

**HEALTH SERVICES AND DEVELOPMENT AGENCY  
MINUTES  
JANUARY 28, 2009**

**AGENCY MEMBERS PRESENT**

Koella, Carl, III, Chair  
Handorf, Charles, M.D., Vice Chair  
Atchley, Bryan  
Bishop, Jimmy  
Burns, Charlotte  
Gaither, Keith, designee for the TennCare Director  
Lammert, Gregory  
Morris, John, designee for the Commissioner of Commerce and Insurance  
Weaver, Faye, designee for the Comptroller of the Treasury

**AGENCY MEMBERS ABSENT**

Jones, Clark

**AGENCY STAFF PRESENT**

Hill, Melanie, Executive Director  
Bobbitt, Melissa, Administrative Services Assistant III  
Brogden, Reid, General Counsel  
Christoffersen, Jim, Deputy General Counsel  
Craighead, Alecia, Statistical Analyst III  
Earhart, Phillip, Health Planner III  
Farber, Mark, Assistant Executive Director  
Finchum, Rhonda, Office Manager  
Wells, Phil, Health Planner III

**GUESTS PRESENT**

Allred, Baley, Esq., Corporate Counsel, Volunteer Staffing Agency d/b/a Quality Private Care  
Anderson, M., Harwell Howard Hyne Gabbert & Manner, P.C.  
Archer, David, CEO, Saint Francis Healthcare  
Arndt, Michael D., Emergency Mobile Health Care  
Babb, Kaprecia, Administrative Director, Scott Appalachian Industries, Inc.  
Baird, Dianah  
Baker, E. Graham, Esq.  
Beaven, Laila, Vice President of Human Resources, Tennessee Family Solutions, Inc.  
Bolding, James W.  
Bone, Michael, Vice President, Development, AmSurg Corporation  
Bonner, Gwen, COO, Saint Francis Hospital - Bartlett  
Brent, Michael D., Esq., Bradley Arant Boult Cummings, LLP  
Brown, Terry, Administrator, Eye Surgery Center of Nashville  
Buckner, Dan, CEO, Heritage Medical Center  
Byrd, Harold, President, Bank of Bartlett  
Coley, Jim, State Representative  
Corbin, Phil, Vice President, Tennsco  
Corritore, Danell, Department of Health

Crawford, Jerome, CFO, Loden Vision Center  
Cross, Alix Coulter, Esq., Harwell Howard Hyne Gabbert & Manner, P.C.  
Culp, Joe, Department of Health  
Dinkins, Juan Stacey, M.D.  
Doctora, Joseph, M.D.  
Ellis, Toya, Therapy Director, Scott Appalachian Industries, Inc.  
Elliot, Emily, Alderperson, City of Bartlett  
Elrod, Dan H., Esq., Miller & Martin  
Ferraro, S., Bass, Berry & Sims  
Garrett, Jane, Saint Francis Hospital-Bartlett  
Gorzny, Pat, Dickson Medical Center  
Gray, Clarence, CFO, Horizon Medical Center  
Haaga, Sue Ellen, Vice President, Saint Francis Hospital  
Harkness, Eric, Planning & Research Coordinator, Division of Health Planning, Department of Finance & Administration  
Hayslett, Terrance  
Houchin, Barbara, Executive Director, St. Thomas Health Services  
Huggins, Mike, Tennessee Hospital Association  
James, Tamara, Human Resource Director, Sole Supports, Inc.  
Johnson, Jerry  
Johnson, Tonya  
Kennedy, Ralph M., Executive Director, Tennessee Family Solutions, Inc.  
Latham, Larry, M.D., Assistant Commissioner, Division of Mental Retardation Services.  
Lay, Allan M., Jr., Scott Appalachian Industries, Inc.  
Legions, William, Dickson Medical Association  
Lewis, Lucia C., Nurse Manager, T.C. Thompson Children's Hospital, Erlanger  
Loden, James C., M.D., Loden Vision Center  
Lodge, Richard, Esq., Bass Berry & Sims  
Lollar, Ron, State Representative  
Looney, Kim Harvey, Esq., Waller, Lansden, Dortch & Davis  
Love, Michael, CEO, Crown Surgery Center  
Luplow, Rolland, M.D., President, Dickson Medical Associates  
Manning, David, Executive Vice President, AmSurg Corporation  
Marshall, John, CEO, Horizon Medical Center  
Merville, LaDonna, Hospital Alliance of Tennessee  
Mills, Thom, Administrator, All Care Plus, Inc. d/b/a Quality Home Health  
Mullins, Kem, CEO, Saint Francis Hospital- Bartlett  
Myers, Donna, COO, Crown Surgery Center  
Norris, Stephen H., Deputy Commissioner, Division of Mental Retardation Services  
Ockerman, Jeff, Director, Health Planning, Tennessee Department of Finance & Administration  
Parsons, Don, Vice-President, Emergency Mobile Health Care  
Patterson, James K., M.D.  
Poling, Becki, Director Hospital Services, Tennessee Department of Mental Health/Developmental Disabilities  
Pulliam, Kim, Tenet  
Rasmussen, David  
Ratliff, Thomas, M.D.  
Richardson, Ryan, HCA  
Richardson, Scott, Esq., Bradley Arant Boult Cummings, LLP  
Robertson, Brad  
Robinson, Marilyn S.  
Russell, R.F., Tennessee Health Care Alliance  
Sirazee, Hassan, M.D.  
Sirazee, S., SMZ Specialists  
Southwick, Bill, Healthmark  
Stamper, James, M.D.  
Stephenson, Kate, Esq., Trauger & Tuke  
Strong, Cynthia B.  
Talbot, Jill, Tennessee Hospital Association

Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC  
Thompson, Ann R., RN, BSN, MBA, Department of Health, Division of Health Care Facilities  
Threadgil, John, President, Bartlett Area Chamber of Commerce  
Trauger, Byron R., Esq., Trauger & Tuke  
Tyrell, Wade  
Wellborn, John L., Consultant, Development Support Group  
West, Larry R., Executive Director, Scott Appalachian Industries, Inc.  
West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz  
Wiggins, Terry, Fire Chief, Bartlett Fire Department  
Wilcox, W. David, M.D.  
Winick, Joseph, Sr. Vice-President, Erlanger Health System  
Work, Nicki, Dickson Medical Center

**Chairman Koella called the meeting to order at 8:30 a.m. in Meeting Rooms D-G, at The Sommet Center, Nashville, Tennessee. Mr. Koella introduced two new members, Ms. Charlotte Burns and Mr. Jimmy Bishop.**

### **DIRECTOR'S ANNOUNCEMENTS**

Melanie Hill, Executive Director, made general announcements.

### **OTHER BUSINESS**

- 1) State Health Plan – Jeff Ockerman, Director, Division of Health Planning, Finance & Administration discussed the status of the state health plan.

### **CERTIFICATE OF NEED APPLICATIONS**

*Mark Farber summarized the following CON applications:*

#### **Crown Surgery Center, LLC - (Chattanooga, Hamilton County) - Project No. CN0808-056**

The establishment of a single-specialty ambulatory surgical treatment center limited to dental and oral surgery with two (2) operating rooms. Project Cost \$744,500.00.

Donna Myers, COO, addressed the Agency on behalf of the project. Speaking in support were Joseph Doctora, M.D. and Michael Love, CEO.

Opposing the project were: Joseph Winick, Sr. Vice-President, Erlanger Health System; and Lucia C. Lewis, Nurse Manager, T.C. Thompson Children's Hospital, Erlanger.

Ms. Myers and Dr. Doctora rebutted

Mr. Winick provided summation for the opposition.

Mr. Love provided summation for the applicant.

Dr. Handorf moved for denial of the project based on: 1) Need – The need has not been established. There appears to be a capacity in the existing facility which is currently handling these cases; 2) Economic Feasibility – The project's economic feasibility is cloudy given the questions that have been discussed about the financial projections and the leveraged balance sheet of this organization at this time; and 3) The project does not necessarily appear to contribute to the orderly development of adequate and effective health care. Mr. Lammert seconded the motion. The motion CARRIED [8-1-0]. **DENIED**

AYE: Gaither, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: Weaver

*Dr. Handorf recused.*

**Saint Francis Hospital - Bartlett - (Bartlett, Shelby County) - Project No. CN0809-074**

1) New construction of approximately 81,000 square feet of space; and 2) the addition of ninety-six (96) acute care beds. There will be no new services initiated or discontinued and no major medical equipment will be added. Project Cost \$45,427,380.00.

