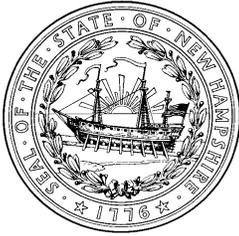


HEALTH SERVICES PLANNING AND REVIEW



August 20, 2009
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Chair Nicholas Vailas **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Ms. Erin Almeda, Ms. Deb Grabowski, Dr. Joseph Miller, Mr. Jack Stanton, Mr. James Tollner, Chair Nicholas Vailas and Mr. John Wallace

Excused: Mr. Robert Chase, Ms. Constance Jones and Mr. Scott Wojtkiewicz

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:33 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. Consent Agenda

- **Approve June 18, 2009 Board Meeting Minutes**
- **Mary Hitchcock Memorial Hospital – Request for Two 6-month extensions AC 07-06, \$12,800,000**

Discussion: Chair Vailas introduced this agenda item and briefly stated that the minutes from the June 18, 2009 meeting were complete and needed to be approved, as well as the request from Mary Hitchcock Memorial Hospital for two six-month extensions to AC 07-06 for \$12,800,000. Chair Vailas then stated that if any consent agenda item required any further discussion, it would require removal from the consent agenda.

Ms. Almeda then made a motion to accept the consent agenda. Mr. Tollner seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Northeast Rehabilitation Hospital – Request for 6-month extension, REHAB 07-04, \$15,641,000

Discussion: Mr. Peck introduced this agenda item, and stated that Northeast Rehabilitation Hospital is seeking a six-month extension to commence CON REHAB 07-04, the 33-bed rehabilitation hospital to be located at Pease Tradeport. He stated that unforeseen delays have resulted in NRH's inability to officially commence the project pursuant to the state statute, RSA 151-C:12, III. He stated that the request was received by HSPR staff in advance of the commencement period, although the Board could not take action until its scheduled meeting date. Mr. Peck stated that HSPR staff concludes that NRH is eligible for this extension.

Mr. Tollner then made a motion to approve the Northeast Rehabilitation Hospital request for a six-month extension to REHAB 07-04 for \$15,641,000. Ms. Almeda seconded the motion and this agenda item was unanimously approved by all of the Board members.

3. Round Trip Anesthesia – Request Advanced Issuance of ASC RFA

Discussion: At this time Chair Vailas asked the representatives speaking to this issue to come forward and testify. No persons appeared so upon a suggestion made by Mr. Tollner, this agenda item was moved to the end of the meeting to allow parties time to appear at the meeting.

4. Catholic Medical Center – Change of Scope for AC 06-03, Lab Portion \$3,428,305 Increase

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that a request for a change of scope for AC 06-03 was submitted by Catholic Medical Center. She stated that CMC seeks a \$3,428,305 increase to accommodate automated lab equipment and the renovation of space to house pathology services. She then stated that according to the HSPR staff evaluation on this matter, the cost of the project is some 59% above that of the adjusted approved amount of \$5,759,619, to a total of \$9,187,924. HSPR staff concludes that the change is related to CON AC 06-03, and that CMC is eligible for a change of scope at this time.

Chair Vailas welcomed Ms. Lisa Drouse from Catholic Medical Center to come forward and speak to the change of scope request. Ms. Lisa Drouse and Ms. Roberta Provincial came forward to represent Catholic Medical Center. Ms. Drouse gave a brief overview of the project for the Board and invited any questions.

Mr. Tollner asked if the recent affiliate arrangement with Mary Hitchcock Memorial Hospital would affect this project in any way. Ms. Drouse responded that it is too early for it to affect this project. Mr. Wallace asked if lab volumes increased when the service was brought in-house. Ms. Drouse referred him to page 6 of the petition where the volumes were shown. Mr. Wallace asked where the increase came from. Ms. Provincial responded that a new MOB was located across the street from CMC with practices affiliated with Dartmouth Hitchcock that has contributed to the increase. Mr. Wallace asked where the lab work was done before bringing it in-house. Ms. Provincial stated that Labcorp in Portsmouth had the contract but many patients came back to CMC once the testing was brought back in-house.

Dr. Miller asked Ms. Drouse and Ms. Provincial to clarify their roles at CMC. Ms. Drouse stated that she is the Director of Planning and Ms. Provincial stated that she is the Director of the Lab. Dr.

Miller then asked why physicians were unhappy with the lab services. Ms. Provincial stated that physicians wanted a local service and were unhappy due to lost specimens and having to call long distance for results. Dr. Miller questioned if any other outside services were considered. Ms. Provincial stated that there are no other nearby labs in NH. Dr. Miller then mentioned Quest. Ms. Provincial stated that Quest doesn't generally contract with an entire hospital.

Ms. Grabowski asked if this need for additional equipment was included in the original request. Ms. Drouse responded that it wasn't but CMC determined need for additional pieces of equipment and the level C space was available. She then stated that this option would work better than the original plans.

Dr. Miller asked if this would create a difference in revenue and Ms. Drouse replied that it would due to increased volume and efficiencies. Mr. Tollner asked how many physicians had issues with the prior lab service and how many were CMC physicians. Ms. Drouse responded that some were PCP's and some were surgeons but most are physicians who practice at CMC. Mr. Tollner then asked how much turnaround would improve. Ms. Provincial stated that it would now take 1 to 4 hours depending on the test and added that it was up to 24 hours in the past.

Ms. Almeda stated that this project has many benefits. She stated that quality control would improve, electronic medical records will allow for the physicians to see the data and the pathologists are in-house.

At this time Mr. Wallace made a motion to approve Catholic Medical Center's request for a change of scope to AC 06-03 for a \$3,428,305 increase to the lab portion of the project. Ms. Almeda seconded the motion. Dr. Miller voted against the motion and all of the remaining Board members voted in favor of the motion, thereby approving this agenda item.

5. Monadnock Community Hospital – Change of Scope for AC 06-06, Reduction to \$22,000,000 from \$52,176,689

Discussion: Chair Vailas invited representatives from Monadnock Community Hospital to come forward for testimony. Mr. John Malmberg, Esquire, legal counsel for MCH, Mr. Peter Gosline, CEO, Mr. Richard Scheinblum, CFO, and Mr. Andrew Macdonald, Director of Planning came forward at this time.

Mr. Gosline gave an overview of the change of scope request. He stated that MCH is downsizing its project. He stated that MCH re-evaluated its project in light of the current economy and focused on the most important issues such as the ER, OR's, HVAC, the powerplant and parking. He stated that the contractor provided a favorable quote due to the suffering economy. MCH will finance through BFA with no debt reserve required. Mr. Gosline also stated that the community is very supportive and that HSPR staff finds them eligible for approval at this time.

Mr. Wallace asked which part of the project was not going to be done as a result of the change of scope. Mr. Gosline replied that MCH would not be adding an additional MOB or a new obstetrics unit; they would renovate the existing unit and wouldn't be adding private rooms. Mr. Wallace voiced his concern that MCH will come back with a more expensive project in a few years. Mr. Gosline explained that MCH doesn't anticipate coming back with the same project. He added that they might consider doing certain components only. He added that they would be using their assets frugally.

Dr. Miller asked if MCH is bonded and if so, how much they were bonded for. Mr. Scheinblum replied that there is currently \$20 million outstanding, the capital campaign will raise \$2 million and about \$9,750,000 will be added to its debt.

Ms. Almeda stated that a 5-year time frame was awarded and asked if MCH will need more time. Mr. Goseline stated that MCH will complete the project on time and no delays would occur. He added that 75% of the project would be done in the next year. Ms. Almeda asked if MCH would need an extension to commence. Ms. Carrier clarified that they have already commenced the project and stated that if MCH needed an extension to complete the project, the statute allows for such request.

At this time, Ms. Almeda made a motion to approve the request from Monadnock Community Hospital for a change of scope to AC 06-06 for a reduction to \$22,000,000 from \$52,176,689. Mr. Tollner seconded the motion and all of the Board members voted in favor unanimously approving this agenda item.

6. Crotched Mountain – Presentation and Overview of Rehabilitation Services

Discussion: Chair Vailas stated that there is a representative from Crotched Mountain (CM) present for a follow up discussion from the June 18, 2009 Board meeting concerning the physical rehabilitation bed need formula. Chair Vailas then welcomed Mr. Donald Shumway from Crotched Mountain to come forward and discuss the services offered at CM and the relationship of such to the Board's regulatory control of the need for inpatient physical rehabilitation beds in the state.

Mr. Shumway gave a brief description of Crotched Mountain in Greenfield, NH and its services. He stated that they run a special education school, a 62-bed specialty hospital with acute rehab and skilled nursing levels of care. Their focus is on neuro rehab needs. He stated that they have been in operation for 55 years. He gave some background on the staff at Crotched Mountain and stated that they have 4 FTE physicians, 25 RN's and a number of PT, OT and ST therapists. He added that they serve both pediatric and adult care.

After some discussion, Ms. Carrier reminded the Board that Crotched Mountain is present so the Board can determine whether they fit into the Physical Rehabilitation Bed Need formula. Mr. Wallace stated that CM is licensed with rehab beds but functions somewhat differently and the Department has been discussing this issue. He added that his opinion would be to not include these beds in the report. Mr. Shumway stated that his goal is to continue to provide the very specific service of neuro rehab. He stated that their mission extends beyond NH and added that 20% of the clientele comes from other New England states. Ms. Almeda questioned how they are reimbursed. Mr. Shumway responded that they are reimbursed through insurance and Medicaid but it's based on the level of care and that it gets reset based on the progress of the patient. Ms. Grabowski asked what percentage of days are billed to Medicare. Mr. Shumway responded that very few were since not many patients are over 65.

Ms. Eileen Thayer came forward from the audience with testimony. She stated that she is an occupational therapist and Director of Therapy for HealthSouth in Concord, NH and stated that Crotched Mountain is unique and focused in certain areas, such as pediatric rehab and skilled nursing care for brain injured patients. She added that she finds it very confusing as to what type of provider Crotched Mountain is. Chair Vailas stated that their mission is being served but the Board wants a greater perspective as to what services Crotched Mountain provides.

At this time, Mr. John Prochillo came forward. He introduced himself to the Board, and stated that he is the CEO for Northeast Rehab Hospital. He stated that Northeast Rehab has transferred many patients to Crotched Mountain. He then spoke in favor of Crotched Mountain not being included in the rehab bed need formula.

No Board action was required or taken on this agenda item.

7. Public Hearing – Littleton Regional Hospital MRI 09-01, \$2,399,980

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item and to perform a swearing in of representatives for Littleton Regional Hospital planning to testify that were not present for the general swear-in at the beginning of the meeting. Ms. Carrier stated that at this time, the Board will hear the fixed MRI application proposed by Littleton Regional Hospital to replace current mobile service with a 1.5 T fixed unit to be located in space approved as part of CON AC 08-04. She stated that the HSPR Staff Analysis and Checklist were enclosed with the Board packet and as noted in the analysis, the operating cost of the fixed unit would be higher than that of the mobile unit. However, in response to the HSPR Staff Analysis Checklist Littleton Regional Hospital submitted a new quote for a lower priced unit, which brought the operating cost lower than that of the mobile unit. Ms. Carrier stated with the new quote the project is now cost effective; however, HSPR staff still recommends 2 conditions to the CON, if approved.

Mr. Warren West, President/CEO, Mr. Robert Fotter, CFO, Dr. Harlan Herr, Radiologist, Mr. Robert Mach, Director of Radiology at Littleton Regional Hospital, and Ms. Susan Palmer-Terry, Consultant came forward at this time.

Mr. West provided a handout to the Board and went over the corresponding slides outlining the LRH project. He stated that there are no rate increases in next year's budget and \$1.3 million in payroll costs has been eliminated from the budget. He stated that the new equipment will better serve obese and claustrophobic patients and that scans will be completed more quickly and efficiently. The new unit will provide a similar service to residents in the North Country, which is currently only available in the southern part of the state.

Mr. Wallace asked for clarification on the standard of 1,000 projected scans or 1,500 scans with a mobile vendor. Dr. Miller stated he would like the same clarification. Ms. Carrier stated that an applicant has to be able to project a minimum of 1,000 scans in order to apply for a CON.

There was no public testimony on this application and the public hearing was closed at 11:15.

At this time, Mr. Wallace made a motion to approve Littleton Regional Hospital's CON MRI 09-01 for \$2,399,980 for the purchase of a fixed MRI unit with the conditions that LRH supply proof of registration with the Bureau of Radiological Health before operation of the unit for patient use, and should another unit be chosen for purchase, LRH will provide a quotation for that unit prior to its purchase. Ms. Almeda seconded the motion. Dr. Miller voted against the motion and all remaining Board members voted in favor; thus a CON was granted to LRH with conditions.

3. Round Trip Anesthesia – Request Advanced Issuance of ASC RFA

Discussion: This agenda item was moved to the end of the agenda to allow time for representatives to arrive. At this time, there were no representatives present for this agenda item. Thus, no Board action was taken.

