

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

June 26, 2019

AGENCY MEMBERS PRESENT

Scarboro, Douglas, Chair
Patric, Kenneth, M.D., Vice-Chair
Alsup, Thomas
Brown, Laura Beth
Gaither, Keith, Designee for TennCare
Korth, Paul
Ridgway, Corey
Taylor, Todd

AGENCY MEMBERS ABSENT

Chinn, R.G. Rick
Harding, Jaclyn, Designee for Comptroller
Jordan, Lisa, Designee for Commerce & Insurance Commissioner

AGENCY STAFF PRESENT

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

COURT REPORTER

Daniel, April

GUESTS PRESENT

Bailey, Russ, COO, Kindred Healthcare
Baker, Graham, Esq., Anderson & Baker
Benton, Tony, CEO, Tennova Healthcare East
Brent, Mike, Esq., Bradley Arant
Brown, Dere, Director of Health Planning and License/Certification, NHC
Campbell, Willard, MD, Premier Surgical
Casteel, Jason, Director, Kindred Healthcare
Choate, Stacye, ECO, Livingston Regional Hospital
Cunningham, Ben, CFO, UT Medical Center
Dohm, Taeler, Summer Associate, Waller
Dorvil, Catherine, Esq., Chambliss, Bahner & Stophel
Dunne, Kevin, SR. MGR, CHI Memorial
Dyer, Janice, DM Strategy, Memorial
Eads, Judy, Consultant, Humphreys County Nursing Home
Felts, Ginna, Business Development, Vanderbilt University Medical Center
Fitzgerald, Bryce, Esq., Kramer Rayson
Gaffney, Lauren, Attorney, Bass Berry Sims
Gooch, Warren, Esq., Kramer and Rayson
Haralson, Cleve, VP, Kindred Healthcare
Harrison, Christy, RN;PD, Livingston Regional Hospital
Kimbell, Kevin, Manager, The Strategy House
Kinsman, Blake, Director, Kindred Healthcare
Kirby, Penny, CNO, Livingston Regional Hospital

Lankford, Barbara, Sr. Director, Kindred Healthcare
 Limyansky, Bob, Esq., The Strategy House
 Looney, Kim, Esq. Waller Lansden
 Mann, Marty, SVP, Kindred Healthcare
 Mason, Larry, MD/Board Chair, Livingston Regional Hospital
 McCoy, Clay, CEO, Acadis Healthcare
 McGill, Andrew, SVP CHI Memorial
 McGill, Megan, VP, UT Medical Center
 McGill, Tim, CEO, Livingston Regional Hospital
 Merville, Ladonna, VP, Hospital Alliance of Tennessee
 Osborne, Mark, Managing Member, First Choice
 O'Tousa, Lindsey, Summer Associate, Waller Lansden
 Parky, Rebecca M., Program Director, Tennova Healthcare
 Phillips, Brant, Esq., Bass Berry Sims
 Reed, Ann, R., RN., BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities
 Richardson, Mike, VP, Covenant Health
 Ridder, Ben, Asst. CEO, Tennova Healthcare
 Rippey, Katherine, Associate, Waller Lansden
 Ross, Steve, SRVP, UT Medical Center
 Sadler, D., Ex. Asst., First Choice
 Sing, Janet, PPS Coord., Tennova Healthcare
 Taylor, Jerry W., Esq., Burr & Forman
 Thompson, Becky, VP, UT Medical Center
 Thomas, John David, Esq., Waller Lansden
 Trauger, Byron, Esq., Trauger and Tuke
 Weidman, Dovy, Director, Kindred Healthcare
 Wellborn, John, Consultant, Development Support Group
 Wilson, Dwayne, Director, Batten Shaw INC.
 Winick, Joe, SVP, Erlanger
 Woods, Dr. Jeffrey, Division President, Acadia
 Young, Laura, CNO, TDMHSAS
 Zachariah, Jason, President, Kindred Healthcare

CALL TO ORDER:

The meeting was called to order at 8:30 a.m. by Mr. Scarboro with the following members present: Patric, Alsup, Brown, Gaither, Korth, Ridgway, Taylor and Scarboro. A quorum¹ was established with eight members being present.

DIRECTOR'S ANNOUNCEMENTS

- The August 28, 2019 board meeting will be held at Cordell Hull Legislative Building.

APPROVAL OF MINUTES

Mr. Scarboro presented the April 24, 2019 minutes for approval.