Kim Harvey Looney, Esq., representing the applicant, addressed the Agency. Speaking in support of the project were: David Archer, CEO, Saint Francis Healthcare; Kern Mullins, CEO, Saint Francis Hospital-Bartlett; Thomas Ratliff, M.D.; W. David Wilcox, M.D.; Hon. Ron Lollar, State Representative; Hon. Jim Coley, State Representative; James Stamper, M.D.; James K. Patterson, M.D.; James W. Bolding; Emily Elliot, Alderperson, City of Bartlett; John Threadgil, President, Bartlett Area Chamber of Commerce; Terry Wiggins, Fire Chief, Bartlett Fire Department; Harold Byrd, President, Bank of Bartlett; and Hassan Sirazee, M.D. Present were: Don Parsons, Vice-President, Emergency Mobile Health Care; and Michael D. Arndt, Emergency Mobile Health Care.

Ms. Looney provided summation for the applicant.

Mr. Lammert moved for approval of the project with a five (5) year expiration date based on: 1) Need – There is obviously a need in this community with the growth that has been projected; 2) Economic Feasibility – The project is economically feasible through cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care with helping the hospital to meet the needs they already have in the community. Ms. Weaver seconded the motion. The motion CARRIED [8-0-0].

**APPROVED**

AYE: Gaither, Weaver, Atchley, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

**Scott Appalachian Industries, Inc. - (Huntsville, Scott County) - Project No. CN0810-075**

The establishment of a home health agency to provide services to citizens of Morgan and Scott counties. Scott Appalachian Industries, Inc. (SAI) currently provides caregiving, nursing, therapy, transportation, and many more services to local citizens as well as citizens in Fentress and Morgan counties. SAI is located at 591 E. Monticello Pike, Huntsville (Scott County), TN 37756. Project Cost \$3,000.00.

Allan M. Lay, Jr., addressed the Agency on behalf of the project. Speaking in support were: Stephen H. Norris, Deputy Commissioner, Division of Mental Retardation Services; Larry R. West, Executive Director; and Kaprecia Babb, Administrative Director. Present in support was Toya Ellis, Therapy Director.

Ann Thompson, Department of Health, Division of Health Care Facilities, responded to questions.

Opposing the project were: Thom Mills, Administrator, All Care Plus, Inc. d/b/a Quality Home Health; and Baley Allred, Corporate Counsel, Volunteer Staffing Agency d/b/a Quality Private Care.

Mr. West rebutted.

Mr. Gaither moved for deferral of the project for one (1) month to the February meeting. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **DEFERRED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

*Dr. Handorf recused.*

**Haywood Park Community Hospital - (Brownsville, Haywood County) - Project No. CN0810-076**

The acquisition of a leased mobile magnetic resonance imaging (MRI) scanner with related transportation equipment and the initiation of MRI services on a one (1) day per week basis. Project Cost \$328,760.00.

William West, Esq., representing the applicant, addressed the Agency. David Rasmussen was present on behalf of the project.

Mr. Morris moved for approval of the project based on: 1) Need – The need is established by lack of services being offered in the area; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

**Tennessee Family Solutions, Inc. - (Murfreesboro, Rutherford County) - Project No. CN0810-078**

The addition of four (4)\* ICF/MR beds by converting two (2) zero lot line residences at 722-724 Stone Trace Drive, Murfreesboro (Rutherford County), TN into a four (4) bed ICF/MR. This residence has been used since 2001 to provide supported living services to adults with developmental disabilities. Upon approval these beds will be filled by persons from the state operated developmental centers. Project Cost \$350,500.00. \* These beds will be subject to the 40 bed ICF/MR Bed Pool for 2008-2009.

Ralph M. Kennedy, Executive Director, addressed the Agency on behalf of the project. Larry Latham, M.D., Assistant Commissioner, Division of Mental Retardation Services spoke in support of the project. Present in support was Laila Beaven, Vice President of Human Resources.

Ms. Weaver moved for approval of the project based on: 1) Need – This application meets the need requirements in that Tennessee State Statute has indicated that facilities of this type should be created. They meet all the criteria. The applicant meets the five (5) year criteria for establishing such a residence for ICF/MR individuals; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care, and there is no opposition to this application. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

**Tennessee Family Solutions, Inc. - (Murfreesboro, Rutherford County) - Project No. CN0810-079**

The addition of four (4)\* ICF/MR beds by converting two (2) zero lot line residences at 1502-1504 Rochester Drive, Murfreesboro (Rutherford County), TN into a four (4) bed ICF/MR. This residence has been used since 2001 to provide supported living services to adults with developmental disabilities. Upon approval these beds will be filled by persons from the state operated developmental centers. Project Cost \$328,000.00. \* These beds will be subject to the 40 bed ICF/MR Bed Pool for 2008-2009.

