in a different market area of the same service area. In addition to that need, this represents a unique technology recognized by several other healthcare providers in the service area, including West Cancer Center. Although the projections do not meet the standards for initial approval, those standards can be adjusted based on uniqueness. The need also recognizes both the growth differential and population shift within the Shelby County ;

**Economic Feasibility** – The cost of this is well within the reserves of the Methodist Health system;

**Healthcare that Meets Appropriate Quality Standards** – Methodist Health system, in all areas, is both licensed, certified, and accredited by the usual organizations and would plan to continue to be so at this location;

**Contribution to the Orderly Development of Healthcare** – This facility would make this service a part of an established system and supporting care of present patients in the location but also allowing for patients to be treated elsewhere. There is assurance by the applicant that all patients will be served and that access will be facilitated. In addition to that, there are multiple other healthcare entities, including West Cancer Center, Saint Jude's, and the UT system in support of this as well as public servants and large corporations in the area.

Six members voted to approved the application— Jordan, Gaither, Patric, Taylor, Harding, and Scarboro. Three members voted not to approve – Korth, Brown, and Chinn. The motion CARRIED [6-3-0].

Mr. Gaither left the meeting.

**Saint Thomas West Hospital, Nashville (Davidson County), TN CN1811-046**

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

Request: The development of a new adult liver transplant program at 4220 Harding Pike, Nashville (Davidson County), TN 37205. The applicant is owned by Saint Thomas Health, which is ultimately owned by Ascension. The estimated project cost is \$940,000.

Ms. Jordan moved for denial of the project with Dr. Patric providing the second.

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<sup>2</sup> 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)

Factual and Legal Basis for Denial:

The applicant has not established the need. There appears to be adequate capacity for transplant services. There has not been anyone in particular who needed a transplant that couldn't get a transplant at Vanderbilt. No one has come forward and said they couldn't get a transplant because they were denied being put on the wait list at Vanderbilt. It doesn't contribute to the orderly development of healthcare with the changes in how livers are going to be distributed. The applicant will not be able to reach the volumes it needs to reach in order to achieve the outcomes that were talked about. Volume and outcomes go hand in hand, and it will have a negative impact on the existing transplant program.

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

**TriStar Horizon Medical Center, Dickson (Dickson County), TN – CN1811-049**

*Mr. Ridgway and Ms. Harding recused.*

Request: The initiation of mobile positron emission tomography (PET) services up to 2 days per week. The mobile PET service will be located at the TriStar Natchez Campus at 107 Natchez Park Drive, Dickson (Dickson County). The applicant is owned by Central Tennessee Hospital Corporation. Through subsidiaries, the Applicant's owner is indirectly owned by HCA Healthcare, Inc. The estimated project cost is \$502,448.

Ms. Jordan moved for approval of the project with Mr. Taylor providing the second.

**Factual and Legal Basis for approval:**

**Need** – There is a need for this project as there is no other provider of PET services in the six-county service area, and having PET services is necessary for Horizon to be a more comprehensive cancer care center. The applicant also projects a continuing increased need for PET scans because the residents of the service area have higher rates in cancer than the statewide average;

**Economic Feasibility** – Most of the project costs are the fair market value of the leased equipment that does not require an upfront cash outlay. Horizon can fund the project, which is expected to be profitable in the first year of operations;

**Healthcare that Meets Appropriate Quality Standards** – The PET scans will be performed by Alliance Healthcare, which is an experienced provider of mobile PET services and is accredited by Joint Commission. These PET services will be accredited by the American College of Radiology. Furthermore, the applicant is licensed by the Department of Health, is Medicare and TennCare certified, and is also Joint Commission accredited;

**Contribution to the Orderly Development of Healthcare** – The project will add PET services availability to residents of a medically underserved area with higher than average rates of cancer. Because there are no other PET providers in the service area, the project will not duplicate any existing services. And while there may be some negative impact on Davidson County providers, it's noted that none of them have expressed opposition to this project.

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

### **GENERAL COUNSEL'S REPORT**

#### **Henderson County Community Hospital, Lexington, (Henderson County) – CN0405-046AM**

- Request to increase Magnetic Resonance Imaging (MRI) services to five days per week

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

Eight members voted to approve the request— Jordan, Korth, Patric, Brown, Chinn, Taylor, Harding, & Scarboro. The motion CARRIED [8-0-0].