8. Other Administrative Business

- ❑ Ms. Thibeault stated that the next meeting of the Board is scheduled for Thursday, September 17, 2009.
- ❑ A committee has been assigned to House Bill 234; a meeting is scheduled for September 1, 2009 at the LOB room 205 at 10:00. Members Almeda, Wallace and Miller stated that they would be attending.
- ❑ A data report on Cardiac Catheterization procedures was handed out as information only.
- ❑ The Carroll County Nursing Home application has been handed out for the Board to take home and review.
- ❑ Ms. Lori Underwood of New London Hospital has been nominated to replace Ms. Almeda as the hospital representative on the Board.

The meeting was adjourned at approximately 11:30.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



September 17, 2009
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Chair Nicholas Vailas **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Ms. Erin Almeda, Mr. Robert Chase, Ms. Deb Grabowski, Ms. Constance Jones, Dr. Joseph Miller, Mr. Jack Stanton, Mr. James Tollner, Chair Nicholas Vailas, Mr. John Wallace and Mr. Scott Wojtkiewicz

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:33 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. Consent Agenda

- **Approve August 20, 2009 Board Meeting Minutes**
- **Approve Findings of Fact – Littleton Regional Hospital MRI 09-01, \$2,399,980**
- **Wentworth Douglass Hospital – NSR Request for Roadway Improvements, \$1,987,003**
- **LRGHealthcare – Transfer of Ownership of Hillside Medical Park ASC to Hillside ASC, LLC**

Discussion: Chair Vailas introduced this agenda item and briefly stated that the minutes from the August 20, 2009 meeting were complete and needed to be approved, as well as the findings of fact for Littleton Regional Hospital MRI 09-01 for \$2,399,980, the NSR request from Wentworth Douglass Hospital for roadway improvements totaling \$1,987,003 and the request from LRGHealthcare for the transfer of ownership of Hillside Medical Park ASC to Hillside ASC, LLC. Chair Vailas then stated that if any consent agenda item required any further discussion, it would require removal from the consent agenda.

Mr. Chase then made a motion to accept the consent agenda. Ms. Almeda seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Determine Issuance of October 1, 2009 RFA for ASC Services

Discussion: Ms. Thibeault introduced this agenda item. She stated that in order to support a finding of need for this RFA (Request for Applications), HSPR staff mailed a notice to all hospital and ASC administrators requesting a Letter of Intent for any contemplated Ambulatory Surgical Center projects exceeding the statutory threshold. She stated that a notice was also sent to the electronic notice list and eStudio regarding this RFA. Round Trip Anesthesia has responded with such letter of intent. This entity submitted an earlier request for an advanced issuance of the RFA, but failed to appear at the August 20, 2009 Board meeting to pursue such request. They submitted a second letter of intent for the RFA issuance, and were scheduled to appear at today's meeting to present their request. Ms. Thibeault added that as a result, HSPR staff concludes that the Board can find need to issue this RFA.

No representatives from Round Trip were present for this agenda item.

Using the letter of intent from Round Trip as a basis of RFA intent, Ms. Almeda then made a motion to issue the October 1, 2009 RFA for ASC services. Mr. Wojtkiewicz seconded the motion and this agenda item was unanimously approved by all of the Board members.

3. Mary Hitchcock Memorial Hospital – NSR Request to activate 3.0T Fixed MRI for Back up Patient Use, \$0

Discussion: Chair Vailas welcomed any representatives from MHMH to come forward to provide testimony for their NSR request to activate a 3.0T fixed MRI unit for back-up patient use. Mr. Steve Marion came forward at this time. Mr. Marion introduced himself to the Board and stated that he is currently retired from MHMH and working only on CON related projects on an as needed basis. He stated that MHMH has 3 fixed MRIs running at full schedules and that they have one MRI for research that has been in place for 3 years but has not been used for patient care. MHMH would like to use this for back-up purposes, especially on nights and weekends. Mr. Marion added that the machine is certified by the NH Bureau of Radiological Health.

Chair Vailas asked if there are any other 3.0T's at MHMH. Mr. Marion responded that there are not. He added that the 1.5T's are adequate and stated that the research unit was never set up for routine patient use. Mr. Wallace clarified the "similar" clause in the statute with Ms. Carrier (RSA 151-C:5, II (d)), which Ms. Carrier confirmed that the clause allows such additional equipment to be acquired and utilized without a CON.

Mr. Wojtkiewicz made a motion that the MHMH request to activate its 3.0T fixed MRI for back up patient use is not subject to review. Ms. Almeda seconded the motion and this agenda item was unanimously approved by all of the Board members.

Mr. Tollner arrived at this time to the meeting.

4. Essex Orthopaedics and Optima Sports Medicine – NSR Request to Lease MRI unit in Salem, NH - \$0

Discussion: Chair Vailas welcomed members from Essex Orthopaedics and Optima Sports Medicine to come forward to provide testimony on this agenda item. Mr. Tim Budrewicz from

Alliance Imaging, Dr. Eric Arvidson from Essex Orthopaedics and Mr. John Malmberg, Esquire, legal counsel came forward at this time.

Attorney Malmberg provided a brief background on the project, stating that the unit will be located at physician offices in Salem, NH. This unit will be leased so there are no equipment costs, although a fair market estimate of the equipment has been established at \$375,000. Location improvement costs total \$70,000, below the threshold. Ms. Carrier noted for the record that signed copies of all documents have been requested and received. Dr. Miller asked if the unit would be a fixed unit. Attorney Malmberg replied yes, but that the unit will be leased. Dr. Miller asked who owns the unit. Attorney Malmberg stated that Merrimack Valley Health Services is the owner and the monthly lease to Alliance is \$5,000 and they will then lease to Essex on a fee-per-service basis. Further discussion ensued on the fee per scan charge required for the service.

Mr. Chase made a motion that Essex Orthopaedics and Optima Sports Medicine's request to lease an MRI unit in Salem, NH is Not Subject to Review. Mr. Wojtkiewicz seconded the motion and this agenda item was unanimously approved by all of the Board members.

5. Golden View Health Care – Change of Scope to LTC 07-01, Add Unfinished Lower Level, \$900,000

Discussion: At this time, Chair Vailas asked representatives from Golden View Health Care to come forward and provide testimony to this agenda item. Ms. Susan Palmer Terry, Consultant and Ms. Jeanne Sanders, Administrator at Golden View Health Care, came forward.

Ms. Palmer Terry introduced the project, briefly stating that Golden View is requesting a change of scope by creating a basement floor to put additional beds on a difficult site. Ms. Sanders spoke next. She stated that each floor would have 16 private rooms with private bathrooms. During the engineering process it was realized that land grades were more severe and wetland issues were discovered. The plan is the same with an unfinished lower level. Planned retaining walls compromised the original project. Chair Vailas stated that there is an additional cost of \$900,000 for the project. Ms. Sanders agreed. Mr. Wallace questioned how many beds were requested when the RFA for Region 3 went out in 2007. Ms. Carrier stated that there were 33. Mr. Wallace asked what the total cost was for the CON awarded to Golden View. Ms. Carrier stated that it was \$933,000. Mr. Wallace questioned who the other applicant was for Region 3. Ms. Carrier stated that it was Laconia Center but after the award to Golden View and a request for reconsideration the two partners came up with a joint proposal. Ms. Almeda stated that the joint request allowed Golden View to preserve its assisted living beds, which were being given up in the original proposal. Dr. Miller asked what the original financing plan was. Ms. Sanders responded that they were using tax-free bonds. Dr. Miller asked if this was the only bond. Ms. Sanders stated that Golden View would pay the existing bonds and add the new financing to this. Dr. Miller asked the amount of the existing bonds. Ms. Sanders responded that it's currently \$9 million and will be refinanced to \$14 million. Dr. Miller asked how this would affect the charges. Ms. Sanders responded that there would be no increase to Medicare and approximately \$0.44/day to Medicaid and no increase to private rates. Ms. Palmer Terry stated that once the beds were split, Golden View realized they needed to maintain assisted living beds to remain financially viable. The plans called for building out toward Route 104 and it became evident that a retaining wall would be required just outside the patient rooms. Mr. Tollner asked how the design firm is working with them, as they should have known the geographic issues. Ms. Sanders stated that they have been very fair and cooperative. Chair Vailas asked how far along the project was. Ms. Sanders responded that it is in the beginning stage.

Chair Vailas asked Ms. Sanders what would happen if the Board denied the change of scope. Ms. Sanders stated that it would be very unfortunate for residents and their environment. Mr. Wallace stated that it didn't make sense to turn down the change of scope but voiced his concern about the history of this CON. He stated that he is surprised that the engineers didn't recognize the problem originally. Dr. Miller asked if the facility is for profit or non-profit. Ms. Sanders replied that it is non-profit. Dr. Miller stated that he would like a site visit and that he will abstain from the vote until he has had a visit to this site. Mr. Chase stated that he is familiar with the site and understands the challenges. Chair Vailas stated that construction delays are costly and he'd like to move this project along.

Ms. Almeda made a motion to grant the change of scope to Golden View Health Care Center LTC 07-01 to add an unfinished lower level. Mr. Chase seconded the motion and Dr. Miller abstained from the vote. The remaining Board members voted in favor passing this agenda item with 9 in favor.

6. Carroll County/Mountain View Nursing Home – Request to Change Venue for Public Hearing – LTC 09-02

Discussion: Ms. Thibeault introduced this agenda item. She stated that the Carroll County Commissioners are seeking a change in venue for the anticipated hearing on its application for the replacement of the Mountain View Nursing Home, LTC 09-02. The Commissioners have requested that the public hearing be held within the County itself in order to accommodate the interest of the taxpayers.

At this time, Chair Vailas invited representatives from the Carroll County Commissioners to come forward. Ms. Susan Palmer Terry, Consultant and Mr. David Sorenson, Chair, Board of Commissioners came forward to provide testimony. Mr. Sorenson stated that he has a commitment to the taxpayers and at their request he is here to request that the Board meeting be held in Carroll County. He stated that they have a large room in the administration building for the Board's use. Mr. Wallace questioned what concerns people have if the meeting was held in Boscawen rather than Carroll County. Mr. Sorenson responded that because of the cost of the project being \$23 million the taxpayers would like the meeting in Carroll County for easy access.

After some discussion, Mr. Tollner made a motion to keep the Board meeting here in Boscawen. Mr. Wojtkiewicz seconded the motion and all of the Board members voted in favor of keeping the Board meeting local; therefore it was a unanimous decision.

7. Other Administrative Business

- ❑ Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, October 15, 2009 with the Carroll County application as the main agenda item.
- ❑ The HB234 study committee has had its organizational meeting, and has established further meeting dates, as follows:
 - September 29, 2009 – 10:00 am
 - October 14, 2009 – 10:00 am
 - October 27, 2009 – 10:00 am

- November 10, 2009 – 10:00 am
- December 1, 2009 – 10:00 am

We encourage Board members to attend these meetings.

- An updated copy of our governing statute, RSA 151-C, is enclosed for your use. This document was updated to reflect the results of HB113, allowing nursing home renovation and repair outside of the moratorium.

At this time, Chair Vailas recognized Dr. Christopher Hoeman and Dr. Bart Blaeser from Round Trip Anesthesia, who apologized for their delay in attending the meeting. Dr. Hoeman stated that Round Trip supports the issuance of an ASC RFA so that it can participate and submit an ASC application for the Seabrook, NH area. Chair Vailas informed them that the Board has issued the RFA, and that Round Trip is now eligible to apply for a CON.

Mr. Chase made a motion to adjourn the Board meeting at this time. Ms. Almeda seconded the motion and the meeting was adjourned at approximately 10:40.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



October 15, 2009
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Vice Chair Almeda **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Vice Chair Erin Almeda, Mr. Robert Chase, Ms. Deb Grabowski, Ms. Constance Jones, Dr. Joseph Miller, Mr. Jack Stanton, Mr. James Tollner, Mr. John Wallace and Mr. Scott Wojtkiewicz

Excused: Mr. Nicholas Vailas, Chair

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Vice Chair Almeda opened the meeting at 9:30 a.m.

1. Consent Agenda

- **Approve September 17, 2009 Board Meeting Minutes**
- **Elliot One Day Surgery Center, ASC 07-11, Request for 6-month extension to Commence Project**

Discussion: Vice Chair Almeda introduced this agenda item and briefly stated that the minutes from the September 17, 2009 meeting were complete and needed to be approved, as well as the request from Elliot One Day Surgery Center, ASC 07-11 for a 6-month extension to commence their project. Vice Chair Almeda then stated that if any consent agenda item required any further discussion, it would require removal from the consent agenda.

Mr. Wallace then made a motion to accept the consent agenda. Mr. Wojtkiewicz seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

At this time, Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

2. Northeast Rehabilitation Hospital/Southern NH Medical Center – Relocate 5 Rehabilitation Beds from Salem to Nashua, \$400,000

Discussion: At this time, Mr. John Prochilo, CEO, Ms. Susan Palmer Terry, Consultant and Mr. John Malmberg, Legal Counsel for Northeast Rehabilitation Hospital, came forward to provide testimony for this agenda item. Mr. Prochilo spoke first and gave a brief history of NRH and provided a description of their plans to relocate 5 rehabilitation beds from Salem, NH to Nashua, NH. He stated that in November of 2003 new rehabilitation rules were adopted with 5 defined regions and the ability to transfer beds within regions. He stated that in 2004 NRH petitioned the Board to move 15 beds to Southern NH Medical Center from Salem; this Board decision was appealed by St. Joseph Hospital but the NH Supreme Court ruled in NRH's favor. Mr. Prochilo stated that the total construction cost for this latest bed relocation is \$400,000, with no increase or conversion of beds. The total number of beds at Southern NH Medical Center will increase by 5, to 20 beds. Accordingly, the total beds at NRH will be reduced by 5, from 87 to 82. He stated finally that a new license will be required to move the 5 beds but NRH needs a determination from the Board that this project is not subject to CON review (NSR).

