

HEALTH SERVICES PLANNING AND REVIEW



June 18, 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, Chair Nicholas Vailas, Mr. John Wallace and Mr. Scott Wojtkiewicz

Absent: Mr. James Tollner

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

Chair Vailas opened the meeting at 9:35 a.m.

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

1. Consent Agenda

- **Approve May 21, 2009 Board Meeting Minutes**
- **Findings of Fact – Elliot Hospital, AC 08-05, Londonderry MOB Phase III Construction for Radiation Therapy Services, \$6,051,979**

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault briefly stated that the minutes from the May 21, 2009 meeting were complete and needed to be approved, as well as the findings of fact for Elliot Hospital, AC 08-05 which was approved at the 5/21/09 Board meeting. Ms. Thibeault 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. Stanton seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Determination of the July 1, 2009 Inpatient Rehab Bed Need

Discussion: Ms. Thibeault introduced this agenda item. She referred to HSPR staff's presentation of the Inpatient Rehabilitation bed need formula for the determination of bed need. She stated that the moratorium on such beds extends to 6/30/09, and that a bill is working its way through the Legislature to continue this to 2012 (HB113). HSPR has performed the calculation regardless, in keeping with the regulatory requirement, and provides this as information only. She stated that the inclusion of Crotched Mountain into the analysis has been established for discussion purposes, and the analysis shows the calculation both with and without. No formal action is required by the Board on this agenda item.

Ms. Grabowski asked if occupancy was considered in the calculation. Ms. Carrier replied that it was not, that only population was factored in due to the formula established by the He-Hea 700 rule. Mr. Wallace stated that the Board should discuss where Crotched Mountain fits and the potential of including it in the future. Ms. Almeda questioned if they are not included in this inventory and wanted to add beds, under what RFA would they do so. Ms. Carrier stated that they are billed as a specialty hospital as per licensure. Mr. Wallace responded that they aren't enough like other rehab hospitals to be included. Chair Vailas suggested that if and when an RFA is to be issued than Crotched Mountain should come and explain what they do before the Board.

Ms. Catherine Devaney from HealthSouth asked to be recognized from the audience and stated that her communication with Crotched Mountain has been confusing. She stated that they have said that they do not accept patients of that nature and then she received marketing materials stating otherwise.

After some Board discussion, Chair Vailas stated that the Board would invite Crotched Mountain to a Board meeting to speak and clarify their business as it relates to rehabilitation.

3. Determine Issuance of the August 1, 2009 Acute Care RFA

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. He stated that HSPR staff sent notification of the August 1, 2009 Acute care RFA to all of the hospitals and to the electronic mail list requesting letters of intent. He stated that 4 letters have been received, and based on the letters of intent received HSPR staff would recommend the Acute Care RFA for August 1, 2009 be issued.

Ms. Almeda made a motion to issue the August 1, 2009 acute care RFA based on the letters of intent received. Ms. Wojtkiewicz seconded the motion and all of the Board members voted in favor. Thus, the August 1, 2009 RFA for Acute Care will be issued.

4. Catholic Medical Center – Change of Scope for AC 06-03, \$1,090,000 Lab

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that a letter was submitted to withdraw the request by CMC for the purchase of lab equipment. She stated that CMC intends to make some changes and resubmit the change of scope request.

Chair Vailas welcomed Ms. Lisa Drouse from Catholic Medical Center to come forward and speak to the withdrawal of the change of scope request. Ms. Drouse stated that CMC will be using the

former inpatient lab space for pathology and plans to combine this and the lab equipment purchase into one change of scope request and resubmit it to the Board at a later date.

Chair Vailas asked Ms. Drouse the status of the current project. Ms. Drouse replied that at this point CMC is just doing drawings.

Board discussion ensued regarding requirements for changes of scope and tightening up the rules. It was determined that this would be an item for good discussion before the HB234 study committee.

No Board action was required for this agenda item.

5. Other Administrative Business

- Ms. Carrier stated that the next meetings of the Board are scheduled for Thursday, July 16, 2009 and August 20, 2009 and asked the Board to decide if they wanted to skip the July meeting and hold the August meeting only. The Board decided to hold only the August meeting.
- House Bill 234 has been signed and is waiting for a committee to be established and meetings to be scheduled.
- The Littleton Regional Hospital Fixed MRI application has been handed out for the Board to take home and review.

Mr. Wallace then made a motion to adjourn the meeting. Ms. Almeda seconded the motion; all Board members voted in favor and the meeting was adjourned at approximately 10:07.

Signature: _____

Nicholas Vailas
Board Chair

Approved by
HSPR Board: _____

Date

HEALTH SERVICES PLANNING AND REVIEW



May 26, 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. 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 9:28 a.m.

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

1. Consent Agenda

- **Approve April 16, 2009 Board Meeting Minutes**
- **Findings of Fact – Littleton Regional Hospital, AC 08-04, Construction/Renovation, \$6,329,749**
- **Salemhaven, Inc., DBA/Silverthorne Adult Day Care Center – Remodeling Project, \$461,665**

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck briefly stated that the minutes from the March 19, 2009 meeting were complete and needed to be approved, as well as the findings of fact for Littleton Regional Hospital, AC 08-04 which was approved at the 4/16/09 Board meeting. In addition, Silverthorne Adult Day Care Center has submitted an NSR request for a remodeling project totaling \$461,665. Mr. Peck 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. Ms. Almeda seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Determine Issuance of the June 1, 2009 Mobile PET Services RFA

Discussion: Mr. Peck introduced this agenda item. He stated that time has been allotted at this meeting to receive any testimony in support of the need/interest to issue this RFA. Mr. Peck added that to date, no letters of interest have not been received, nor any need expressed. He stated that therefore, staff recommends that no RFA be issued effective June 1, 2009 until or unless any request is received by May 29, 2009 (allowing sufficient time for posting of the public notice).