Dr. Patric moved for approval of the minutes as presented. Ms. Brown seconded the motion. The motion CARRIED [8-o-o] 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.

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

CONSENT CALENDAR

Mr. Grant introduced the application under consideration, which was approved.

***Prime Imaging, Chattanooga (Hamilton County), TN CN1904-014**

Request: For the relocation of an existing PET/CT less than one mile from 2205 McCallie Avenue, Chattanooga (Hamilton County) to 1301 McCallie Avenue, Chattanooga (Hamilton County), TN. The estimated project cost is \$1,139,076.

Mr. Ridgway moved for approval with Mr. Korth providing the second.

Factual and Legal Basis for approval:

Need – The applicant performed 983 PET Scans in 2018 and projects consistent growth and numerous scans performed annually;

Economic Feasibility – Relocation of the PET CT Scanner can be economically accomplished and maintained. The project will be funded by cash reserves and a commercial loan;

Healthcare that Meets Appropriate Quality Standards – The applicant is licensed and in good standing with the Tennessee Department of Health, is Medicare and Medicaid certified and is accredited by the American College of Radiology for Pet CT Services;

Contribution to the Orderly Development of Healthcare – This relocation would not result in any material change to the current service area of the applicant.

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

CERTIFICATE OF NEED APPLICATIONS

Seven 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 seven applications under consideration with all being approved.²

Tennessee Orthopaedic Alliance, Hendersonville (Sumner County), TN CN1903-011

Mr. Ridgway and Ms. Brown recused.

Request: To initiate MRI services and acquire MRI equipment limited to the patients of Tennessee Orthopaedic Alliance at its practice medical office building under construction at 501 Saundersville Road in Hendersonville, Sumner County. The applicant is owned by Tennessee Orthopaedic Alliance, P.A. The estimated project cost is \$3,212,467.

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

Factual and Legal Basis for approval:

Need – The applicant has shown that they will be the only service available on an outpatient basis in that area. There is growing population in Hendersonville and they should be able to utilize their facility to capacity within the first year based on that need;

Economic Feasibility – They have both funding and the assurance from underlying costs from financial institutions;

Healthcare that Meets Appropriate Quality Standards – They have a track record of all other existing MRIs doing well with ACR. They plan to have ACR accreditation for this facility as well as their CMS certification and their Tennessee licensure;

Contribution to the Orderly Development of Healthcare – They will have transfer agreements with the Sumner Regional Medical Center, TriStar Hendersonville Medical Center where the TOA orthopedists will also be on staff. There's no opposition, so there should be no significant impact to other providers. If anything, they would be taking away from their other facilities. But those facilities are over capacity now. And with regards to access, they will be contracted to at least one of the TennCare MCOs and will provide services for TennCare patients. They also plan to provide services for Medicare patients.

Six members voted to approved the application— Gaither, Korth, Patric, Taylor, Alsup, and Scarboro. The motion CARRIED [6 o o].

Premier Covenant ASTC, LLC, Knoxville (Knox County), TN CN1903-003

Mr. Ridgway recused.

Request: The establishment of an ambulatory surgical treatment center ASTC located at 6408 Papermill Drive in Knoxville, Knox County. The ASTC will include three operating rooms. The three operating rooms subject to this application are currently operated as part of the professional practice of Premier Surgical Associates, has two operating rooms and one procedure room. The applicant is jointly owned by Premier Surgical Associates, PLLC, at 60 percent and Covenant Health at 40 percent. The estimated project cost is \$6,390,240.

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

Factual and Legal Basis for approval:

Need – The approval of this project will decrease the wait times between examination dates and the surgical dates to allow the Premier Surgical patients to move more quickly through the treatment process. Also, these three operating rooms utilization are projected to meet the minimal baseline standards as well;

Economic Feasibility – This project will be funded 60 percent by Premier and 40 percent by Covenant Health. The Premier CFO has confirmed a million dollar line of credit from first Tennessee Bank, and then the Covenant Health Executive VP and CFO also ensures cash reserves are available for funding for their portion of the project;

Healthcare that Meets Appropriate Quality Standards – The applicant will apply for the state licensure, CMS certification, and accreditation by the American Association For Accreditation of Ambulatory Surgical Facilities;

Contribution to the Orderly Development of Healthcare – This project will have minimal impact on other providers. The applicant will have transfer agreements with the area hospitals as well.

Seven members voted to approved the application— Gaither, Korth, Patric, Brown, Taylor, Alsup, and Scarboro. The motion CARRIED [7-0-0].