Hearing no Board discussion, Mr. Wallace then made a motion to approve the NSR request from Northeast Rehabilitation Hospital/Southern NH Medical Center to relocate 5 rehabilitation beds from Salem to Nashua for a cost of \$400,000. Mr. Wojtkiewicz seconded the motion and this agenda item was unanimously approved by all of the Board members.

3. Public Hearing – Carroll County/Mountain View Nursing Home Replacement LTC 09-02, \$23,558,900

Discussion: Vice Chair Almeda welcomed representatives from Mountain View Nursing Home to come forward for their public hearing. At this time, Mr. David Sorenson, Ms. Dorothy Soloman, Ms. Sandy McKenzie, Mr. Chip Albee, Ms. Susan Palmer Terry, Consultant and Mr. Gerry Minke, Architect came forward. Mr. Sorenson gave a brief background on the facility. He stated that there are many deficiencies in the nursing home that were found in past inspections. In 2008 the County Commissioners voted to build a new nursing home and a building committee was formed to plan for it. He added that 14 community sessions have been held to discuss the proposal and another is scheduled. Mr. Sorenson explained that they have received much support for the new nursing home but have had some concerns expressed about the price of the project. In addition, the Commissioners have established a 501(c)(3) fund for capital contributions to help fund the project.

Next, Ms. Soloman spoke briefly. She stated that Carroll County has an aging population with a great need for a more efficient nursing home. She outlined some of the changes to be incorporated into the new facility, such as private rooms and an "efficiency kitchen" in each household unit. She stated finally that they were seeking a more comfortable environment for the residents and that there will even be enclosed outside gardens.

Board Member Tollner arrived to the meeting at this time.

Mr. Gerry Minke went over the site and floor plans for the Board, describing that there are 8 households with 13 beds each and 1, 12-bed household. He described the new facility as 2 levels with a neighborhood concept.

At this time, Mr. Chip Albee spoke regarding the financial piece of the project. Ms. Carrier performed a swearing in for him to testify, as he wasn't present at the initial swear-in. Mr. Albee

stated that the occupancy rate averages 97 beds out of 103 total. To achieve 100 beds occupied the plan called for a single room layout. He explained that the cost of the design is higher initially, but the County will recoup the cost by having fuller occupancy. He further explained that the tax rate increase is \$0.16 per thousand. He stated that MVNH has very little debt, and the jail will be paid off in 2017. He stated also that the Delegation considered whether to stay in the nursing home business at all but felt obligated to provide nursing home services to the residents of Carroll County. The Delegation understands the need to replace the nursing home.

Mr. Wallace asked Mr. Albee to define the factors behind the decision to stay in the nursing home business. Mr. Albee responded that it costs \$7 million a year to operate the facility and the county would lose control of nursing home care. The county would still have to pay 50% for resident care; and taxes would actually be higher if the county got out of the business. He added that it would be harder on families to find facilities in the area. Mr. Wallace stated that the operating costs are reduced with new facilities and asked if Mr. Albee could cite the differences. Mr. Albee replied that they would need to add 2 FTEs but that there will be significant energy savings as they are planning to convert to biomass fuel.

Mr. Wallace asked if there are any objections to the project and what they are. Mr. Sorenson stated that roof levels, libraries – having 1 in each household - and windows – currently bathrooms have windows but they are considering taking some out – are concerns that have been raised. Mr. Wallace asked if there had been any objections based on the finances. Mr. Albee responded that there hadn't been. He added that they have been asked about the necessity of the modern design and have responded that MVNH needs to spend money on a facility that will meet resident needs for decades to come.

Board discussion ensued regarding the modern design of the building and the cost differences. Dr. Miller asked if there was a provision for hospice care. Ms. Soloman responded that in the current building they have to take over a room for hospice services and with the new facility they won't need to do that, and added that they are seeking to provide VA services too. Dr. Miller asked if there's a hospice association in Carroll County. Ms. Soloman responded that there is but that they are not working directly with them yet. Ms. McKenzie added that residents would now be able to remain in their room for their final days.

Mr. Wojtkiewicz stated that he loved the plan but voiced his concern about the expenses verses the revenue. He stated that MVNH is losing over \$2 million a year and will have lost over \$4 million the first year after the project is complete. He stated that he is concerned about passing these losses on to the taxpayers; turning the beds over to a private company might be a better plan to operate the beds without a loss. Mr. Albee stated that nobody is interested in doing so at any price and that there would still be debt to pay. He added that county facilities take the most indigent people and aren't profitable businesses. Mr. Wojtkiewicz stated that private facilities take Medicaid as well and that there should be a payor source for all residents. He added that most facilities make up the deficit from Medicaid residents with Medicare and private paying residents. Mr. Wojtkiewicz asked if private companies can do this why can't county facilities? Mr. Albee responded that Carroll County loses less money than most county homes, as 40% is private pay. He added that the County has tried to reach out to private operators with no success.

Mr. Chase complimented the County for its application, and commented that the design is progressive to meet the future needs of residents. Mr. Tollner asked if there were only performance guarantees included in the contract that could reduce costs. Mr. Albee responded that such guarantees are available with all aspects of the project and will be realized as the project moves forward.

At this time, Ms. Carrier reminded the Board of the 2 CON conditions recommended by HSPR staff should the project be approved - MVNH provide documentation of the final financing arrangements and terms prior to commencement of the project, and document approval of the project and its financing by the County Delegation prior to commencement of the project. She stated that all other outstanding issues with the application have been resolved.

Public testimony was received from Mr. Don Lutchko, who spoke of the great care MVNH provides despite the poor condition of the facility. He stated that he fully supports the replacement project.

The public hearing was closed at 10:53. Hearing no further discussion, Mr. Chase made a motion to issue a Certificate of Need (CON) to Carroll County/Mountain View Nursing Home, LTC 09-02, \$23,558,900, with the conditions that MVNH provide documentation of the final financing arrangements and terms prior to commencement of the project and document approval of the project and its financing by the County Delegation prior to commencement of the project. Mr. Wallace seconded the motion. Mr. Wojtkiewicz voted against the motion. All remaining Board members voted in favor of the motion. Thus, on a vote of 8 to 1 in favor of the motion, the project was approved with conditions.

4. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, November 19, 2009.
- The HB234 study committee meeting dates are as follows:
 - October 27, 2009 – 10:00 am
 - November 10, 2009 – 10:00 am
 - December 1, 2009 – 10:00 am

We encourage Board members to attend these meetings.

Mr. Wojtkiewicz made a motion to adjourn the Board meeting at this time. Mr. Chase seconded the motion and the meeting was adjourned at approximately 10:56.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



November 19, 2009
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Chair Mr. Nicholas Vailas **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Nicholas Vailas, Chair, Mr. Robert Chase, Ms. Deb Grabowski, Ms. Constance Jones, Dr. Joseph Miller, Mr. Jack Stanton, Ms. Lori Underwood and Mr. Scott Wojtkiewicz.

Excused: Mr. James Tollner and Mr. John Wallace

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:29 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. **Consent Agenda**

- **Approve October 15, 2009 Board Meeting Minutes**
- **Approve Findings of Fact, Carroll County/Mountain View Nursing Home, LTC 09-02, \$23,558,900**

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier briefly introduced the two items, and Mr. Chase then made a motion to accept the consent agenda. Mr. Stanton seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. **Transfer of Ownership – Laurel Center Genesis Healthcare, Bedford, NH to New Hope Healthcare Systems**

Discussion: At this time, Mr. Wojtkiewicz recused himself from this agenda item, citing a conflict of interest. Mr. Peck introduced the item and explained that a change of license will occur due to the change of ownership from Genesis to New Hope. Because the facility is Medicaid/Medicare certified, HSPR staff concluded that the transaction was not subject to CON review. Chair Vailas

asked if anyone from the audience was there to represent the item. John Kolenda, the President of New Hope, came forward. The Board spoke briefly on the subject, then Mr. Chase made a motion that the transfer of ownership from Laurel Center Genesis Healthcare to New Hope Healthcare Systems was not subject to CON review. Ms. Jones seconded the motion. All Board members voted in favor of the motion.

3. Request for a 6-Month Extension to Commence, Laconia Center, Genesis Healthcare, LTC 07-03

Discussion: Mr. Wojtkiewicz also recused himself from this agenda item. Ms. Thibeault introduced this agenda item, and stated that the Laconia Center requested a 6-month extension to commence its building addition project, CON LTC 07-03. Laconia Center listed 2 issues that had hampered project commencement: electrical and internal financing. She added that HSPR staff requested further information on these issues in order for the Board to find good cause for the extension. Ms. Thibeault stated that based upon this information, HSPR staff concludes that the Laconia Center is eligible for an extension at this time.

After no discussion from the Board or the public, Mr. Chase made a motion to allow the 6-month extension to commence LTC 07-03, Laconia Center Genesis Healthcare. As such, the commencement date for this project has now been moved from January 2010 to July 2010. Ms. Jones then seconded the motion, and all Board members unanimously approved the agenda item.

Mr. Wojtkiewicz re-joined the Board at this time.

4. Complaint Received Re: MRI at The Alpine Clinic, Franconia, NH

Discussion: Ms. Carrier introduced this agenda item. She stated that an anonymous complaint was received at the HSPR office alleging that The Alpine Clinic had violated the CON statute by acquiring and installing a fixed MRI unit at its Franconia, NH facility. HSPR staff contacted the Clinic regarding this issue, and requested that they appear at this meeting to provide clarifying information for the Board.

Mr. Wojtkiewicz expressed his feelings that this complaint was unnecessary and unfounded, given that it was sent anonymously, and if anything, it should be an NSR. He asked to table the item. Dr. Miller spoke next and said he did not want to table the item, and in fact stated he was eager for the Board to discuss this unprecedented agenda item.

At this time, Chair Vailas invited representatives to come forward. Three representatives stepped forward, including Ms. Lucy Hodder, legal counsel from Rath, Young & Pignatelli, Dr. Andrew Chen, Orthopedic surgeon and partner at the Alpine Clinic, and Dr. Scott Pontti, CEO of the Alpine Clinic. Attorney Hodder stated that they are happy to comply and have provided their response to the staff and Board in hopes of it being accepted as an NSR by the Board.

Dr. Chen spoke first, giving a brief background on the practice's inception, and stated that the clinic specializes in ski accidents, and that they treat many patients from out of state. He also stated that the clinic's ownership of an MRI unit is not by any means intended to be used as competition against other local health facilities, but that having it on site is beneficial to their patients. Dr. Chen stated that one benefit to having the MRI on site was that the wait time for an MRI at Littleton Regional Hospital is up to 2 weeks, while they can access their own unit as soon as needed during office hours. The Alpine Clinic is the only provider in Franconia, and he also stated that they have a

great working relationship with Littleton Regional Hospital, and in their response was a letter from Mr. Warren West in support of the installation and deployment of the MRI unit.

Dr. Pontti spoke next regarding the costs associated with the purchase of the MRI, all of which was included in the Alpine Clinic's response to the Board. He pointed out that the unit cost \$385,000, and was under the threshold amount of \$400,000. Construction costs are not of concern, as Ms. Carrier explained, since this is a medical office building, which falls under the exemption section of the statute. Attorney Hodder further explained that the shielding costs were included in the purchase price. Mr. Wojtkiewicz asked Ms. Carrier if there was sufficient information in the Alpine Clinic's response to be determined NSR. Ms. Carrier stated that it would in fact suffice and could be put in the records as an NSR if the Board voted to do so.

Dr. Miller asked Dr. Chen if they had a radiologist on staff, and Dr. Chen responded that they have a tele-radiologist located out of Bedford, Mass. Dr. Miller then questioned the cost associated with the tele-radiologist, and Dr. Chen responded that there was no capital cost. Dr. Miller asked if they could give him a rough idea about how much a scan costs in their office versus Littleton Regional Hospital. Dr. Pontti replied that their costs are 2/3 that of Littleton Regional Hospital.

Ms. Grabowski stated to the Alpine Clinic representatives that she applauded them for coming together so efficiently and for the beneficial role they play in their community. Chair Vailas stated that he was familiar with this practice and its physicians and stated that this will be a great service.

After no further discussion, Mr. Wojtkiewicz made a motion to grant the Alpine Clinic an NSR based on the fact that the cost was under the threshold. Mr. Chase seconded the motion. Dr. Miller stated he would abstain from voting. The remaining Board members voted in favor of issuing the NSR.

After the vote, Board discussion ensued regarding how to handle these types of complaints. The Board decided that they would not accept or act on unsigned complaints. Ms. Jones made a motion that anonymous complaints will not be addressed by the Board. Mr. Wojtkiewicz seconded the motion, and this passed unanimously by the Board.