Mr. Wallace made a motion to not issue the June 1, 2009 Mobile PET Services RFA due to lack of interest. Ms. Almeda seconded the motion. All Board members voted in favor of the motion; thus no RFA for Mobile PET Therapy services will be issued.

3. Wentworth-Douglass, AC 08-03, Construction/Renovation, \$67,364,000 – Withdrawal of Application

Discussion: Chair Vailas asked if there were any representatives present from Wentworth-Douglas Hospital (WDH) to speak on the matter. Mr. Craig Whitney, VP of Planning and Development came forward to speak. Dr. Miller asked for the basis of the project withdrawal. Mr. Whitney responded that the president of WDH, Mr. Gregory Walker, had submitted a letter outlining the reasons for withdrawal, and briefly went over the reasons for the Board, stating that the uncertainty in the bond markets and the cost of financing is a huge factor. He stated that WDH is withdrawing their application at this time and will be following the economic situation closely and may submit something at a later date. Dr. Miller asked him if this is a cancellation or a postponement. Mr. Whitney responded that it is definitely a postponement. Chair Vailas asked staff if WDH resurrected the project, would it need to go through the entire CON process again. Ms. Carrier responded yes, but that WDH has all the components in place to resubmit the application with only minor updates.

No action was necessary for this agenda item; Ms. Carrier explained that it had been placed on the agenda for informational purposes.

4. Public Hearing – Elliot Hospital, AC 08-05, Londonderry MOB Phase III Construction for Radiation Therapy Services, \$6,051,979

Discussion: At this time, Chair Vailas invited representatives for the Elliot Hospital to come forward and present.

Presenters included Dr. Rick Phelps, EVP, Chief of Clinical Operations, Dr. Gregory Baxter, VP of Medical Affairs, Dr. Andrea McKee, MD, Medical Director Radiation Oncology, Mr. Rick Elwell, SVP and Chief Financial Officer, Mr. Dick Anagnost, Anagnost Companies, Mr. Adam Wagner, AIA, Cube 3, Attorney Jim Bianco and Attorney Bob Best.

Mr. Tollner arrived to the meeting at this time.

Dr. Phelps spoke first and provided some background on Elliot's cancer program and the collaborative relationship between Elliot, Dana Farber and NH Hematology Oncology. He touched on access issues at the hospital campus. Dr. Baxter provided some additional background on access issues, parking problems and the effects of having services in different buildings. He stated that Elliot needed to move the helipad to meet FAA regulations. He briefly addressed the

congestion issues that the Elliot Hospital is experiencing. Dr. McKee described the course of radiation treatments and the ways that Elliot is trying to make this easier for their patients. She described some patient experiences and treatment methods. She highlighted traveling times and expenses and how Elliot wants to eliminate that stress to already overwhelmed patients. Chair Vailas stated that most radiation therapy business is in southern NH and asked if patients drove by other oncology centers. Dr. McKee stated that many patients need specific treatments. Chair Vailas then stated that there are 7 hospitals surrounding Manchester that all offer RT services. Dr. McKee responded that some patients need stereotactic treatment or other specialized treatment. Discussion between the Board and Elliot representatives ensued regarding other treatment facilities, the service area and travel times and how the approval of this application would minimize travel times and expenses for some patients. Mr. Tollner spoke briefly about operating costs increasing and asked whether it was going to be passed onto the patient. Mr. Elwell replied that this project would not affect patient costs.

Mr. Elwell spoke next and stated that the Elliot hospital is not bringing in a new service but merely relocating a part of an existing service. He stated that the construction estimate was 20% less than Marshall and Swift. He stated that the project is being funded through existing resources. He stated that the existing unit is fully depreciated and that there would be an 11 % cost increase for the new unit and a 3 % cost increase without depreciation. He stated that Elliot would need to replace the existing unit in the near future anyway.

Mr. Anagnost presented the site plans for the Londonderry facility. He went over the floor plans for phase III of construction of the project. He stated that phase III is utility ready, padded and the landscaping is complete. He added that the building will be a Green Building and that timing is good for getting favorable pricing and that the major construction costs were absorbed through phases 1 and 2 of construction.

Mr. Wagner spoke briefly and stated that the building is consistent with the surrounding neighborhood and that the materials will be very durable. He stated that the metal roof would last 50 – 75 years.

Mr. Elwell stated that there would be no increase in patient charges, fee schedules and payment rates. Mr. Tollner asked if there would be any difference in the patient's experience. Dr. McKee responded that the patient will have a better experience as their doctors will all be at the same site, as well as their lab work and patient records. Mr. Tollner asked if the equipment would be replaced regardless of approval of this site. Mr. Elwell responded that the equipment was bought in 2002 and would need to be replaced by 2011. Dr. Miller questioned the background of the Londonderry facility. Attorney Best provided some background on the process for the Londonderry facility including the Supreme Court ruling. Mr. Anagnost stated that Phase III was planned to support Phases I and II and that the concept for Radiation Therapy came about through Dana Farber and NH Oncology Hematology using space in Phase II and wanting to collaborate. Dr. Miller questioned the relationship between Elliot, Dana Farber and NHOH. Mr. Elwell replied that Phase II is owned by 40 Buttrick Road, LLC, an affiliate of Elliot and it's leased to Dana Farber. Dr. Peter Crow from NHOH testified at this time. He described NH Oncology Hematology as an independent practice with several sites within NH.