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

Request: The expansion of the hospital's existing ten-bed geriatric-psychiatric unit to 16 beds located at 315 Oak Street in Livingston, Overton County. The applicant plans to convert four rehabilitation and two medical-surgical beds to geriatric-psychiatric beds so there will be no change in the total number of the hospital's 114 licensed beds. The applicant is owned by LifePoint Holdings 2, LLC. The estimated project cost is \$2,801,014.

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

Factual and Legal Basis for approval:

Need – There's documentation of closure of similar facilities in the nearby area recently; and even without that, over the next several years, there will be a growing need within this population. As that population grows and as we have seen from testimony and support from our colleagues in the emergency room business, that continues to be a problem with overcapacity in emergency rooms;

Economic Feasibility – The costs are reasonable and payment will actually come through cash reserves of the institution;

Healthcare that Meets Appropriate Quality Standards – With the current facility, which is approved for ten beds and is already accredited and in good standing. They will continue to take Medicare patients. They will not be able to take TennCare patients because of the way that particular benefit is distributed;

² 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)

Contribution to the Orderly Development of Healthcare – There is no opposition. In fact, it's all support.

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

BriovaRx Infusion Services, Memphis (Shelby County), TN – CN1903-006

Ms. Brown recused.

Request: The expansion of its scope of infusion pharmaceuticals from only immune globulin, IVIG, pharmaceuticals as approved in CN1702-009A to all infusion pharmaceuticals dispensed by BriovaRX pharmacies. The applicant is owned by BriovaRX Infusion Services 305, LLC, a Delaware Corporation located at 15529 College Boulevard, Lenexa, Kansas, and is ultimately related to ownership by United Health Group, Incorporated. The project involves no change to the applicant's existing home office located at 6410 Poplar Avenue, Suite 850, Memphis, Tennessee 38119 or to its 40-county mid Tennessee existing/licensed service area approved in CN1702-009A. The estimated project cost is \$74,000.

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

Factual and Legal Basis for approval:

Need – It's been documented as an area in which fragile patients with chronic diseases do much better if they are infused at home and also more efficiently;

Economic Feasibility – It's a low cost and will be borne by the parent company United Health, which has the ability to fund that through cash reserves;

Healthcare that Meets Appropriate Quality Standards – The current entity that's asking for this has approval in other areas and will seek those approvals for this project. They've been infusing the IVIG up until now with the proper accreditations;

Contribution to the Orderly Development of Healthcare – There is no opposition. In fact, there is support from the testimony from the Department of Health Services that this will be a needed area of services.

Seven members voted to approve the application— Ridgway, Gaither, Korth, Patric, Taylor, Alsup, and Scarboro. The motion CARRIED [7-0-0].

Knoxville Rehabilitation Hospital, LLC, Knoxville (Knox County), TN CN1903-007

Mr. Taylor recused.

Request: The establishment of a 68,000 square foot newly constructed 57-bed freestanding inpatient rehabilitation hospital at an unaddressed site at Middlebrook Pike and Old Weisgarber Road in Knoxville, Knox County. The estimated project cost is \$44,901,762.

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

Factual and Legal Basis for approval:

Need – There's pinned-up demand for these rehab services. Combined with the closure of two facilities in the market, two of the Tennova facilities, and the opportunity to merge that effort into one facility. Also the upgrade of services to be provided demonstrates a need for the project;

Economic Feasibility – The collaboration of the three institutions, Kindred, University of Tennessee Medical Center, and Tennova, support the economic funds required to support and to move forward with the project. The project, in year two, proves to be financially viable with positive net operating income;

Healthcare that Meets Appropriate Quality Standards – Licensure and accreditation are all in order. There's a staffing plan in place and evidence of expertise in this area with the partnership with Kindred running the rehab hospital;

Contribution to the Orderly Development of Healthcare – This is a real model for collaboration given the three organizations involved in the Knoxville area with Tennova, UTMC, and Kindred, and there is no opposition to the project.

Seven members voted to approve the application— Ridgway, Gaither, Korth, Patric, Brown, Alsup, and Scarboro. The motion CARRIED [7-0-0].

Dowell Springs Behavioral Health, LLC, Knoxville (Knox County), TN – CN1903-010

Ms. Brown and Mr. Korth recused.

Request: The establishment of a 90-bed mental health hospital, which will consist of 56 adult psychiatric beds, 24 geriatric psychiatric beds, and ten adolescent psychiatric beds. This facility is located at the intersection of Old Weisgarber Road and Dowell Springs Boulevard in Knoxville, Knox County. The applicant is owned by Acadia in Knoxville JV Holdings, LLC. The estimated project cost is \$33,257.