5 . Other Administrative Business

- ❑ Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, December 17, 2009.
- ❑ The next HB234 study committee meeting date is December 7, 2009 – 1:00 pm, changed from December 1, 2009.
- ❑ Ms. Carrier stated that the 2010 Board Meeting Schedule is attached and asked the Board members to please mark their calendars.
- ❑ Ms. Carrier stated that a revised Hospital Service Area Map (He-Hea 1000) was enclosed in the Board packet, and that it is now much easier to read with the towns listed for each HSA. She stated that this was a collaborative effort between Ms. Thibeault and the Bureau of Data & Systems Management.
- ❑ Finally, Ms. Carrier introduced the newest member of the Board, Ms. Lori Underwood, who has taken Erin Almeda's spot and is the Hospital Representative for the Board.

Mr. Wojtkiewicz made a motion to adjourn the Board meeting at this time. Mr. Chase seconded the motion and the meeting was adjourned at approximately 10:05.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



January 21, 2010
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Chair Mr. Nicholas Vailas **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Nicholas Vailas, Chair, Mr. Robert Chase, Ms. Deb Grabowski, Dr. Joseph Miller, Ms. Lori Underwood, Mr. John Wallace and Mr. Scott Wojtkiewicz.

Excused: Ms. Constance Jones, Mr. Jack Stanton, and Mr. James Tollner

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:29 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. Consent Agenda

- **Approve November 19, 2009 Board Meeting Minutes**
- **LRGHealthcare/Hillside ASC, LLC, Transfer 25% ownership to Orthopedic Professionals ASC, LLC ("OP, LLC")**

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault briefly introduced the first two items and asked Ms. Carrier to explain the removal of item three for the Board. Ms. Carrier then explained that a complaint was filed against NRH's petition for a 6-month extension to REHAB 07-04 and therefore, this item will be removed from the consent agenda per He-Hea 203.02, and would now become item two on the agenda as it will require Board discussion.

Mr. Wallace then made a motion to accept the two remaining items on the consent agenda. Mr. Chase seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Northeast Rehabilitation Hospital – Request for 6-month extension, REHAB 07-04, \$15,641,000

Discussion: By way of introduction, Ms. Carrier stated that the petition from Northeast Rehabilitation Hospital was removed from the consent agenda because the HSPR office received a letter of complaint dated January 20, 2010 from Mr. Alfred J. Arcidi of Whittier Health. A letter of support dated January 20, 2010 from Mr. George M. Bald, Commissioner of the Department of Resources and Economic Development has also been received for the project. As a result, the item must be fully discussed as an agenda item. She stated that representatives from NRH were present to answer any Board questions on the issue.

Mr. John Prochilo, Administrator, Northeast Rehabilitation Hospital, Mr. John Malmberg, Legal Counsel to NRH and Ms. Susan Palmer Terry, Consultant came forward to provide testimony and answer any Board questions. Mr. Prochilo described the progress to date, stating that it has been significant. He stated that PDA (Pease Development Authority), FAA (Federal Aviation Administration), HUD (U.S. Department of Housing and Urban Development) and NRH have had to come together to close the agreement, which will happen after 2/14/2010 when the 1st extension expires.

Dr. Miller asked NRH what “site control” is as raised in the complaint from Whittier Health. Mr. Prochilo responded that it means to have control of the land, and explained that the lots at Pease, where the project will be located, are leased on long term contracts. He stated that agreements have been made but the paperwork needs to be completed. Dr. Miller questioned the delay. Mr. Prochilo stated that the need to bring the 3 federal parties together was a big set back and explained that the process was new for all of them. Attorney Malmberg explained that HUD is the lender, PDA is the landlord and FAA has oversight over all of the leases at Pease.

Chair Vailas stated that a denial would be ludicrous at this point in the process since the parties were so far along. Mr. Wallace asked if the circumstances were foreseeable as intimated in the letter of complaint. Mr. Prochilo replied that they were not, and added that the economy crashed during this time, which added hurdles to the situation. Chair Vailas then asked if any representatives of the complaint were present to discuss this issue. No persons came forward to speak.

Mr. Wallace made a motion to approve the 6-month extension request made by Northeast Rehabilitation Hospital for CON REHAB 07-04. Mr. Wojtkiewicz seconded the motion. Dr. Miller abstained from the vote and all of the remaining Board members voted in favor of the motion, approving this agenda item 6 to 1.

3. NH Open MRI, LLC – NSR Request to Establish MRI services in Bedford, NH

Discussion: Chair Vailas recused from this agenda item and appointed Mr. Wojtkiewicz as Vice Chair for this discussion item. Mr. Wojtkiewicz asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that NH Open MRI, LLC submitted an NSR request to establish open MRI services (fixed unit) in Bedford, NH. She stated that the total cost for the project is \$911,878 (\$395,000 equipment, \$516,878 build-out and fit-up). Ms. Carrier then stated that because the project is intended to serve outpatients, and the total cost falls below the statutory threshold, HSPR staff concludes that the proposal is not subject to CON review, with a recommendation, however, that a condition be attached to this determination, if granted, that a final invoice for the MRI unit be submitted before operation of the service. Ms. Carrier informed the Board of the letter received by

Dr. Mark Hansberry of Valley Radiologists, a former colleague of Mr. Kummer, that outlined outstanding issues with Mr. Kummer and his business. She stated that Dr. Hansberry wasn't able to make the meeting but his partner Dr. David Haseman is present to answer any questions the Board may have.

Mr. Wojtkiewicz then asked if there were any representatives from NH Open MRI, LLC present to answer any Board questions. At this time, Mr. Todd Kummer, President, NH Open MRI, LLC came forward. Mr. Kummer stated that at this point his project is on hold pending the approval of the exemption request. Mr. Wojtkiewicz asked Mr. Kummer to comment on the complaint filed by Valley Radiologists. Mr. Kummer responded that he fully intends to pay for the services of Valley Radiologists for which he owes. He stated that he relies on revenue and that he is trying to chip away at the payments. He stated that he had no intent to defraud Valley Radiologists and added that he is trying to establish a new facility to generate revenue to pay these debts. Mr. Wojtkiewicz stated that it didn't appear that Mr. Kummer had adequate capital to expand his business. Dr. Miller asked Mr. Kummer if it was prudent to go forward with a new project when unpaid debts remained. Mr. Kummer responded that he would not go forward until the debts are paid, but that the project was needed to generate additional revenues.

Mr. Kummer stated that his first step is to get the NSR approval from the CON Board and then go forward with attracting investors and move forward. Mr. Chase stated that he didn't believe the Board could deny the NSR to force payment. Mr. Wallace agreed and stated that deciding whether the project is NSR or not is the Board's only authority. He added that there are other avenues available for the physicians to recoup the money that is owed to them. Ms. Grabowski stated that she agreed with Mr. Wallace and asked Mr. Kummer if he relied on referrals from providers who don't offer MRI services in their own facilities and how he will do better with the new facility. Mr. Kummer responded that he would be diligent and investigate providers. He added that the infrastructure costs won't be passed on and that it's only 2/3 of the operating cost of the 1st facility.

Dr. David Haseman came forward at this time to speak to the complaint filed on behalf of Valley Radiologists for non-payment of services rendered. He stated that they severed service for non-payment and asked the Board not to grant Mr. Kummer the requested NSR determination. Dr. Haseman went on to say that Mr. Kummer made projections that were false and past projections have not been accurate. He added that Mr. Kummer offers excellent service but he feels the state should do a complete CON review.

Mr. Chase asked Dr. Haseman if Mr. Kummer expended more than the allowed amount. Dr. Haseman replied that he didn't know. Mr. Chase stated that the Board only looks at project costs. Mr. Wallace stated that the Board's only authority is if the cost exceeds the threshold. He then asked Dr. Haseman if there was any reason not to believe the cost of the equipment provided by Mr. Kummer. Dr. Haseman replied that there was not.

At this time, Mr. Wallace made a motion to approve the NSR request for NH Open MRI, LLC to establish MRI services in Bedford, NH with the condition that a final invoice for the MRI unit be submitted before operation of the service. Mr. Chase seconded the motion and Dr. Miller voted against the motion. All remaining Board members voted in favor of the motion and this agenda item passed with a vote of 5 to 1.

Chair Vailas rejoined the meeting at this time.

4. Southern NH Medical Center – NSR Request for Medical Office Building – Nashua, NH, \$15,608,506 (1,560,852 Hospital portion)

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that Southern NH Medical Center is (SNHMC) requesting a Not Subject to Review (exempt) determination from the Board for the development of a medical office building at Prospect Street in Nashua in a former YMCA building. He added that according to the petition, space will be redesigned for medical office space. An existing MOB at another location will be demolished and the physician practices will be relocated to the Prospect Street site and some existing hospital services will also be relocated to Prospect Street. SNHMC estimates a total project cost of \$15,608,506, of which \$1,560,852 are attributed to hospital based costs. Mr. Peck stated finally that SNHMC seeks a determination that (1) The MOB is exempt from CON review under RSA 151-C:13, I(a); and (2) the hospital based portion of the project is not subject to review as the cost is below the current statutory threshold of \$2,736,000 (RSA 151-C:5, II(a)).

Chair Vailas welcomed representatives from Southern NH Medical Center to come forward to discuss their project. Mr. Scott Cote, Vice President of Facilities for Southern NH Medical Center came forward at this time. Mr. Cote provided a brief background on the project. He stated that SNHMC is located in downtown Nashua and that SNHMC already owns the YMCA building but they're leasing it back to the YMCA while their new facility is being built. Mr. Cote stated that the hospital plans to demolish the Dearborn Street facility and use the space for parking at the SNHMC campus.

Mr. Wallace asked what would make this project subject to CON review. Ms. Carrier answered that the cost of the hospital based components exceeding the threshold would require it to be reviewed. Mr. Wallace asked what hospital services were moving. Mr. Cote replied that the lab draw station, PT/OT, and nutritional counseling would be moved. Ms. Grabowski asked SNHMC to clarify whether the 10% of the project cost allocated to the space being used for hospital services was based on square footage. Mr. Cote replied that it was.

At this time, Mr. Wojtkiewicz made a motion that the NSR petition from SNHMC for a Medical Office Building in Nashua, NH for \$15,608,506 and the hospital portion of \$1,560,852 is not subject to review, with the condition that the final construction contract be provided to HSPR prior to commencement of the project. Mr. Chase seconded the motion, and all of the Board members voted in favor of the motion, unanimously approving this agenda item.

5. SJH SurgiCenter, LLC – NSR Request for Fit-Up of 2 ORs at SJH SurgiCenter, LLC (original CON ASC 02-06), \$796,478

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that St. Joseph Hospital (SJH) has filed an NSR petition for the fit up of 2 ORs at the SJH SurgiCenter, originally approved with CON ASC 02-06. She added that the cost of this project is estimated at \$796,478, well below the current statutory ASC threshold of \$1,824,001. Ms. Carrier expressed staff concern with the timing of the request and stated that the petition may be premature, given the review of an acute care application from SJH now under review in the HSPR office; this application pertains to hospital OR renovation and HSPR staff would prefer to do a complete OR utilization analysis. Ms. Carrier informed the Board of the correction to the SJH request on the agenda. She stated that SJH notified HSPR that it was listed incorrectly on the agenda and staff corrected it to read SJH SurgiCenter, LLC.

Chair Vailas asked Ms. Carrier what staff would recommend to the Board. Ms. Carrier replied that staff understands SJH's desire to fit up the ASC ORs ahead of the CON approval but staff would prefer to review each project concurrently.

Chair Vailas invited representatives from St. Joseph Hospital to come forward for testimony. Ms. Kathy Cowette, Director of Planning, Melissa Sears, VP of Strategy and Business Development, and Mr. Andrew Eills, Esquire, Legal Counsel for St. Joseph Hospital came forward at this time. Attorney Eills gave a brief background on the facility. He stated that the SurgiCenter received a CON to build the facility several years ago. He stated that he believes the request is NSR as the cost is only \$796,000. Ms. Sears then stated that the hospital has an ownership stake in the SurgiCenter along with physician investors but it is a separate LLC. She added that the projects need to be kept separate for regulatory reasons. Ms. Sears explained that SJH is upgrading its ORs and will shift outpatient surgery volumes to the SurgiCenter during the construction process. The timing allows for seamless services for the patients. Ms. Cowette stated that the SurgiCenter has received CON approval for all 5 ORs and that all support services are designed to support 5 ORs. Ms. Grabowski asked for the current utilization in the hospital ORs. Ms. Cowette replied that there is a mix of inpatient and outpatient services in 4 rooms, but that it's about 60% inpatient and 40% outpatient. Dr. Miller questioned why all 5 ORs weren't fit up originally. Ms. Sears answered that SJH felt it was prudent to wait until need was established, which has now occurred. Mr. Wallace asked SJH to clarify what federal regulations they were referring to in their request. Ms. Sears responded that the Stark Laws require them to keep the two facilities and their staffing entirely separate. Mr. Wallace asked if their intent was to use 2 ORs for surgeries during Hospital construction. Ms. Sears stated yes. Dr. Miller asked how long the wait is until the public hearing on the pending application. Ms. Carrier answered that the 90-day formal review period was about to begin. Ms. Underwood asked if all 5 ORs were approved with the first CON and Attorney Eills responded that they were. Ms. Underwood then asked SJH if they would be doing this project if they weren't doing the hospital project. Ms. Sears responded yes, they would as the volumes justify it. Chair Vailas stated that the SJH project makes sense logistically and to delay it would be inconvenient and costly. Mr. Wallace stated that there would be no gain to delaying this project as it will still be NSR even if the Board waits until the acute care application in the HSPR office is reviewed.