Mr. Wallace then asked why this application came in under the acute care RFA. Attorney Bianco stated that they looked at both the RT and Acute Care rules and at past precedent. He stated that the cost was over the construction threshold, this is not a new institutional health service but just a move of a portion of the service to Londonderry. He stated that Elliot looked at past Supreme

Court cases and this hasn't been an issue as long as it's in the service area. Board discussion ensued regarding past cases, specifically MHMH, RANE and Northeast Rehab.

Chair Vailas welcomed public testimony at this time. Dr. Peter Crow from NHOH and Dr. Craig Bunnell, the Associate Medical Director from Dana-Farber Cancer Institute came forward to express their support for the project due to the multi-disciplinary availability of services at Londonderry to best help treat a patient with cancer.

The public hearing was closed at 11:20 and Board discussion took place. Mr. Wallace stated that his issue was the process not the project. He stated that the cost of the project is not as significant as the move of equipment from Manchester to another part of the service area and creating a new utilization pattern. He questioned the Board's power to regulate this proposal and not be locked into the project as presented. Mr. Chase stated that the Board should move forward and address how to handle these types of submissions in the future. Ms. Almeda asked HSPR staff whether all checklist items on the application had been cleared; Ms. Carrier responded yes. Ms. Almeda then stated that this proposal was the same as those pertaining to Mary Hitchcock Memorial Hospital's move of the Norris Cotton Cancer Center from Hanover to Lebanon, and the more recent Hitchcock proposal to construct a bunker for its proton therapy radiation unit. Mr. Tollner indicated that he was concerned about setting a precedent and setting the Board up for exposure.

Mr. Chase made a motion to approve Elliot Hospital, AC 08-05, \$6,051,979 for Londonderry MOB Phase III Construction for Radiation Therapy Services. Ms. Almeda seconded the motion, and the Elliot Hospital application was approved with Mr. Wallace voting against the motion and the remaining Board members voting in favor.

5. Elliot Hospital, NSR Petition to Replace Megavoltage Radiation Therapy Equipment and Relocate to Londonderry Medical Center, \$3,000,000

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that Elliot Hospital is seeking a Not Subject to Review determination for the replacement of a radiation therapy unit. She added that this unit, if approved for replacement, is intended to be relocated to Elliot's Londonderry Medical Center Facility. She stated that HSPR staff concludes that this request is eligible for an NSR determination.

After no questions from the public or from the Board, Ms. Almeda made a motion that the request from Elliot Hospital to replace their Megavoltage Radiation Therapy equipment and relocate it to the Londonderry Medical Center is Not Subject to Review. Mr. Chase seconded the motion and Elliot Hospital's request for NSR was determined to be Not Subject to Review with Mr. Wallace voting against the motion and the remaining Board members voting in favor.

6. Other Administrative Business

- Ms. Carrier stated that an updated He-Hea 1000 Acute Care rule with a map of the service areas was included in everyone's packets.
- The Form 15-A needs to be sent in if not already done.

- ❑ There has been a new Board member appointed to replace Ms. Griffin. Her name is Ms. Deb Grabowski from Raymond, and she will likely attend the next Board meeting.
- ❑ Ms. Carrier gave a brief update on HB 234, stating that the bill has been enrolled.
- ❑ HB 113 for the nursing home moratorium is in the Senate with a slight amendment for the nursing home to declare the project type.
- ❑ Ms. Carrier gave a brief introduction of Ms. Patty Thibeault, the new Program Planner III.
- ❑ The next meeting of the Board is scheduled for Thursday, June 18, 2009.

The meeting was adjourned at approximately 11:30.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



April 16, 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. Ruth Griffin, Mr. Jack Stanton, Chair Nicholas Vailas, Mr. John Wallace and Mr. Scott Wojtkiewicz

Excused: Dr. Joseph Miller

Absent: Ms. Constance Jones, Mr. James Tollner

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

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 March 19, 2009 Board Meeting Minutes**

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck briefly stated that the minutes from the March 19, 2009 meeting were complete and needed to be approved. Chair Vailas then asked Board members if the consent agenda item required any further discussion. If so, it would require removal from the consent agenda.

Ms. Griffin 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 Issuance of the May 1, 2009 Megavoltage Radiation Therapy Services RFA

Discussion: Ms. Carrier introduced this agenda item. She 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, 2009. She stated that letters of intent were due to this office by April 1, 2009, and

that none have been received. She referred to the HSPR staff evaluation that was enclosed with the Board packet concerning the need formula for additional RT units. Ms. Carrier stated that based upon the calculation, there is no need for additional RT units at this time. She stated that due to this and the lack of interest expressed, HSPR staff recommends that the RFA not be issued at this time.

Ms. Griffin made a motion to not issue the May 1, 2009 RFA for Megavoltage Radiation Therapy Services due to lack of interest. Mr. Wojtkiewicz seconded the motion. All Board members voted in favor of the motion; thus no RFA for Megavoltage Radiation Therapy services will be issued.

Ms. Almeda arrived to the meeting at this time.

3. Adopt He-Hea 1000 Acute Care Facilities Rule

Discussion: Mr. Peck introduced this agenda item. He stated that at its March 20, 2009 meeting, JLCAR (Joint Legislative Committee on Administrative Rules) approved the Board's He-Hea 1000 Acute Care Facilities rule. He stated that the Board must now formally adopt the rule for filing and once filed, the rule will be effective for 8 years.

Ms. Almeda made a motion to adopt the He-Hea 1000 acute care facilities rule. Mr. Wojtkiewicz seconded the motion, and this agenda item was unanimously approved.