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

Factual and Legal Basis for approval:

Need – This project will significantly improve the access to state-of-the-art facilities, treatments, and to the area that is overly taxed currently by trying to treat these patients in inappropriate settings. Also, the total statistical bed need for the area is minimally set at 71 and, suspected, it will be much higher once this hospital is built;

Economic Feasibility – The construction cost of \$303.65 per square foot are between the first quartile and median of the statewide hospital and construction cost benchmarks. Acadia Healthcare CFO states that Acadia will contribute 100 percent of the total capital needed to complete this project;

Healthcare that Meets Appropriate Quality Standards – They will become licensed by the State of Tennessee, certified by CMS, and the applicant will seek the accreditation by the Joint Commission;

Contribution to the Orderly Development of Healthcare – It will have transfer agreements with Parkwest Medical Center, Peninsula, and Methodist Medical Center. No current provider will be negatively affected as there will be a net increase of a total of 36 beds to the service area.

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

Southeastern Surgical, LLC, Chattanooga (Hamilton County), TN – CN1903-009

Mr. Ridgway and Dr. Patric recused.

Request: The establishment of an ambulatory surgical treatment center limited to the provision of spine, orthopedic, and pain management outpatient surgery services with three operating rooms and no procedure rooms located at 1119 Riverfront Parkway in Chattanooga, in Hamilton County. The applicant is owned by Southeastern Surgical, LLC, and the estimated project cost is \$6,297,705.

Mr. Alsup moved for approval of the project with a provision to be limited to spine, orthopedic, and pain management outpatient surgery services with Mr. Gaither providing the second.

Factual and Legal Basis for approval:

Need – As far as the State Health Plan for the need, the applicant has met the need. There is need in the area based on the portions of the patients that have not been seen and the patient level moving forward will continue to increase;

Economic Feasibility – They have shown that they can fund the project, and they've shown that there is an economic need in the area;

Healthcare that Meets Appropriate Quality Standards – The applicants are licensed and plan to have all the appropriate state needs meeting all those criteria;

Contribution to the Orderly Development of Healthcare – The local support that they've moved forward with and the collaboration they pulled together in the region.

Five members voted to approve the application— Gaither, Korth, Brown, Alsup, and Scarboro. Mr. Taylor voted to not approve. The motion CARRIED [5-1-0].

GENERAL COUNSEL'S REPORT

Blount Memorial Hospital, Inc., Maryville (Blount County) – CN1603-011A

- Request for 20 month extension of the expiration date, from 8/01/19 to 4/01/21

Mr. Taylor moved to approve 60 days of the requested extension and defer consideration of the remainder of the request to the August 2019 meeting with Mr. Alsup providing the second.

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

Health Center of Hermitage, Hermitage (Davidson County) – CN1404-011AE

- Request for 36 month extension of the expiration date, from 8/01/19 to 8/01/22

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

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

Contested Case Update

Mr. Christoffersen provided the following update:

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

Request for Agency Review

Baptist Memorial Hospital, (Shelby County), TN – CN1705-018DA Docket No.: 25.00-144364J

Request by Methodist Healthcare and Saint Francis Hospital-Bartlett, Inc. to review the Administrative Law Judge's Initial Order approving the establishment of a freestanding emergency department near the intersection of I-40 and Airline Road in Arlington. The review would occur at a future meeting if the Agency grants the request.

Mr. Ridgway recused.

J.D. Thomas and Byron R. Trauger addressed the Agency on behalf of the Petitioners in support of the request for Agency review.

Dan Elrod addressed the Agency on behalf of Baptist Memorial Hospital, in opposition to the request for Agency review.

J.D. Thomas addressed the Agency in rebuttal

Dr. Patric moved that the Agency not review Initial Order, letting it become the agency's Final Order. Mr. Taylor seconded the motion.

Seven members voted to approve the request— Gaither, Korth, Patric, Brown, Taylor, Alsup, & Scarboro. The motion CARRIED [7-0-0].

Annual Continuing Need/Quality Measures Report Update

Mr. Farber referred the members to the Annual Continuing Need/Quality Measures Report Update in their packet and asked if there were any comments and/or questions. There were none.

OTHER BUSINESS

ADJOURNMENT

There being no further business, the meeting adjourned.

A handwritten signature in black ink, appearing to read "Logan Grant", is written over a horizontal line.

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.