Mr. Wojtkiewicz made a motion to approve the NSR request made by SJH SurgiCenter, LLC for the Fit-Up of 2 ORs at SJH SurgiCenter, LLC. Ms. Grabowski seconded the motion and all of the Board members voted in favor, unanimously approving this agenda item.

6. 2010 Nursing Home Bed Need Determination

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault explained that the annual Nursing Home bed need determination was included for Board consideration and review. She added that although some regions do show a need for additional beds, the nursing home moratorium remains in place through June 30, 2012. Ms. Thibeault stated that the report is for information purposes only.

Chair Vailas asked if anyone in the audience had any comments on the 2010 Nursing Home Bed Need Determination. Mr. John Poirier, President of the NH Health Care Association came forward at this time. Mr. Poirier stated that he had been on the HSPR Board subcommittee that reviewed the bed need formula. He stated that there is no need for 438 beds in Rockingham County as determined by the formula, as their utilization is flat or declining.

Mr. Wallace stated that in 1995 the moratorium and the current bed need formula were established, but that the industry has changed since then. He stated that the Board should revisit the issue of what the need formula should be and the work of the subcommittee.

Chair Vailas stated that the subcommittee should be re established as the moratorium window opens in 2 years. Mr. Wallace, Ms. Underwood, Mr. Wojtkiewicz and Mr. Chase agreed to serve on the subcommittee.

7. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, February 18, 2010.
- HSPR staff enclosed a "To Do" list of projects for the Board to consider for 2010.
- Some Board discussion ensued regarding the UHDDS Data Contract and HSPR funding of such. Chair Vailas asked Mr. Wallace to review and provide additional information at the next Board meeting.
- Ms. Carrier brought to the Board's attention notice that the Board was on a list for action by the Legislative Committee on Committees, with a survey due back to this body on 1/25/10. Mr. Wallace suggested that the Board respond with a letter documenting the current work of the HB234 study committee.

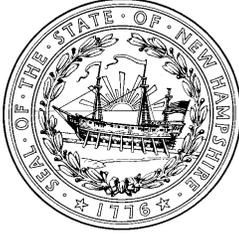
Mr. Wallace made a motion to adjourn the Board meeting at this time and the meeting was adjourned at approximately 11:25.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

February 18, 2010
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Chair Mr. Nicholas Vailas **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Nicholas Vailas, Chair, Mr. Robert Chase, Ms. Deb Grabowski, Mr. James Tollner, Ms. Lori Underwood, Mr. John Wallace and Mr. Scott Wojtkiewicz.

Excused: Ms. Constance Jones and Mr. Jack Stanton

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:30 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. Consent Agenda

- **Approve January 21, 2010 Board Meeting Minutes**

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault briefly stated that the minutes from the January 21, 2010 meeting needed to be approved. Chair Vailas then asked Board members if the consent agenda item required further discussion. If so, it would require removal from the consent agenda.

Mr. Chase then made a motion to accept the consent agenda. Mr. Wallace seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. DH Clinic – NSR for Medical Office Building (MOB), Nashua, NH - \$46,712,012

Discussion: By way of introduction, Ms. Carrier stated that the Board would now hear from Dartmouth Hitchcock representatives regarding their NSR petition for a Medical Office Building (MOB) in Nashua, NH with a total cost of \$46,712,012. The facility will be built on land already owned by Mary Hitchcock Memorial Hospital off Exit 8 of the Everett Turnpike. The building will

house 3 physician practices currently located in separate locations. Also included will be space for hematology and oncology, infusion, a patient clinic for DH patients, Community space and an Endoscopy suite, to be addressed as a separate petition in the next agenda item. She also stated that since some space will be allotted to laboratory, DH Clinic was asked and did provide a breakout of costs of such space. She stated that traditionally an MOB is not subject to CON review but that a condition is recommended that DH Clinic seek any additional NSR determinations or CON approval for any other additional licensed services that may be added to this facility in the future, as necessary in accordance with CON requirements.

At this time, Mr. David Doyle, Director of Facilities, DH Clinic, Mr. Andrew Eills, Attorney for DH Clinic, Mr. Craig Beck, DH Clinic and Ms. Christine Schon, VP of Operations, DH Clinic came forward to provide testimony. Ms. Schon gave a brief background on the project. She stated that Dartmouth would be combining two locations and making a state of the art facility.

Ms. Grabowski questioned whether the lab services being reviewed exceeded the threshold. Ms. Carrier clarified that DH identified the lab space separately to ensure it wouldn't be over the threshold. Ms. Grabowski then asked why Endoscopy Services were being reviewed separately and Ms. Carrier responded that DH asked to submit separate petitions since the endoscopy suite will be licensed as an ASC, which has a separate threshold. Mr. Tollner arrived to the meeting at this time and asked if the billing process would change; Ms. Schon responded that it would not.

Mr. Wallace made a motion to approve the NSR for Medical Office Building (MOB) in Nashua, NH for \$46,712,012 with a condition that the final cost invoice be provided. Mr. Tollner seconded the motion. All of the remaining Board members voted in favor of the motion, unanimously approving this agenda item.

3. DH Clinic – NSR to establish Endoscopy, Nashua, NH - \$1,787,988

Discussion: Representatives from DH remained seated at the testimony table for this agenda item.

Mr. Wallace voiced his concern of the project cost being just under the threshold and suggested that a condition be added to the approval that DH report the final construction costs. Ms. Underwood stated that the cost per s.f. is less than the rest of the MOB and asked the representatives to explain this. Mr. Doyle responded that the density of the clinical areas is greater and that the quality of the Endoscopy suite is almost equal to that of the clinical space.

Ms. Susan Palmer Terry spoke as a member of the public. She questioned the costs related to endoscopy. Chair Vailas stated that there would be a condition on the approval for the final costs to be submitted to the Board upon completion.

At this time, Mr. Wallace made a motion to approve the NSR request from DH Clinic to establish Endoscopy Services in Nashua, NH at a cost of \$1,787,988 with a condition that DH provide final project costs upon project completion. Mr. Tollner seconded the motion and all remaining Board members voted in favor of the motion passing this agenda item unanimously.

4. Review Acute Care Bed Need Formula - He Hea 1006.01

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that the Board should discuss a potential error on the Acute Care Bed Need formula, whereby the distinct part of psychiatric and rehabilitation units may have been overlooked when the formula was developed. He added that the Board needed to review this before any RFA can be issued. Ms. Carrier added to the introduction by stating that beds are considered hospital beds for licensing purposes, yet separate designated units for psychiatric and rehabilitation services fall under separate CON review. Therefore, it is unclear how to utilize the acute care bed need formula against these other need formulas. She added that a clarification could be added to the acute care rule to avoid confusion. She stated that it would stand to reason, even if the formula showed a need, that hospitals shouldn't be requesting beds if not using what they are currently licensed for. Most hospitals now are currently running at a 50 – 60% occupancy rate. Ms. Carrier finally stated that the Board could establish a subcommittee for this work.

Ms. Underwood stated that the Need formula is complicated since hospitals could convert beds back and forth. Mr. Wallace stated that he agreed with Ms. Underwood and added that licensed beds are well beyond the utilization. Ms. Erin Almeda, a member of the audience, spoke up and stated that she was chair of the acute care subcommittee and stated that Ms. Underwood was correct; hospitals can change beds at any time. She stated that if beds are serving a rehab need they should be counted as such but they could easily convert to acute care beds. Mr. Steve Marion stated that the calculation is done per bed unit, not averaged across the facility. Ms. Underwood added that the rule has no provision for a new hospital. Mr. Tollner asked the staff for their recommendation. Ms. Carrier stated that this could be done as a Board with each RFA and as long as the Board was comfortable with doing this through the RFA they could move forward. Mr. Marion stated that the Board could word it through the RFA and ask for letters of intent and if there were none submitted there would be no RFA. Chair Vailas stated he would like to take the staff's lead on this and come back as a Board.

Ms. Carrier stated that staff would work on it and bring back to the Board for approval.

5. Approve New HSPR Forms NSR (301A), Transfer of Ownership (301B), Implementation Report (305)

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that the Board packet included 3 proposed forms developed from the 2010 "To Do" list – 301A NSR, 301B Transfer of Ownership, 305 Implementation Report for Board consideration. She explained that forms 301A and 301B have been created from existing requirements in the rules (He-Hea 301) and do not require new information from petitioners. Form 305 seeks additional clarifying information on CON conditions, changes of scope and costs, in order to assist both the CON holder and HSPR staff with record keeping. She asked that the Board review and approve such forms for use and added that HSPR staff will engage any rulemaking requirements that may result.

Attorney Eills suggested indicating an effective date of transfer on the 301B form. Chair Vailas responded that there was no need to have an effective date. Ms. Almeda stated that she found DH Clinic's petitions easy to read; however they contained more information than in the past. She added that she found project benefits, alternatives, etc. not necessary. Chair Vailas noted that this information was provided voluntarily by the petitioner but was not required.

Mr. Tollner made a motion to approve the use of the new NSR 301A, Transfer of Ownership 301B and Implementation Report 305 forms developed by HSPR staff. Mr. Wojtkiewicz seconded the motion and all of the Board members voted in favor, unanimously approving this agenda item.

6. Other Administrative Business

- ❑ Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, March 18, 2010.
- ❑ Some Board discussion ensued regarding the UHDDS Data Contract and HSPR funding of such. Mr. Wallace updated the Board, stating that DHHS needed to reduce their budget by \$63 million next year and the plan is due to the Governor on March 4. He indicated that it would be best to put this off until the next budget cycle. He stated that he would get an idea on how often the data is used.
- ❑ Ms. Carrier brought to the Board's attention the need to name a vice chair. Mr. Wallace nominated Mr. Chase. Mr. Chase thought that Mr. Wojtkiewicz was more qualified. It was decided that Mr. Wojtkiewicz would be Vice Chair until his term was over and a new Vice Chair would be appointed in May.
- ❑ The LTC subcommittee will briefly meet immediately after this meeting.
- ❑ The next meeting of the HB234 study committee meets on March 5, 2010.
- ❑ Ms. Carrier announced that Dr. Miller has resigned from the Board.

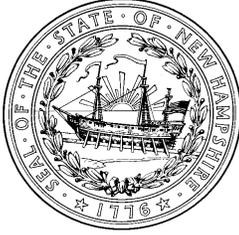
Mr. Chase made a motion to adjourn the Board meeting at this time. Mr. Wojtkiewicz seconded the motion and the meeting was adjourned at approximately 10:40.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

April 15, 2010
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Mr. Nicholas Vailas, Chair **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Nicholas Vailas, Chair, Mr. Robert Chase, Ms. Deb Grabowski, Ms. Constance Jones, Mr. Jack Stanton, Mr. James Tollner, Ms. Lori Underwood, Mr. John Wallace and Mr. Scott Wojtkiewicz.

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:30 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. Consent Agenda

- **Approve February 18, 2010 Board Meeting Minutes**
- **Androscoggin Valley Hospital, Home Health and Hospice Services, NSR Request for Relocation of Services**

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault briefly stated that the minutes from the February 18, 2010 meeting needed to be approved as well as the NSR request from Androscoggin Valley Hospital, Home Health and Hospice Services to relocate its services. Chair Vailas then asked Board members if the consent agenda items required further discussion. If so, they would require removal from the consent agenda.

Mr. Chase then made a motion to accept the consent agenda. Mr. Wojtkiewicz seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Determine April 1, 2010 Mobile MRI Services RFA Issuance

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault stated that the Board would need to determine the issuance of the April 1, 2010 Mobile MRI services RFA at this time. She added that the determination of this RFA was scheduled for the cancelled March

2010 Board meeting, and must be considered now. She stated that, to date, no letters of interest have been received, or any other need expressed in support of this RFA. Ms. Thibeault stated finally that HSPR staff requests that the Board affirm that no RFA for Mobile MRI Service will be issued at this time.

With no Board discussion, Mr. Chase made a motion to not issue the April 1, 2010 RFA for Mobile MRI services due to lack of interest. Mr. Wojtkiewicz seconded the motion. All Board members voted in favor of the motion.

3. Determine April 1, 2010 Ambulatory Surgical Centers RFA Issuance

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that the Board would need to determine the issuance of the April 1, 2010 Ambulatory Surgical Centers RFA at this time. He added that this RFA was also scheduled for consideration at the cancelled March 2010 Board meeting, and must be considered now. Mr. Peck informed the Board that to date, no letters of interest have been received, or any other need expressed in support of this RFA. He stated finally that HSPR staff requests that the Board affirm that no RFA for ambulatory surgical centers will be issued at this time.

At this time, Mr. Wojtkiewicz made a motion to not issue the April 1, 2010 RFA for Ambulatory Surgical Centers. Mr. Wallace seconded the motion and all Board members voted in favor of the motion passing this agenda item unanimously.