4. Public Hearing – Littleton Regional Hospital, AC 08-04, Construction/Renovation, \$6,329,749 (adjusted)

Discussion: Ms. Carrier introduced this agenda item. She stated that at this time the Board will hear the acute care application proposed by Littleton Regional Hospital (LRH) for a construction/renovation project to address space needs at the hospital for many outpatient services (day surgery, lab, radiology, rehabilitation) and to convert its OB unit to LDRP (Labor/Delivery/Recovery/Postpartum). She stated that the checklist items have been resolved and that due to the inclusion of \$39,381 in bond financing costs into the project total, the new cost of the project is now \$6,329,749. HSPR staff thus concludes that LRH is eligible for a CON at this time.

At this time, Ms. Susan Palmer Terry, Consultant to Littleton Regional Hospital, Mr. Warren West, President and CEO, and Dr. Nicholas Marks, OBGYN from Littleton Regional Hospital and Architect Mr. Roger Dignard came forward to testify. Mr. Bob Fotter, CFO and Mr. George Broder, Project Manager of Littleton Regional Hospital were both available for questions as well.

Mr. Warren West provided the Board with the LRH 2008 Annual Report and "Community Report Card". He then spoke regarding the components of the LRH project. He stated that the plans consisted of renovating the existing MOB to bring all of the rehab and business operations on site and expand the oncology suite. He stated that they planned to expand the surgical services and make space for fixed MRI services. He stated that LRH has been in business for over 100 years but moved to the new hospital in 2001. Mr. West went on to say that the 2001 building should have been bigger but funds were limited at the time. He stated that LRH had some lean years but is now financially strong. He stated that OBGYN services is a big driver in this project as Weeks Medical Center closed their OB unit a year ago. Currently there are 3 birthing and 2 recovery rooms, and the plan is to expand and convert to 5 LRDP's. He added that another big driver is

surgical volumes; currently there are 4 OR's but only 3 are running due to throughput issues. Mr. West went on to say that LRH plans to bring rehab and financial services back onto campus, which would save \$85,000 per year in rent; this would cover the debt service on \$1 million in debt. Mr. West then went over the effect on the cost of healthcare, stating that LRH refinanced their existing bonds to a lower interest rate of under 4% from 6.5% making the principal and interest on \$30 million close to what it was on \$23 million. He stated that LRH recognizes that it is the second highest costing hospital in the state, and that its labor costs are higher than similar hospitals. He stated that costs were reduced by \$.5 million over the past year and he hopes they'll reduce costs by another \$.5 million in the coming year.

At this time, Mr. Wojtkiewicz asked if costs were high due to attracting quality staff. Mr. West replied that it was due to the number of people being employed. Mr. Wallace stated that if LRH refinanced the \$23 million rather than \$30 million the costs would be reduced even more. Mr. West stated that the hospital is now financially strong and noted that he inherited the refinancing process. He stated that the timing was good, that there were projects the hospital needed to do. Chair Vailas noted that the savings in rent offsets the increased expenses. Ms. Griffin asked where the facilities that are currently being rented are located. Mr. West replied that they are all in Littleton.

Dr. Nicholas Marks then spoke at this time. He stated that he is 1 of 2 OBGYN physicians at LRH. He stated that there has been a significant increase in deliveries in the most recent year to 340 deliveries from 220 the prior year. He explained that LRH is currently using the old model for labor and delivery where separate rooms are used for delivery and recovery. He stated that there are backlogs with the current model and some deliveries have to be done elsewhere. Dr. Marks stated that the LDRP model will be much more efficient and improve patient security by keeping babies in the unit. Dr. Marks then spoke briefly on the endoscopy suites. He stated that the original surgical suite only had one endo suite and that this was adequate originally but now the service is mostly outpatient procedures so the suite is no longer adequate. He stated that the patients were sometimes transferred to the medical/surgical floor to recover. Chair Vailas asked what percentage of the practice is from VT. Dr. Marks stated 15% for OB services. Mr. West responded 20% for the hospital. Chair Vailas asked if there was more growth expected in the Littleton area. Ms. Susan Palmer Terry replied that the women and children population will remain stable and become a smaller percentage of the total population. She added that there are more employment opportunities than Berlin so the working age population is expected to grow.

Chair Vailas asked if there was interaction with LRH and Dartmouth-Hitchcock. Mr. West responded that some patients with complex issues are transferred there but it's not a major competitor for basic services. He added that neonatal patients are often sent there or to Fletcher Allen in Vermont. Mr. Wallace asked that LRH confirm that it isn't changing the level of capacity. Mr. West confirmed this and stated that the need formula shows need for 5 rooms and that they're not increasing the overall number of rooms but making the unit more efficient. Ms. Palmer Terry stated at this time that she did the normile bed need calculation and it came out to be 5 beds. She added that statistically there will be a bed available when someone shows up for delivery 99 % of the time. She stated that the small volume units are being forced to close. Ms. Palmer Terry then stated that from a policy standpoint it is correct to consolidate OB services as it's not cost effective to do less than 150 births per year.

Ms. Almeda asked what the elective c-section rate is. Dr. Marks responded that there is a low number of c-sections in the North Country and explained that these mothers are admitted into a post-partum room and don't stay much longer than a vaginal delivery. Ms. Griffin inquired as to how many midwives serve at the hospital. Dr. Marks responded that there are none at the hospital

and that most in the area are becoming nurses. He added that the hospital in St. Johnsbury, Vermont has midwives.

Mr. Roger Dignard, Architect for LRH went over the floor plans and site plan at this time. He stated that plans include a 6,400 s.f. addition to the surgery and MRI units.