Ralph M. Kennedy, Executive Director, addressed the Agency on behalf of the project. Larry Latham, M.D., Assistant Commissioner, Division of Mental Retardation Services spoke in support of the project. Present in support was Laila Beaven, Vice President of Human Resources.

Dr. Handorf moved for approval of the project based on: 1) Need – This application meets the need requirements in that Tennessee State Statute has indicated that facilities of this type should be created. They meet all the criteria. The applicant meets the five (5) year criteria for establishing such a residence for ICF/MR individuals; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care, and there is no opposition to this application. Mr. Atchley seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

**Tennessee Family Solutions, Inc. - (Murfreesboro, Rutherford County) - Project No. CN0810-080**

The addition of four (4)\* ICF/MR beds by converting two (2) zero lot line residences at 1727-1729 Thomas Court, Murfreesboro (Rutherford County), TN into a four (4) bed ICF/MR. This residence has been used since 2001 to provide supported living services to adults with developmental disabilities. Upon approval these beds

HEALTH SERVICES AND DEVELOPMENT AGENCY

JANUARY 28, 2009 MEETING

- PAGE 5 -

will be filled by persons from the state operated developmental centers. Project Cost \$328,000.00. \* These beds will be subject to the 40 bed ICF/MR Bed Pool for 2008-2009.

Ralph M. Kennedy, Executive Director, addressed the Agency on behalf of the project. Larry Latham, M.D., Assistant Commissioner, Division of Mental Retardation Services spoke in support of the project. Present in support was Laila Beaven, Vice President of Human Resources.

Mr. Atchley moved for approval of the project based on: 1) Need – This application meets the need requirements in that Tennessee State Statute has indicated that facilities of this type should be created. They meet all the criteria. The applicant meets the five (5) year criteria for establishing such a residence for ICF/MR individuals; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care, and there is no opposition to this application. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

#### **Tennessee Family Solutions, Inc. - (Murfreesboro, Rutherford County) - Project No. CN0810-081**

The addition of four (4)\* ICF/MR beds by converting two (2) zero lot line residences at 1432-1434 Rochester Drive, Murfreesboro (Rutherford County), TN into a four (4) bed ICF/MR. This residence has been used since 2001 to provide supported living services to adults with developmental disabilities. Upon approval these beds will be filled by persons from the state operated developmental centers. Project Cost \$308,000.00. \* These beds will be subject to the 40 bed ICF/MR Bed Pool for 2008-2009.

Ralph M. Kennedy, Executive Director, addressed the Agency on behalf of the project. Larry Latham, M.D., Assistant Commissioner, Division of Mental Retardation Services spoke in support of the project. Present in support was Laila Beaven, Vice President of Human Resources.

Dr. Handorf moved for approval of the project based on: 1) Need – This application meets the need requirements in that Tennessee State Statute has indicated that facilities of this type should be created. They meet all the criteria. The applicant meets the five (5) year criteria for establishing such a residence for ICF/MR individuals; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care, and there is no opposition to this application. Mr. Atchley seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

#### **Dickson Medical Associates, P.C. - (Dickson, Dickson County) - Project No. CN0810-099**

The establishment and initiation of magnetic resonance imaging (MRI) services at 758 Highway 46 South, Dickson (Dickson County), TN by Dickson Medical Associates (DMA). CT and other diagnostic services are already provided at that site, and are not part of this application. DMA will maintain its current administrative location at 113 Highway 70 East, Dickson (Dickson County), TN. If approved, these services will be utilized by patients of DMA physicians only. There are no beds or other major medical equipment involved and no other health services will be initiated or discontinued. Project Cost \$2,222,341.00.

E. Graham Baker, Jr., Esq., representing the applicant, addressed the Agency. Speaking in support of the project were: Rolland Luplow, M.D., President, Dickson Medical Associates; Tamara James, Human Resource Director, Sole Supports, Inc.; Phil Corbin, Vice President, Tennesco; and Juan Stacey Dinkins, M.D.

Opposing the project on behalf of Horizon Medical Center were: Jerry W. Taylor, Esq.; Clarence Gray, CFO; and John Marshall, CEO.

Mr. Baker rebutted.

Mr. Taylor provided summation for the opposition.

Mr. Baker provided summation for the applicant.