4. Determine May 1, 2010 MegaVoltage Radiation RFA Issuance

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault stated that pursuant to He-Hea 1603.01, the Board must determine need in order to issue an RFA for radiation therapy services effective May 1, 2010. She stated that letters of intent were due to this office by April 1, 2010; none have been received at this time. She informed the Board that HSPR staff's evaluation concerning the need formula for additional RT units was sent with the Board packet. She made note that Cheshire Medical Center of Keene, NH has exceeded the volume and treatment standard of 325 patients per machine and 6,500 procedures per machine. Ms. Thibeault then stated that the standard also requires that RT providers in the next closest service area in all directions average 7,000 treatments per machine in the most recent 12 months of operation; this is not the case with any other existing provider. She stated that based on the foregoing HSPR staff recommends that the RFA not be issued at this time.

Ms. Grabowski questioned what other services required formula based RFAs. Ms. Carrier explained that the Cardiac Catheterization, MRI, PET, and Inpatient Rehabilitation rules contained need formulas and explained that the moratorium is in place for long term care facilities.

At this time, Chair Vailas recognized a motion made by Mr. Chase that the May 1, 2010 MegaVoltage Radiation RFA not be issued based on lack of interest. Ms. Underwood seconded the motion and all Board members voted in favor of the motion.

5. Exeter NSR Request for Hospital Renovations, \$2,373,410

Discussion: Chair Vailas invited representatives from Exeter Hospital to the testimony table to present their NSR request. Mr. Mark Whitney, VP of Strategy and Mr. Rob Corson, Architect came forward at this time. Mr. Whitney thanked the Board and staff for their time and guidance with the request. He then gave a brief overview of the project stating that the hospital will relocate semi private beds to private within existing space. This will increase the number of private rooms from 13 to 22. Mr. Whitney explained that it was a small capital investment and it would take care of privacy and safety issues.

Mr. Wallace asked for the total licensed beds at the hospital. Mr. Whitney responded that Exeter is currently licensed for 100, of which 97 are in use. This project will make 22 private beds out of the 100, which will be staffed after the conversion. Mr. Wallace expressed concern for Exeter doing a project that could be a piece of a larger project in the future. Mr. Whitney responded that there is immediate need and available capital money. Ms. Grabowski questioned why the renovation cost of patient care space is only slightly more than the renovation of the office space. She asked if it was because of renovation occurring in existing space. Mr. Corson replied that it was due to density and phasing as well as life safety requirements. Mr. Tollner asked Exeter if they accepted the condition recommended by HSPR staff to submit a signed construction contract prior to commencement of the project. Mr. Whitney responded that Exeter Hospital does accept the condition.

Mr. Stanton arrived to the meeting at this time.

Ms. Carrier stated to the Board at this time that the cost of the project has been corrected from \$2,142,736 to \$2,373,410 due to calculation errors, and that the hospital has submitted documentation of the updated figures for the record.

Hearing no other discussion on this agenda item, Mr. Wojtkiewicz thus made a motion to approve the NSR request for hospital renovations totaling \$2,373,410 made by Exeter Hospital with the condition that the hospital submit the signed construction contract prior to commencement of the project. Mr. Tollner seconded the motion and all of the Board members voted in favor, unanimously approving this agenda item.

6. Public Hearing, Wentworth-Douglass Hospital CON AC 09-03, Construction/Renovation, \$54,965,380

Discussion: Chair Vailas invited representatives from Wentworth-Douglass Hospital to step forward to provide testimony. At this time, Mr. Gregory Walker, President & CEO, Ms. Karen McDonald, Nurse Director, Women and Childrens and CHaD, Mr. Peter Walcek, VP of Finance, and Mr. Jim Hageman, Architect, Leo A. Daly came forward. Mr. Walker gave a brief overview of the project being presented. He stated that WDH submitted an application in 2006 for a birth center that was approved in 2007; however, WDH did not proceed and the replacement unit is part of this project. He added that WDH then submitted an application a year later but withdrew due to the downturn in the economy. WDH submitted a downsized application this year without adding to licensed beds, only operating beds. He stated that WDH has planned new construction of a 4-story, 136,169 square foot addition and a 41,303 square foot renovation. The new addition will house a 32 bed Medical Surgical unit and support space on Level 3, and shell space for an additional 32 bed Medical Surgical unit on Level 4. Level 2 will contain a re-designed, 24 bed Women's and Children's Center of private LDRP beds, a surgical suite for C-section procedures,

and a Pediatrics inpatient unit with associated support space. Level 1 of the addition is reserved for an Education/Resource Center and will feature a library, patient resource center, auditorium, and conference space. He added that offices for Human Resources, Community Relations and Social Services would also be located in this addition. He explained to the Board that the renovation portion of the project entails the following:

- Conversion of the current Birth Center unit into a 24 bed medical/surgical unit with all private rooms
- Conversion of a current 22 bed unit for expansion and upgrade of Same Day Surgery and Endoscopy Units
- Upgrades for workflow purposes
- Conversion of a current 21 bed semi private Medical Surgical unit to a 16 bed private Medical Surgical unit
- Conversion of a current 23 bed semi private Medical Surgical unit to an 18 bed private unit

Mr. Walker went on to say that a 1,000 square foot addition to the hospital's free standing Central Utility Plant is also planned to provide the necessary infrastructure for the new addition and has been included with the total project cost. Two floors will also be added to the existing 2-level parking deck to accommodate an anticipated increase in parking needs; however, this is not included in this application because the Board determined in 2004 that the original parking deck was exempt from CON review

Mr. Hageman spoke about the floor plans. He stated that the 2nd floor of the addition will house a Women's and Children's center with plans to renovate existing space on the 2nd floor to the Medical Surgical units. The third floor of the addition will house a new 32-bed Medical Surgical unit. He pointed out that the 4th floor is shell space for a future 32-bed Medical Surgical Unit, which is important due to land constraints.

Mr. Wallace asked if the project has been bid out and Mr. Walker answered that it has not and it will not be for another 18 months. Mr. Wallace asked if C-sections are performed in the ORs. Mr. Hageman replied that the birthing suites would have an OR in it as current standards call for an OR to be within the birthing suite. Mr. Walcek then spoke to the financials. He stated that there has been a thaw in access to capital. He stated that the 2011 Bond market would be accessed. He stated that 1/3 of WDH's current long-term debt will be paid off when the project is completed. He explained that WDH has \$100 million in long-term debt currently but that 1/3 of that will soon expire. Mr. Wallace asked where WDH would end up financially. Mr. Walcek explained that WDH would be at \$85 million with \$55 million of increased debt. Mr. Wallace pointed to page 32 in the staff analysis and asked about the \$10 million in capital costs mentioned. Mr. Walcek replied that it was used for MME and some renovations. Mr. Wallace questioned the phasing of the project. Mr. Walker explained that the project will be done in 3 phases: first is the roadway, second is the garage expansion and third is the rest of the hospital project. Mr. Wallace stated that WDH has increased its market share in recent years and asked where the increase has come from. Mr. Walker replied that other hospitals are not losing volume and that WDH is growing quicker than other seacoast hospitals, but all are growing. Mr. Wallace then asked what changes would happen with National Healthcare Reform. Mr. Walker responded that it would likely increase utilization.

Chair Vailas questioned WDH's Medicaid/Medicare utilization percentages. Mr. Walcek replied that Medicare is at 40% and Medicaid at 8%. Ms. Grabowski asked if the hospital had affiliated medical practices. Mr. Walker responded that there are 90 providers (physicians and physicians assistants) and 2 primary care groups, the OBs are under an independent practice. Mr. Tollner

stated that he thought that WDH would take a big hit from Medicare with HealthCare Reform. He asked how WDH would handle this. Mr. Walker responded that WDH is below the average cost structure for NH hospitals. Mr. Tollner then asked what options WDH had in place depending on HealthCare Reform. Mr. Walker replied that WDH already reduced the project size. Mr. Tollner then asked what WDH plans to do if the CON isn't approved. Mr. Walker stated that WDH would then have to divert ambulances. Mr. Tollner asked what WDH would do if the Board only asked them to scale down the project. Mr. Walker responded that the top floor of the building would be taken away but pointed out that it would be more costly to add the space later. Mr. Tollner questioned whether there would be any changes in billing practices for lab or anything else. Mr. Walcek responded that there would not be.

Ms. Grabowski questioned the distance of the closest hospitals to WDH and their occupancy. Mr. Walker replied that Frisbie Memorial Hospital is about 7.5 miles and Portsmouth Regional Hospital is about 6 miles away. He wasn't aware of their occupancy. Chair Vailas asked if WDH had any concerns with competition. Mr. Walker replied that they realize the possibility.

Public testimony was received from Mr. Thomas McIntyre of the Bricklayers International Union, Mr. Thomas Fersey of the Laborers International Union and Mr. Shawn Cleary of the Iron Workers Union. Mr. McIntyre questioned whether WDH planned to mandate health care coverage for the construction workers on this project. Mr. Walker replied that it is an important issue, but that it is being handled through federal legislation; moreover, the Board previously decided not to mandate this. Mr. McIntyre then pointed out that contractors that provide health care need to reflect this in their bids; if the lowest bidder is hired, WDH is promoting cost shifting. Mr. Fersey added that if people don't have insurance, they cannot access the new facilities that are being built. Mr. Cleary reiterated that contractors who provide health coverage lose bids to those who don't. Public testimony was then received from State Representative John DeJoie. Rep. DeJoie stated that he spoke with Mr. Walker about having a meeting with the trade groups, and that Mr. Walker was receptive to doing this. Rep. DeJoie further stated that the hospital is a huge benefit to the community, and that providing health insurance is good social policy as well as good business. He also implored the Board to do whatever it could to assure that New Hampshire workers complete the project. In response to the public testimony, Mr. Walker stated that WDH doesn't always accept the lowest bids; it also looks at the experience and reputation of the companies. He also stated that the vast majority of the contractors WDH hires provide health insurance; however, there are numerous subcontractors and other companies involved. Furthermore, some employees elect not to take the health coverage that is offered.

Some Board discussion ensued at this time regarding requiring applicants to seek contractors who offer health insurance. Mr. Wallace stated that it is good public policy to require but the Board doesn't have the authority. Mr. Chase stated that he agrees and questioned whether the Board could require the hospital to report back on whether they hired a contractor who provides health coverage. Mr. Wallace suggested a condition to the CON that WDH report on a semi-annual basis on whether contractors and subcontractors for this project are providing health insurance to their employees. Chair Vailas directed HSPR staff to inquire to all CON projects currently in progress if their contractors provide health coverage.

After consideration and deliberation, a motion was made by Mr. Wallace and seconded by Mr. Chase to approve WDH's request for \$54,965,380 for an acute care facility construction/renovation project, with the conditions that WDH (1) provide documentation from its lender, underwriter or other source of capital, which includes the financed amount, rate of interest and terms of debt, along with updated financial projections and ratios should there be any significant changes in the terms of the debt which would affect the projections; and (2) report semi-annually on whether the

contractors and subcontractors for this project are providing health insurance to their employees. All nine Board members voted in favor of the motion. Thus, on a vote of 9 to 0 in favor of the motion, the project was approved with conditions.

7. Public Hearing, St. Joseph Hospital CON AC 09-04, OR Renovation, \$5,876,000

Discussion: Chair Vailas invited representatives from St. Joseph Hospital to come forward to provide testimony. Ms. Kathy Cowette, Director of Planning, Ms. Melissa Sears, Vice President of Strategy and Business Development, Dr. Sanjiv Patel, Anesthesiologist, OR Medical Director, Mr. Richard Plamondon, VP of Finance and Attorney Andrew Eills, Legal counsel for SJH came forward at this time. Ms. Sears provided background on the project. She stated that 60% of the project cost is for mechanical systems, e.g. heating and cooling, and 15% is for equipment upgrades for the ORs, e.g. ceiling mounted fixtures. She stated that the PACU (Post Anesthesia Care Unit) would also be upgraded. She explained that the project is renovation only, no expansion or addition. The facility was built in 1979 and does not meet current HIPAA regulations. Dr. Patel spoke to the privacy issues; he stated that the patient waiting area is small and is only closed off by a curtain, which leaves very little privacy. He explained that this is a major issue as there is no space for private conversations between doctors and patients. Ms. Cowette then went over the floor plans for the renovation.

Mr. Wallace asked as to the size of the current ORs. Ms. Cowette explained that they are 580 – 595 s.f. and added that SJH had originally planned to enlarge them but realized they did not need to. Chair Vailas stated that the minimum requirement is 400 s.f. per Medicare guidelines. Ms. Grabowski pointed out that SJH updated the OR times through the checklist and asked where the lengthier cases currently go. Ms. Sears replied that they are currently using the existing ORs and stated that they need flexibility to accommodate emergency surgeries. Mr. Tollner questioned whether the cost should be adjusted due to not enlarging the ORs as the application originally called for. Ms. Cowette stated that if SJH finds that to be true they would notify HSPR staff. Mr. Wallace stated that SJH currently has a 5th OR and asked about its use and location. Ms. Cowette stated that it is only used for minor surgeries and pointed it out on the floor plan. She added that it would be converted into a storage area. Mr. Wallace questioned how the project is going to be phased. Ms. Sears explained that all appropriate surgeries would be transferred to the SurgiCenter during the construction. She added that SJH will renovate 2 ORs at a time and that the majority of the renovation will occur before working on the ORs. Mr. Wallace asked why SJH needs 4 ORs in the future. Ms. Sears replied that SJH would need them in the future and for emergency cases. She stated that it would allow for more flexibility for elective cases.