Chair Vailas then asked for any public testimony on the proposal.

Mr. Stephen Marion, representing DHMC, spoke briefly at this time. He stated that Upper Connecticut Valley Hospital and Weeks are members of the Hitchcock Alliance and that money is not the primary factor in closing the OB units. He stated that it's not reasonable to keep small OB units open and that it's difficult for staff to maintain their skills. Mr. Marion stated that Littleton is now the regional OB program. He stated that this project makes sense and urged the Board to support it.

Chair Vailas asked about demographics for the next 5 years. Mr. Marion responded stating that it will be difficult to maintain primary care practices in the future, especially for specialty services. Ms. Palmer Terry added that the availability of broadband will be vital to developing the economy of the North Country. Mr. Wallace stated that the State is concerned about access to health care in the North Country and the economy of the North Country depends on this. He stated that the Department is supportive of LRH wanting to maintain the service. Chair Vailas stated that acuity is increasing and his concern is the lack of planning and coordination. Mr. West stated that he is working with area hospitals and FQHC's on more coordinated planning and sharing of resources. Mr. Wojtkiewicz acknowledged his agreement that there is a lack of planning in the North Country.

Chair Vailas closed the public hearing at 10:33.

Mr. Wojtkiewicz made a motion to approve Littleton Regional Hospital, AC 08-04, \$6,329,749 (adjusted) for construction/renovation. Mr. Chase seconded the motion, and Littleton Regional Hospital's CON was unanimously approved.

5. Other Administrative Business

- ❑ Ms. Carrier stated that the Board's Practice and Procedure subcommittee will meet directly after this meeting to continue discussions on community benefit.
- ❑ The next meeting of the Board is scheduled for Thursday, May 7, 2009. The Elliot Hospital and Wentworth-Douglass Hospital applications will be heard at this time. This meeting takes the place of the scheduled May 21, 2009 meeting.
- ❑ A copy of the updated inflation factor and adjusted cost thresholds was provided for review.
- ❑ Ms. Carrier gave a brief update on HB 234, stating that the Senate took testimony on the bill.
- ❑ Form 15-A, Statement of Financial Disclosure needs to be filed by all Board members. HSPR staff will forward this information to the Board.
- ❑ Ms. Carrier informed the Board that the Program Planner III position was filled by Ms. Patricia Thibeault, and that she starts on May 1, 2009.

Ms. Griffin then made a motion to adjourn the meeting. Mr. Chase seconded the motion and the meeting was adjourned at approximately 10:36.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



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

Department of Safety
33 Hazen Drive
Concord, NH 03301

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. Ruth Griffin, Ms. Constance Jones, Dr. Joseph Miller, Mr. Jack Stanton, Mr. James Tollner, Mr. John Wallace and Mr. Scott Wojtkiewicz

Excused: Chair Nicholas Vailas

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

Vice Chair Almeda opened the meeting at 9:31 a.m.

Vice Chair Almeda made an announcement that Board member Sochalski had passed away. She stated that Mr. John Wallace from the Commissioner's Office would be filling the Commissioner's position on the Board until a permanent replacement is named. She stated that the Board had sent a card and flowers to the family. She then welcomed Mr. Wallace to the Board.

Ms. Carrier then conducted a general swearing-in of audience members planning to testify.

1. Consent Agenda

- **Approve February 19, 2009 Board Meeting Minutes**

Discussion: Vice Chair Almeda asked Ms. Carrier to introduce this agenda item. Ms. Carrier briefly stated that the minutes from the February 19, 2009 meeting needed to be approved. Vice Chair Almeda then asked Board members if the consent agenda item required any further discussion. If so, it would require removal from the consent agenda.

Ms. Griffin 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. Adopt He-Hea 2000 PET Services Rule

Discussion: Ms. Carrier introduced this agenda item. She stated that at its February 20, 2009 meeting, the Joint Legislative Committee on Administrative Rules ("JLCAR") granted Conditional Approval of the He-Hea 2000 rule. She stated that at this time the Board must formally adopt the rule in order for it to be filed and made effective.

Ms. Griffin made a motion to adopt He-Hea 2000 PET Services Rule. Mr. Chase seconded the motion, and this agenda item was unanimously approved.

3. Determine Issuance of the April 1, 2009 Mobile MRI Services RFA

Discussion: Vice Chair Almeda asked Mr. Peck to introduce this agenda item. He stated that staff has scheduled a public information session to receive any testimony supporting the need/interest to issue an RFA for Mobile MRI services. He stated that to date, no letters of interest have been received, or need expressed; therefore, staff recommends that no Mobile MRI RFA be issued effective April 1, 2009, until or unless any request is received by March 25, 2009, allowing sufficient time for posting of the public notice. Mr. Wallace questioned the requirement of a vote not to issue the RFA. Ms. Carrier explained that in a date driven circumstance, the RFA would automatically be issued unless the Board found evidence and reason by vote to stop such issuance. Therefore, formal action via a vote of the Board is necessary.

Mr. Wallace made a motion to not issue the April 1, 2009 Mobile MRI Services RFA unless any requests are received by 3/25/09. Mr. Chase seconded the motion and all of the Board members voted in favor of the motion.

4. Determine Issuance of the April 1, 2009 Ambulatory Surgical Services RFA

Discussion: Vice Chair Almeda asked Mr. Peck to introduce this agenda item. Mr. Peck stated that in order to support a finding of need for this RFA, HSPR staff mailed a notice to all hospital and ASC administrators requesting a Letter of Intent for any contemplated Ambulatory Surgery Center projects exceeding the statutory threshold. In addition, a notice was sent to the electronic notice list regarding this RFA. To date, no letters of interest have been received, nor any need expressed. Therefore, staff recommends that no RFA be issued effective April 1, 2009, until or unless any request is received by March 25, 2009 allowing sufficient time for posting of the public notice.