Dr. Handorf moved for approval of the project based on: 1) Need – The current need is demonstrated especially based on the out migration of patients to other centers in other counties. The reason for that out migration are multiple and complicated, however, is due in no small part to lack of convenient and affordable services to the patients of Dickson; 2) Economic Feasibility – The project is economically feasible through cash reserves and commercial loans; and 3) The project does contribute to the orderly development of adequate and effective health care by allowing patients to stay within their community to receive affordable health services. Ms. Weaver seconded the motion. The motion CARRIED [7-2-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Handorf, Bishop, Morris, Koella  
NAY: Lammert, Burns

*Mr. Gaither recused.*

**Loden Vision Center Outpatient Surgery Center West - (Nashville, Davidson County) - Project No. CN0810-100**

The establishment of an ambulatory surgical treatment center limited to ophthalmic surgery procedures with one (1) sterile operating room. The project does not contain any major medical equipment or initiate or discontinue any other health services. Project Cost \$3,065,612.00.

Richard Lodge, Esq., representing the applicant, addressed the Agency. Speaking in support were: James C. Loden, M.D. and Jerome Crawford, CFO. Present in support of the project were: Michael Bone, Vice President, Development, AmSurg Corporation; David Manning, Executive Vice President, AmSurg Corporation; and John L. Wellborn, Consultant.

Opposing the project were: Kim Harvey Looney, Esq. representing Eye Surgery Center of Nashville; Bill Southwick, Healthmark; and Terry Brown, Administrator, Eye Surgery Center of Nashville.

Mr. Lodge and Dr. Loden rebutted.

Ms. Looney provided summation for the opposition.

Mr. Lodge provided summation for the applicant.

Mr. Morris moved for approval of the project based on: 1) Need – The need has been established based upon the Guidelines; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care by allowing the patients more convenience by not having to travel to Goodlettsville for surgeries. **CONDITION: Limited to one (1) operating room.** Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

**Heritage Medical Center - (Shelbyville, Bedford County) - Project No. CN0810-102**

The discontinuation of obstetrical and maternity services. The four (4) hospital beds currently used for OB services will be switched to general medical-surgical hospital bed usage upon completion of this project. No inpatient beds or major medical equipment will be added to this project. Project Cost \$38,000.00.

William H. West, Esq., representing the applicant, addressed the Agency. Dan Buckner, CEO, spoke on behalf of the project.

Dr. Handorf moved for denial of the project based on: 1) Need – The service is needed; 2) Economic Feasibility – The project's economical feasibility goes beyond the project costs; and 3) The project's contribution to the orderly development of adequate and effective health care certainly would not be served by discontinuance, especially for those in community who are at risk. Ms. Weaver seconded the motion. The motion CARRIED [9-0-0]. **DENIED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella

NAY: None

## **GENERAL COUNSEL'S REPORT**

*Reid Brogden summarized the following requests for modifications:*

### **Lebanon Surgical Center - (Lebanon, Wilson County) - Project No. CN0702-011**

Request for a change of ownership. Lebanon HMA Surgery Center, Inc. is a subsidiary of HMA, Inc. Approval is requested for two (2) changes to the Certificate of Need issued to Lebanon HMA Surgery Center, Inc.: 1) to change direct control of Lebanon HMA Surgery Center, Inc. from HMA, Inc. to another wholly-owned subsidiary of HMA, Inc., Lebanon HMA, Inc.; and 2) to change the organizational structure of Lebanon HMA Surgery Center, Inc., from a corporation to an LLC. It should be noted that HMA, Inc. is the ultimate controlling entity under both the current and proposed structure. This project was approved at the May 23, 2007 HSDA meeting for the replacement and relocation of the existing multi-specialty surgery center from 1414 Baddour Parkway to a leased site on the campus of University Medical Center at 1401 Baddour Parkway, Lebanon (Wilson County), TN 37087. The existing facility will be replaced with a 15,665 square foot facility and will increase the operating rooms from one (1) to three (3) rooms and increase the procedure rooms from one (1) to two (2) rooms. Expiration date is July 1, 2009 and the project cost is \$8,625,538.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency.

Dr. Handorf moved for approval of the request as presented. Mr. Atchley seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Gaither, Weaver, Atchley, Handorf, Lammert, Bishop, Burns, Morris, Koella  
NAY: None

## **Contested Case Update**

Jim Christoffersen, Deputy General Counsel, provided updates on the status of contested cases.

## **MINUTES**

The minutes of the December 17, 2008, meeting were accepted by unanimous voice vote.

## **ADJOURNMENT**

There being no further business, the meeting adjourned.

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Melanie M. Hill, Executive Director

MMH/mab