Ms. Grabowski asked if SJH had any information on utilization of SNHMC's ORs. Ms. Sears stated that they do not have access to their data. Mr. Tollner then asked if HSPR staff had access to the data. Ms. Carrier replied that HSPR does not. Mr. Tollner suggested that the Board ask for this in the future. Ms. Carrier explained that the Board would need a regulatory change to do so. Ms. Sears stated that surgical robots increase turnover times. Mr. Tollner questioned whether there were any discussions about the effects of Healthcare Reform on this project. Ms. Sears explained that SJH is currently 41% Medicare and 3% Medicaid and there is a need for facilities and technology to handle volumes. She added that SJH will have to monitor staffing and other resources and will eventually have to do more with less. Ms. Underwood asked Ms. Sears to explain why 60% is for infrastructure. Ms. Sears explained that technology has changed; contractors will have to go into the ceilings and ductwork, etc. while maintaining a sterile OR suite and meeting JAACO and Medicare/Medicaid requirements.

Chair Vailas recommended that SJH try to use contractors that offer Health Insurance. He then recognized a motion made by Mr. Wojtkiewicz to approve CON 09-04 for St. Joseph Hospital for OR renovation with a total cost of \$5,876,000 with the condition that SJH report semi-annually on whether the contractors and subcontractors for the project are providing health insurance to their employees. Mr. Stanton seconded the motion and all nine Board members voted in favor of the motion. Thus, the project was approved with a condition.

8. Other Administrative Business

- ❑ Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, May 20, 2010.
- ❑ She informed the Board of the updated cost thresholds for 2010 included in their Board packets.
- ❑ The LTC subcommittee will meet immediately after this meeting.
- ❑ The next meeting of the HB234 study committee is Monday, April 19, 2010. At this time the Board is slated to sunset on June 30, 2011.

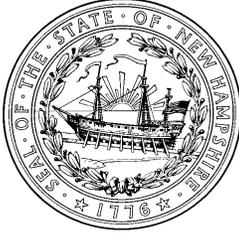
Mr. Tollner made a motion to adjourn the Board meeting at this time. Ms. Underwood seconded the motion and the meeting was adjourned at approximately 11:56 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

May 20, 2010
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Mr. Nicholas Vailas, Chair **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Nicholas Vailas, Chair, Mr. Robert Chase, Ms. Deb Grabowski, Ms. Constance Jones, Ms. Lori Underwood and Mr. John Wallace.

Excused: Mr. James Tollner

Absent: Mr. Jack Stanton and Mr. Scott Wojtkiewicz

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:30 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting.

1. Consent Agenda

- **Approve April 15, 2010 Board Meeting Minutes**
- **Approve Findings of Fact, Wentworth-Douglass Hospital AC CON 09-03, \$54,965,380**
- **Approve Findings of Fact, St. Joseph Hospital, AC CON 09-04, \$5,876,000**
- **LRGHealthcare, NSR Request for ASC Transfer of Ownership, Lakes Region Urology, PA**
- **Derry Health Care and Rehabilitation Center - NSR Request for Transfer of Ownership to Aurora Senior Living of Derry, LLC**

Discussion: Chair Vailas asked Mr. Peck to introduce the consent agenda items. Mr. Peck briefly stated that the minutes from the April 15, 2010 meeting needed to be approved as well as the Findings of Fact for Wentworth-Douglass Hospital, AC 09-03 for \$54,965,380, the Findings of Fact for St. Joseph Hospital, AC 09-04 for \$5,876,000, the NSR request from LRGHealthcare for ASC Transfer of Ownership, Lakes Region Urology, PA and the NSR request from Derry Health Care and Rehabilitation Center for the Transfer of Ownership to Aurora Senior Living of Derry, LLC.

Chair Vailas then asked Board members if the consent agenda items required further discussion. If so, they would require removal from the consent agenda.

Mr. Chase then made a motion to accept the consent agenda. Mr. Wallace seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Determine June 1, 2010 Mobile PET RFA Issuance

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault referred to the staff's evaluation that was enclosed in the Board packet regarding the issuance of this RFA. She stated that to date, no letters of interest have been received, nor any need expressed. Ms. Thibeault stated that, therefore, HSPR staff recommends that no RFA be issued effective June 1, 2010 until or unless any request is received by May 26, 2010 (allowing sufficient time for posting of the public notice).

With no Board discussion, Mr. Chase made a motion to not issue the June 1, 2010 RFA for Mobile PET services due to lack of interest. Ms. Underwood seconded the motion. All Board members voted in favor of the motion.

3. Determination of June 1, 2010 Acute Care Bed Need – He-Hea 1006.01

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck reminded the Board that this issue was discussed at the Board's February 2010 meeting to determine the best calculation for beds, as acute care hospitals utilize one license capacity that may involve DPU (distinct part units) for psychiatric and physical rehabilitation beds. He stated that the Board, however, has separate regulations and need formulas for these bed types.

He stated that according to He-Hea 1006.01 (d), the Board must make a determination of unmet need for acute care beds on June 1st of each year. It is appropriate to make such determination at this Board meeting – should any RFA be issued, it would be effective August 1, in accordance with He-Hea 1008.01. On the basis of discussion at the previous meeting, HSPR staff presents 3 scenarios for bed need determination: one excluding DPU and including CAH (critical access hospitals), one including DPU and CAH beds, and one including DPU beds and excluding CAH beds. Discussions have indicated that the most appropriate formula is one that does not distinguish between acute care beds and DPU beds, but does include the CAH adjustment (the second formula). This would result in a net need of 253 beds statewide. He stated that HSPR staff requested staffed bed figures from the NH Hospital Association and have since received calculations from them showing 91% of acute care beds in NH are staffed. HSPR staff recommended (1) that the Board accept the second need formula as presented; and (2) discuss whether an RFA should be issued, based upon the formula and the utilization rates.

Mr. Wallace questioned the legality of keeping Critical Access Hospital (CAH) beds in the inventory. Mr. Wallace asked if the beds would have to be given up or just the license for the beds. Mr. Peck clarified that only the license for the beds is given up. Mr. Henry Lipman stated that Franklin Regional Hospital is a CAH and clarified that the intent was not to remove the potential use of the previously licensed beds and stated that FRH's CAH status is unviable without having those beds. Mr. Wallace asked if CAH was discussed in the acute care subcommittee. From the audience, Ms. Almeda stated that she was the chair for the acute care subcommittee and that they looked equally at all licensed beds. She stated that to meet federal regulations the facility has to

be operating at 25 beds. Ms. Carrier clarified that if a facility drops CAH status, the beds can be put back into use.

Chair Vailas asked Ms. Carrier to research the legality of keeping the CAH beds in the inventory, moving them around, etc. Ms. Grabowski questioned when the 2.5/1,000 standard was developed and Ms. Carrier responded April 2009. Ms. Grabowski then asked if it was valid and current and Ms. Carrier replied that it was.

After the conclusion of discussion, no further action was taken on this agenda item pending the status of HSPR research into CAH beds.

4. Presentation of Cardiac Catheterization Data Analysis

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault presented HSPR's analysis of the Cardiac Catheterization data it annually collects from hospitals. She stated that this year the analysis was done a little differently than in the past. She stated that there are 4 ICD-9 codes that could be eliminated as they are rarely reported and some other more popular codes that are increasingly being reported. Ms. Thibeault suggested that the Board change the code requirements via an amendment to the rule for data collection.

Mr. Wallace asked how the coding is done. From the audience, Ms. Susan Palmer Terry stated that some caths could have multiple procedures. Chair Vailas stated that the Board needed to decide what the goal is of collecting the cardiac cath data. Attorney Andrew Eills stated that the new ICD-10 codes may shed more light on this and may provide more information on the procedures that are being done. Ms. Palmer Terry added that the data collection was intended for future rulemaking. Mr. Wallace mentioned that it is interesting to look at the volumes at the various hospitals. From the audience, Mr. Henry Lipman stated that LRGH has discontinued doing caths due to the low volumes. Ms. Erin Almeda stated that the standard was relaxed to no longer require on-site cardiac surgery. Mr. Wallace stated that the Board has the ability to set a volume standard. Ms. Grabowski questioned how the codes were chosen. Ms. Almeda replied that 37.21, .22 and .23 were diagnostic cath codes and 36.01, .02, .05, and .09 are interventional but these codes are obsolete now. The codes used now are 36.06, which is non-drug eluding and 36.07 for drug eluding. Ms. Grabowski then stated that she felt it wasn't necessary to collect data just to collect it but if it could be collected for a purpose then HSPR should continue to do so. She then suggested that HSPR staff gather more information and bring it back to the Board for a recommendation. Mr. Wallace stated that it would be nice to have a dialogue to see what data is relevant and what codes are relevant as well.

Chair Vailas made a motion at this time, to amend the rule to drop the data collection requirement. Ms. Jones seconded the motion. The motion passed with 4 members voting in favor of the motion and Ms. Grabowski and Mr. Wallace voting against the motion.

5. Follow up Discussion – Acute Care Projects and Contractor Health Care Insurance

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that, as directed by the Board, HSPR staff sent a letter to those CON holders of open projects seeking a response as to whether their facility has hired, or intends to hire, contractors and subcontractors who provide health insurance to their employees. A total of 15 facilities were contacted. She stated that, as also directed by the Board, HSPR staff contacted legal counsel of

the NH Attorney General's office to determine whether the Board has legal authority to require a hospital to hire contractors that provide health insurance to their employees for construction projects. The AG responded and stated that the Board **does not** have such authority, and that the actual construction is beyond the Board's purview. She stated that HSPR staff provided a summary of the responses to the Board this morning. Ms. Carrier finally stated, therefore, it appears that there can be no further action taken on this issue.

Chair Vailas stated that it's clear that the Board does not have the authority to require Health Insurance for contractors. Ms. Underwood questioned if the responses can be brought to the study committee. Ms. Carrier stated they could. Ms. Grabowski reminded the Board that the two acute care applications that were approved at the April Board meeting have conditions attached to them requiring them to report on whether the contractors for the projects provide health insurance. She then made a motion that since the Board has no authority to require contractors to provide health insurance the conditions from WDH AC 09-03 and SJH AC 09-04 be removed. Mr. Chase seconded the motion and all Board members voted unanimously in favor of the motion.

6. Board Discussion – CON Review of Leased Diagnostic and Therapeutic Equipment

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier referred to the enclosed Wall Street Journal (WSJ) article regarding use of the da Vinci robot at Wentworth-Douglass Hospital. She stated that Board member Wallace has asked that the Board discuss the issue of CON review for diagnostic or therapeutic equipment when an operating lease is involved. Traditionally, the Board has not considered a CON necessary for equipment that is leased, although the statute does provide for such authority to determine otherwise. She indicated that such issue should be a discussion point for the Board at this time. She also referred to the current statutory language of RSA 151-C:5, II (d) which speaks to the purchase, **lease**, donation, transfer, or other comparable arrangement of diagnostic or therapeutic equipment **for which the cost of** or, in the case of donation, the value is in excess of \$400,000. She noted that HSPR staff is aware of some hospitals that have acquired, presumably via operating lease, these particular units. The Board has reviewed only one unit, and that was as a Not Subject to Review (NSR) determination; Elliot Hospital acquired a unit via **capital lease** in June 2008. At that meeting the Board agreed with Elliot's assertion that this unit was "substantially similar" to equipment already owned and operated by Elliot. Cost of this unit was \$1,600,000. Ms. Carrier pointed out that in its evaluation, however, HSPR staff could not conclusively state that such new proposed equipment was substantially similar to that previously owned, and questioned whether such unit should be subject to CON review and rules promulgated to regulate such.

Mr. Wallace stated that the issues raised in the WSJ article raise questions regarding CON review and the authority of the Board to regulate such equipment to ensure quality and access. Chair Vailas responded that the issue is already a "done deal" that the Board cannot control. Mr. Wallace stated that regardless the Board should be reviewing these acquisitions; this is a legislated responsibility that the Board should comply with. Discussion then ensued on the Board's ability to review existing equipment that has been acquired without CON review, and whether to regulate such equipment now. Mr. Chase stated that the Board could not correct the past but could review future technology; the question, however, is whether the Board should be involved in such reviews. While the Board could influence the issue of quality through review, can it completely control quality? Further discussion ensued, and then Chair Vailas asked for some comment from interested audience members.