Mr. Chase made a motion to not issue the April 1, 2009 ASC Services RFA unless any requests are received by 3/25/09. Mr. Wallace seconded the motion and all of the Board members voted in favor of the motion.

5. Carroll County – Request to Replace Nursing Home under RSA 151-C:4, III – Life Safety Exception

Discussion: Vice Chair Almeda asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that Carroll County is requesting Board permission to submit a CON application to replace its county nursing home via the life safety exception to the nursing home moratorium of RSA 151-

C:4, III. She stated that approval of this CON application would allow Carroll County to submit a CON application outside of an RFA (Request for Applications).

At this time, Vice Chair Almeda welcomed Mr. David Sorenson, Chair of County Commissioners, Commissioners Dorothy Solomon and William (Chip) Albee, along with Ms. Susan Palmer Terry, Consultant to Carroll County, and Steve Humphreys, Architect for Carroll County to come forward to provide testimony.

Mr. Sorenson began by providing an overview of the County's request to submit a CON application. He stated that the Nursing Home building is 40 years old and has many deficiencies. He stated that there had been 3 improvement projects in those 40 years: an addition to the kitchen/dining room that was built over existing pipelines, a solarium to the front of the home, which was funded from donations, and a new roof to the home that was built over the existing roof. Mr. Sorenson then read part of a letter from Mr. Robert Elhers of the Bureau of Health Facilities Administration from a 2007 facility Inspection stating that there were air handler issues, unexplainable cases of pneumonia, asbestos and that there could be mold between the roofs. He stated that the County delegation approved a feasibility study performed on the nursing home. A new facility will be built so that additions could be made in the future. Mr. Sorenson then read a letter from the chairman of the family council into record. The letter expressed support of the project.

Mr. Albee spoke next. He stated that the Commissioners voted to take money from the capital reserve to do a feasibility study and hire an architect and consultant. Mr. Albee then spoke briefly of current energy costs at the nursing home, stating that it costs about \$115,000 just for propane to heat the home. He stated that they hope to use alternative energy in the new home. He pointed out that the county spends more on the prison population than their nursing home residents.

Ms. Dorothy Solomon then provided two handouts of the building committee members and spoke briefly to each. She stated that the nursing home should reflect what people expect when they leave their own homes.

Vice Chair Almeda opened up for Board questions at this time. Dr. Miller thanked the Commissioners for their presentation and stated that he would like to see Carroll County build a home similar to Merrimack County. He then asked how this project would be funded. Mr. Albee stated that the project is not shovel ready and therefore may not be eligible for federal aid. He stated that they would like to maintain their bond rating and that they intend to fund through a bond issue. Mr. Albee stated that they hadn't analyzed the effect on Medicare or Medicaid and that they still need to do a cost study. Dr. Miller asked how large the bond issue would be. Mr. Albee replied that it would be between \$15 and \$18 million and they would cap the cost at \$20 million. He stated that they might be able to use a geo-thermal heating system using federal funding. The plan is to go out for bond in September 2009, break ground in spring 2010 and complete in 2011.

Mr. Wallace stated that he was involved in discussions on alternatives to replacement and asked Mr. Sorenson to discuss these. Mr. Sorenson stated that there are few alternatives; they would likely demolish the old building. He stated that they have replaced boilers, electrical panels, etc. to prevent being closed down. Mr. Wallace stated that another option discussed with the state was to get out of the nursing home business. Mr. Sorenson replied that this option was discussed but the County believes it has a duty to provide services to the elderly. Mr. Wallace stated that he has reviewed Mr. Elher's records and that he supports this project, and confirmed many of the things the county has said.

Ms. Griffin asked how many licensed beds are at Carroll County. Mr. Albee replied 103. Ms. Griffin asked what type of building the County had before this 40-year-old building. Mr. Albee replied that there was a home connected to the old jail and that it was used for a while but demolished after the new jail was built. Ms. Griffin then asked if space was being considered to add beds in the future. Mr. Sorenson stated that they had an option to purchase beds from Coos County but regulations do not allow beds to transfer between counties, but that they will be building to allow for future expansions.

Dr. Miller asked if they would be adding beds. Mr. Albee replied that they are only applying to replace the existing 103 beds. Dr. Miller then asked if they have consulted with demographers to look at population trends. Mr. Sorenson replied that the elderly population is growing at an alarming rate. Mr. Wojtkiewicz asked if Mountain View (the county home) had ever had more than 103 licensed beds. Mr. Albee replied that it hasn't.

At this time Mr. Humphreys went over pictures taken of the existing nursing home. He pointed out that there is only 160 s.f. for 2 residents, 130 when you allow for doors, etc. The doors do not allow a wheelchair through. The bathrooms do not include sinks, there are problems with infection control, privacy issues, and storage issues, and the radiators limit the corridor width.

Mr. Chase made a motion to permit Carroll County to submit an application to replace its facility. Ms. Griffin seconded the motion and all of the Board members voted in favor.