#### **Humphreys County Nursing Home, Waverly (Wilson County) – CN1511-049A**

- Request for 2 month extension, from 4/1/19 to 6/1/19

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

Eight members voted to approve the request— Jordan, Korth, Patric, Brown, Chinn, Taylor, Harding, & Scarboro. The motion CARRIED [8-0-0].

#### **Horizon Surgery, Atoka (Tipton County) – CN1705-014A**

- Request for cost increase, from \$1,108,764 to \$1,325,272 and 24 month extension, from 10/1/2019 to 10/1/2021

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

Eight members voted to approve the request— Jordan, Korth, Patric, Brown, Chinn, Taylor, Harding, & Scarboro. The motion CARRIED [8-0-0].

#### **Decatur County General Hospital, Parsons (Decatur County) – CN0803-015A**

- Request for modification to expand Magnetic Resonance Imaging (MRI) service from one day per week to seven days per week and to go from a mobile to a fixed unit

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

Eight members voted to approve the request— Jordan, Korth, Patric, Brown, Chinn, Taylor, Harding, & Scarboro. The motion CARRIED [8-0-0].

**Waynesboro Healthcare, LLC, Waynesboro (Wayne County) – CN1411-045AE**

- Request for modification to eliminate the construction component of the CON and reduce the project cost. Without the new construction, there is no room for the 46 beds at Waynesboro Health and Rehabilitation Center. - **REQUEST NOT WITHDRAWN**
- Request for 36 month extension, from 4/1/2019 to 4/1/2022 – **REQUEST WITHDRAWN**

Mr. Scarboro moved for denial of the request to eliminate the construction component of the CON and reduce the project cost with Mr. Chinn providing the second.

Eight members voted to deny the request— Jordan, Korth, Patric, Brown, Chinn, Taylor, Harding, & Scarboro. The motion CARRIED [8-0-0].

Mr. Scarboro, Mr. Chinn, and Mr. Korth suggested that the certificate holder submit an extension request to the Executive Director prior to the CON's expiration date if it wants to keep the option of implementing the project.

**Contested Case Update**

Mr. Christoffersen provided the following update:

Mid-South Imaging has appealed the denial of its application for establishment of an ODC and initiation of imaging services, in Jackson (Madison County).

The Initial Order in the Arlington freestanding ED appeal is anticipated. Once received, Mr. Grant will send the order to the members. Mr. Christoffersen advised that this case could be appealed back to the Agency, so members were advised to not discuss it with anyone, including each other.

**Annual Continuing Need/Quality Measures Report Update**

Mr. Farber provided an update on annual continuing need/quality measure reports filed or overdue to date. He identified five CON holders reporting utilization levels significantly different than what was proposed in their CON applications as follows:

**East Tennessee Healthcare Holdings, Inc. a/k/a Overmountain Recovery, Gray (Washington County) – CN1605-021A**

Establishment of a non-residential substitution based treatment center for opiate addiction

HSDA Staff recommended that no action be taken until after the CON holder's second annual report is filed in September 2019.

Ms. Jordan moved to accept the staff recommendation, which was seconded by Ms. Harding. The motion was approved by voice vote.

**BriovaRx Infusion Services f/k/a Axelacare Health Solutions, Memphis (Shelby County) – CN1606-022A, CN1702-008A, and CN1702-009A**

Establishment of a home health agency limited to the home infusion of immune globulin pharmaceuticals in all 95 counties

HSDA Staff recommended that the Agency request the CON holder to attend the April meeting to discuss the utilization level differences.

Mr. Korth moved to accept the staff recommendation, which was seconded by Ms. Brown. The motion was approved by voice vote.

**Ascension at Home of St. Thomas f/k/a Maxlife at Home of Tennessee d/b/a Careall Home Care Services, Nashville (Davidson County) – CN1608-029A.**

Relocation of home office from Maury County to Davidson County with the surrender of 6 counties from its service area.

HSDA Staff recommended that the Agency request the CON holder to attend the April meeting to discuss the utilization level differences.

Dr. Patric moved to accept the staff recommendation, which was seconded by Mr. Taylor. The motion was approved by voice vote.

**OTHER BUSINESS**

**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.