Mr. Stephen Marion, formerly of the Board and with Mary Hitchcock Memorial Hospital, stated that it makes sense for a hospital to acquire equipment via a lease and not as a purchase when lower volumes are initially involved. Hospitals often acquire equipment because patients ask for such, but issues of training and quality must also be considered. A lease is a viable option for hospitals. Chair Vailas commented that the Board should not “go down the road” on this issue as this type of CON review does not bring down the cost of health care. He stated that the NH Legislature is currently looking at the CON process and the issue should be reviewed as part of that review. Mr. Henry Lipman, of LRGH and Franklin Regional Hospital, stated that the current \$400,000 statutory limit was established as a benchmark for public safety. Attorney Lucy Hodder reminded the Board that it found that the Elliot acquisition of the da Vinci was “substantially similar” per the statutory provision, and thus cleared the way for such future acquisitions in this manner. Ms. Susan Palmer Terry stated that the Board specifically regulates cardiac surgery, and limits the number of providers and ensures volume so that quality can be maintained. She added that there are only 4 programs in the state. Such surgery would likely be more expensive if performed in many other areas around the state. Chair Vailas then responded that if the Board is going to go down that road it should be reviewing all equipment, not just the da Vinci robot mentioned in the WSJ article, and that this would not be a worthwhile effort. Chair Vailas then stated that there is a \$60,000 charge difference between these 4 cardiac programs, and that there is no difference in health care costs as a result of limiting the number of providers.

Mr. Wallace stated that the responsibility for equipment review rests in the current statute and that the da Vinci is only an example of the type of equipment that should be reviewed. Whether Board members agree or not about equipment regulation, the statute requires such regulation. Ms. Grabowski stated that she does agree with Mr. Wallace and that high cost and high-risk equipment should be reviewed. Mr. Chase commented that he sees both sides and that the Board should consider further consideration of this issue. Mr. Wallace reiterated that the statute authorizes the Board to review equipment, leased or not. Mr. Vailas responded again that the issue should be dealt with in the Legislature with the CON study committee and asked Ms. Carrier whether she was attending these meetings to bring such issues to this group. Ms. Carrier responded that she does attend such meetings and that any Board member can also attend the meetings.

Ms. Jones stated that this is a case of people operating machines for surgery and questioned the regulation of the Board, since the Board does not regulate surgeons and resulting surgeries. She added that the problem appears to be with the people operating the machine and not the machine itself. Mr. Wallace responded that the issue here is one of statutory requirement – minimum volumes to ensure quality can be written into rules regulating equipment. The Board up to this point has said that it doesn’t care about regulating equipment, but that doesn’t mean it shouldn’t be in the business of regulating such. Mr. Chase commented that the question is whether the Board should or shouldn’t be doing more. Further discussion ensued. Chair Vailas finally stated that the issue had been fully discussed and that no further action was required by the Board. He then requested that the meeting move onto the next agenda item.

7. Other Administrative Business

- ❑ Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, June 17, 2010.
- ❑ The Board’s LTC Subcommittee will meet immediately following this Board meeting.
- ❑ The next meeting of the HB234 study committee is scheduled for 10:00 a.m. on June 14, 2010.

Mr. Wallace made a motion to adjourn the Board meeting at this time. Ms. Underwood seconded the motion and the meeting was adjourned at approximately 11:00 a.m.

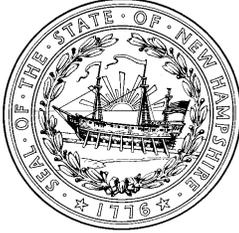
Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



June 17, 2010
9:30 a.m.
Board Meeting

Merrimack County Nursing Home
325 Daniel Webster Hwy
Boscawen, NH 03303

Meeting called by: Mr. Nicholas Vailas, Chair **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Nicholas Vailas, Chair, Mr. Robert Chase, Ms. Deb Grabowski, Ms. Lori Underwood, Mr. John Wallace and Mr. Scott Wojtkiewicz.

Excused: Ms. Constance Jones, Mr. James Tollner

Absent: Mr. Jack Stanton

Staff Members: Ms. Cindy Carrier, Ms. Angel McFetridge, Mr. Jeffery Peck and Ms. Patty Thibeault

Chair Vailas opened the meeting at 9:39 a.m.

Ms. Carrier conducted a general swearing-in of audience members planning to testify at the meeting. She also directed the audience to the handouts on the table in the rear of the room as HSPR provided copies of items in the Board packet as well as directions for Estudio users.

1. Consent Agenda

- **Approve May 20, 2010 Board Meeting Minutes**
- **HCA - Portsmouth Regional Hospital – NSR for Cardiac Catheterization Equipment Replacement, \$1,440,373**

Discussion: Chair Vailas asked Ms. Thibeault to introduce the consent agenda items. Ms. Thibeault briefly stated that the minutes from the May 20, 2010 meeting needed to be approved as well as the NSR request from HCA-Portsmouth Regional Hospital for Cardiac Catheterization equipment replacement in the amount of \$1,440,373. Chair Vailas then asked Board members if the consent agenda items required further discussion. If so, they would require removal from the consent agenda.

Mr. Wojtkiewicz then made a motion to accept the consent agenda. Mr. Chase seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Capital Orthopaedic Surgery Center, LLC – NSR for Ambulatory Surgery Center in Derry, NH \$559,816 (equipment only)

Discussion: Mr. Carl Moskey, Administrator and Ms. Erin Almeda came forward to provide testimony on this agenda item. Chair Vailas then asked Mr. Peck to introduce this agenda item. Mr. Peck stated that a request was received from Capital Orthopaedic Surgery Center (OSC) in Derry, NH. He went on to say that, according to the requestor, the facility would be owned by Tsienneto Fourteen Development, LLC and constructed to the specification of OSC, which will then lease the space for ambulatory surgical use. Capital costs included in the request are for equipment, of which no single piece exceeds the statutory amount of \$400,000. The requestor would accept a condition to the NSR, if approved, that prior to construction a copy of the signed lease be submitted for verification.

Mr. Peck informed the Board that Staff notes that other NSR requests have been submitted and approved for lease and fit up of facilities for health care use and thus this request can be considered eligible for approval.

After brief Board discussion concerning facility leases, Mr. Wojtkiewicz made a motion to approve the NSR request made by Capital Orthopaedic Surgery Center, LLC for an ambulatory surgery center in Derry, NH at a cost of \$559,816 for equipment only. Mr. Chase seconded the motion. All Board members voted in favor of the motion.

3. Approve Initial Proposal Rule He-Hea 1102.04 Repeal

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that the Initial Proposal of rule He-Hea 1102.04 was enclosed in the Board packet showing a repeal of this rule section for Cardiac Catheterization Data Collection. She reminded the Board that the Board voted at the May 20, 2010 meeting to drop this requirement from the rules. She stated that, in order to enter the rulemaking process, the Board must vote to approve this initial proposal of the rule.

Mr. Wallace questioned the data reporting requirement and whether certain codes were not getting reported. He also asked if there was any other way of collecting the data. Ms. Carrier responded that HSPR staff has always collected the data but that the short staffing in the recent past has made HSPR unable to present this to the Board. She stated that language could be added to the rule to show the purpose of data collection if the rule were to be retained.

Chair Vailas questioned whether or not there was a cost to submit or receive data. Ms. Thibeault replied that there wasn't.

After no further Board discussion, Mr. Chase made a motion to approve the initial proposal of Rule He-Hea 1102.04 repealing the cardiac Catheterization data collection. Ms. Underwood seconded the motion. All Board members voted in favor of the motion.

4. Determine Issuance of Fixed Unit MRI RFA (He-Hea 600)

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault stated that HSPR has received a request from Frisbie Memorial Hospital (FMH) seeking the issuance of an RFA for Fixed Unit MRI Services. She reminded the Board that no licensed facility may apply

for a fixed unit until it has been making either 1500 referrals to a mobile vendor within the preceding 12 calendar months, or can demonstrate a minimum of 1000 scans per year (He-Hea 605.01 (a)). She stated that FMH indicates a 2009 total of 2,745 scans and HSPR data shows 2,634 scans; therefore, HSPR staff concludes that FMH has proven the regulatory minimum requirement in order to initiate an RFA. Thus, on the basis of this data, the Board can find that need exists to issue an RFA for fixed MRI services pursuant to RSA 151-C:8, I and He-Hea 608.01. Such RFA will apply statewide, and any other interested parties may also file an application if so desired. HSPR staff suggests that the RFA be effective June 25, 2010 in order to allow time for notice and posting, as required by RSA 151-C:8, II and He-Hea 301.03.

Attorney Andrew Eills, representing FMH, stated that he had data to support the RFA issuance.

At this time, Chair Vailas recognized a motion made by Mr. Wojtkiewicz to issue the Fixed MRI Services RFA based on the letter of intent furnished by Frisbie Memorial Hospital. Mr. Wallace seconded the motion and all Board members voted in favor of the motion.

5. Presentation of MRI Data Analysis

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. She stated that HSPR staff presents its analysis of the Fixed and Mobile MRI data it annually collects from licensed facilities and vendors at this time. Ms. Thibeault stated that 7 out of 28 mobile providers reported charge data, and that data would be collected differently next year in order to maintain uniformity between mobile and fixed providers.

Mr. Wallace noticed a high range in costs. He suggested that the data be reported on the same basis by everyone. He suggested looking at the outliers to see how it is being reported and verify accuracy. Chair Vailas stated that there may be a charge for interpretation fee and this should be included as well. He added that cost shifting occurs as well. Ms. Grabowski stated that clear guidelines for data reporting needed to be developed. Chair Vailas stated that the Board needed to look at the goal of collecting the data. Mr. Wallace stated that a standard is in place so the Board needs to know the number of procedures. Chair Vailas stated that the Board doesn't oversee CT scans any longer and added that MRI's are equally common now. He then asked Staff if it was meaningful for the Board to oversee MRI. Mr. Wallace stated that there are issues with cumulative exposure to radiation. He stated that DHHS has a statute to collect data and this could be invoked to get more data, e.g. from the doctor's offices, etc. Chair Vailas stated that the Board needs to look at the data collection and decide what to do.

No Board action was taken on this agenda item.

6. Follow up discussion – Determination of June 1, 2010 Acute Care Bed Need (He-Hea 1006.01)

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that the acute care need determination returns to the agenda as a follow up discussion. Ms. Carrier informed the Board that HSPR had received a legal response from the Attorney General regarding the authority to hold Critical Access Hospital (CAH) beds. She added that Staff notes that the CAH beds were included in the use rate calculation from He-Hea 1006.01 (a). She stated that Staff now requests that the Board accept the need determination enclosed in the Board packet, and also discuss whether the current staffed bed to licensed bed ratio warrants the issuance of an RFA for acute care beds or not.

Mr. Wallace stated that many facilities are operating with fewer beds than they're licensed for and suggested the Board re-visit the formula. He added that he isn't aware of any bed issues at the hospitals and stated his uncertainty of the value of the construction/renovation RFA. Mr. Chase then suggested that staff should remove CAH hospitals as they show the ratio of staffed/licensed beds. Ms. Underwood explained how CAHs are licensed and the requirements to qualify for CAH status. Mr. Wallace clarified that reimbursement methods are different between nursing homes and hospitals. Ms. Underwood stated that staffed beds doesn't necessary reflect total utilization. From the audience, Ms. Almeda stated that the formula projects 5 years out and pointed out that the need shown is for 2015. She went on to say that in an application, an applicant would have to prove occupancy and Average Daily Census (ADC) of its beds. Mr. Wallace asked if the standard required certain utilization. Ms. Almeda responded that it did, (ADC + confidence interval); this would be reported in the application. Chair Vailas stated that there has been an evolution in outpatient care and pointed out that beds may not be a meaningful way to look at hospitals now. He suggested looking at other states to see what standards are in place for hospitals and looking at whether beds are a major factor.

At this time, Mr. Wallace made a motion to approve the Acute Care Bed Need formula and Mr. Wojtkiewicz seconded the motion. All Board members voted in favor thus, unanimously approving the motion. Mr. Wallace also made a motion to not issue the bed need RFA. Mr. Wojtkiewicz seconded the motion and all Board members voted unanimously for the motion.

7. Determine Issuance of August 1, 2010 Acute Care RFA (He-Hea 1005.01)

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. He stated that HSPR staff is presenting this agenda item at this meeting, in the event the Board does not meet in July 2010. In order to support a finding of need to issue this RFA, letters of intent must be received by providers indicating potential submission of an application for construction/renovation projects in excess of \$2,712,471. Following our customary procedure, HSPR staff mailed a notice to all hospital administrators requesting a Letter of Intent for any contemplated acute care projects. In addition, a notice has been sent to the electronic mailing list. Mr. Peck informed the Board that Alice Peck Day Hospital has submitted a letter of intent and this provides a basis of need to issue an RFA on 8/1/10.

With no Board discussion on this agenda item, Mr. Wallace made a motion to issue the August 1, 2010 Acute Care RFA based on the letter of intent from Alice Peck Day Hospital. Mr. Chase seconded the motion and all Board members voted in favor.

8. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, July 15, 2010. HSPR staff will be unavailable for this meeting – she suggested, therefore, that the Board not meet in July and wait until August for its next meeting. Mr. Wallace made a motion to not meet in July and meet next in August. Mr. Wojtkiewicz seconded this motion. All Board members voted in favor.
- The Board's LTC Subcommittee will meet immediately following this Board meeting.
- The next meeting of the HB234 study committee is scheduled for 11:00 a.m. on September 20, 2010.

Mr. Wojtkiewicz made a motion to adjourn the Board meeting at this time. Mr. Chase seconded the motion and the meeting was adjourned at approximately 10:38 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date