6. Elliot Hospital – Change of Scope Request (Ownership change) for CON AC 07-08, Elliot at River's Edge, \$84,934,300

Discussion: Vice Chair Almeda asked Mr. Peck to introduce this agenda item. Mr. Peck stated that Elliot Hospital is seeking a request for a change in scope for the Elliot at River's Edge proposal, CON AC 07-08 (\$84,934,300). He stated that Elliot seeks to change ownership of the real estate from the hospital to the Elliot Physician Network, in order to obtain financing and important tax credit and relief. The original CON was issued to Elliot Hospital with a condition (along with 2 others) that Elliot supply a revised purchase and sales agreement for the initial sale of the real estate which correctly names the Joint Development Company as the purchaser, and a purchase and sales agreement for the sale of the land from the Joint Development Company to Elliot, prior to commencement of the proposed project. Elliot is now requesting that should the scope change be approved that this condition be modified accordingly. Mr. Peck stated that HSPR staff concurs that this condition will need to be amended to include the Elliot Physician Network. Ms. Carrier clarified for the Board that the ownership of the CON will remain with Elliot Hospital.

At this time, Mr. James Bianco, Legal Counsel for Elliot Hospital, Mr. Richard Elwell, CFO for Elliot Hospital and Mr. Bill Tucker, Legal Counsel for Elliot Hospital came forward to provide testimony. Attorney Bianco began by stating that Elliot would not be changing the applicant, just the owner of the real estate to Elliot Physician Network. He added that this would make the project more affordable. Mr. Elwell spoke to the terms of the loan program. He stated that it was a 7-year program and after the 7 years 30% of the debt is forgiven and Elliot is only required to pay the interest for the first 7 years. Attorney Tucker then spoke. He stated that the loan is from the Community Development Entity (CDE) through the NH Business Finance Authority. He stated that if Elliot is the guarantor it cannot own the land or the building and cannot be personally responsible for the loan. He stated that Elliot Physician Network will own the land and building and lease it to Elliot Hospital. He explained that there would be no change in the project or who will run it.

Vice Chair Almeda asked if Elliot could have created another subsidiary to own the real estate. Attorney Tucker replied that per tax laws the land and building must be owned and operated by a charitable entity. Mr. Wallace asked if Elliot Hospital paid taxes. Mr. Elwell stated that the residential and retail components of the River's Edge project will pay taxes as well as the surgery center. He also stated that the lease would be for amount of the debt payments paid to the lenders. Mr. Tollner asked if the quality of services will be as strong at this facility as at the main hospital. Attorney Bianco replied that it will be the same services at a different site and Mr. Elwell added that the quality of services would actually be better. Vice Chair Almeda asked if this request required a change of scope. Ms. Carrier stated the CON should maintain the second condition regarding identification of the buyers and sellers but the change of scope may be technical or otherwise insignificant. Attorney Bianco stated that condition two should identify Elliot Physician Network as the owner of the real estate.

Mr. Wallace then made a motion to amend condition two of the CON to reflect Elliot Physician Network as the owner of the property. Dr. Miller seconded the motion and all of the Board members voted in favor.

7. Other Administrative Business

- ❑ The next meeting of the Board is scheduled for Thursday, April 16, 2009. Discussion was requested by Board member Miller to reschedule this meeting due to conflicts. Because Public hearings on the 3 acute care applications are expected at this next meeting, the applicants weighed in on this request. It was decided to have one Board meeting on May 7, 2009.
- ❑ A vote was then made to extend formal review of the 2008 acute care applications by 30 days to May 27, 2009. Mr. Wallace motioned to extend formal review to May 27, 2009 and Mr. Chase seconded the motion. All of the Board members voted in favor of extending the formal review period.
- ❑ A formal vote was also taken to extend the RFA period for RT services from April 1, 2009 to May 1, 2009. The issuance of this RFA will be determined at the next Board meeting.
- ❑ Due to the passing of Member Sochalski, the DHHS Commissioner's designee to the Board will be re-appointed. Until such time as this takes effect, Associate Commissioner John Wallace will be filling in.
- ❑ There was a discussion on preferences for Estudio. The majority stated that they would like to receive paper mailings.

Mr. Wallace then made a motion to adjourn the Board meeting. Mr. Chase seconded the motion and all Board members voted in favor, unanimously approving this motion. Vice Chair Almeda then adjourned the meeting at approximately 11:11 a.m.

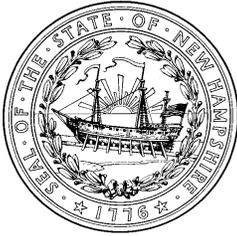
Signature: _____

Nicholas Vailas
Board Chair

Approved by
HSPR Board: _____

Date

HEALTH SERVICES PLANNING AND REVIEW



February 19, 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. Ruth Griffin, Dr. Joseph Miller, Chair Nicholas Vailas, and Mr. Scott Wojtkiewicz

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

Absent: Dr. Matthew Sochalski

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

Chair Vailas opened the meeting at 9:50 a.m.

Chair Vailas asked Ms. Carrier to announce any housekeeping items at this time. Ms. Carrier made a brief introduction of Dr. Joseph Miller, the new Board member replacing Ms. Wheeler.

1. Consent Agenda

- **Approve January 15, 2008 Board Meeting Minutes**

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier briefly stated that the minutes from the January 15, 2008 meeting needed to be approved. Chair Vailas then asked Board members if the consent agenda item required any further discussion. If so, it would require removal from the consent agenda.

Mr. Wojtkiewicz 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. Approve Final Proposal He-Hea 1000 Acute Care Services Rule

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier then stated that time has been allotted for the Board to approve the Final Proposal of the He-Hea 1000 Acute Care Services Rule. There was no testimony received on this rule at the January public hearing. No other testimony was received during the review period. The Joint Legislative

Committee on Administrative Rules (JLCAR) has completed its review of the rule and finds no substantive issues, thereby paving the way for approval of the rule on its consent calendar in March. She stated that the rule could be adopted and filed in April 2009, well within time for the 8/1/09 RFA.

Chair Vailas entertained a motion made by Ms. Almeda to approve the final proposal of the He-Hea 1000 Acute Care services rule. Mr. Wojtkiewicz seconded the motion and all Board members voted in favor of the motion, unanimously approving this agenda item.

3. Approve Conditional Approval Response He-Hea 2000 PET Services Rule

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that JLCAR has reviewed the He-Hea 2000 PET Services rule, which is scheduled for hearing on Friday, February 20, 2009. One substantial item was noted, which prompted a necessary correction to the rule. In order to avoid any delay in rulemaking, HSPR staff made the necessary correction and applied for a Conditional Approval of the rule. This request has been accepted by JLCAR staff, leaving no further basis for objection of the rule. Should JLCAR accept the conditional approval, the rule can then be filed with the amended language and the Board will be able to adopt the rule at its next meeting. Ms. Carrier stated that HSPR staff requests preliminary approval from the Board of the Conditional Response, subject to JLCAR's vote on the matter. This action will allow the rule to be filed before the end of the month and allow the rule to be adopted at the March 2009 meeting.

Mr. Wojtkiewicz made a motion to approve the conditional approval response for the He-Hea 2000 PET Services Rule. Ms. Griffin seconded the motion and all Board members voted in favor of the motion, unanimously approving this agenda item.

Chair Vailas asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. She did so at this time.

4. Request to Sever the 2008 Acute Care Applications – Elliot Hospital AC 08-05, Littleton Regional Hospital AC 08-04 and Wentworth-Douglass Hospital AC 08-03

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that HSPR has received letters from Littleton Regional Hospital and Elliot Hospital requesting severance of their 2008 Acute Care Applications. She added that HSPR received a letter from Wentworth-Douglass Hospital stating their agreement to the severance.

At this time, Ms. Susan Palmer-Terry, consultant to Littleton Regional Hospital, and Dr. David Li, representing Elliot Hospital, came forward to testify. Each spoke briefly, stating that their service areas are far apart and that they request the applications be reviewed on their own merits.

Mr. Wojtkiewicz made a motion to grant severance of the 2008 Acute Care Applications. Ms. Almeda seconded the motion and all Board members voted in favor of the motion, unanimously approving this agenda item.

5. Determine Issuance of He-Hea 600 Fixed MRI Services RFA

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that HSPR staff has received a request from Littleton Regional Hospital (LRH) seeking the issuance of an RFA for Fixed Unit MRI Services. He 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 a report can be made demonstrating the ability to perform a minimum of 1000 scans per year (He-Hea 605.01(a)). LRH indicated in its request that it referred some 1536 scans for FY 2008 to its mobile vendor, Insight. HSPR staff's record of data reveals a total of 1565 scans for FY 2008, and 1366 scans for CY2008. Therefore, HSPR staff concludes that LRH can demonstrate the 1000 scan minimum in order to initiate an RFA. The Board can thus find that need exists with which to issue an RFA for fixed 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 apply for services. Mr. Peck concluded by stating that HSPR staff suggests that the RFA be effective February 25, 2009 to allow ample time for notice and posting, as well as the scheduling of a technical assistance meeting as required by RSA 151-C:8, II and He-Hea 301.03.

Ms. Griffin made a motion to issue the RFA for Fixed MRI Services effective February 25, 2009. Mr. Chase seconded the motion and Board members voted in favor of the motion, unanimously approving this agenda item.

6. Other Administrative Business

- ❑ The Practice and Procedure Subcommittee will meet immediately following the Board meeting.
- ❑ The next meeting of the Board is scheduled for Thursday, March 19, 2009.
- ❑ An updated copy of RSA 151-C has been provided to Board members. An amendment was made in June 2008 to exempt temporary Acute Care Centers from CON Review – see RSA 151-C:13, I (i). These facilities would be established in the event of a public health incident – this definition, newly established by statute, has been included for review.
- ❑ Legislative Update:
 - HB113 – extending the moratorium. The House Committee has accepted the 2 amendments offered by the Board regarding repair and refurbishment of nursing homes outside the moratorium, and the exclusion of costs over the threshold from Medicaid reimbursement. A copy of the amendment is attached.

 - HB234 – study committee to review CON. The Committee has also accepted this bill with an amendment to review the entire statute and not just the possibility of an expedited review process. A copy of the amendment is attached.

Both bills now move to the full House for approval and then on to the Senate.

Mr. Wojtkiewicz then made a motion to adjourn the Board meeting. Ms. Almeda seconded the motion and all Board members voted in favor, unanimously approving this motion. Chair Vailas then adjourned the meeting at approximately 10:05 a.m.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



January 15, 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. Constance Jones, Dr. Matthew Sochalski, Mr. Jack Stanton, Mr. James Tollner, Chair Nicholas Vailas, Ms. Katherine Wells Wheeler and Mr. Scott Wojtkiewicz

Excused: Ms. Ruth Griffin

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

Chair Vailas opened the meeting at 9:40 a.m.

1. Consent Agenda

- **Approve December 18, 2008 Board Meeting Minutes**

Discussion: Chair Vailas asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. Chair Vailas then asked Mr. Peck to introduce this agenda item. Mr. Peck briefly stated that the minutes from the December 18, 2008 meeting needed to be approved. Chair Vailas then asked Board members if the consent agenda item required any further discussion. If so, it would require removal from the consent agenda.

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

2. Approve Final Proposal He-Hea 2000 PET Services Rule

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck then stated that time has been allotted for the Board to approve the Final Proposal of the He-Hea 2000 PET Services Rule. He stated that there was no testimony received on this rule at the December public hearing and no other testimony was received during the review period; however, JLCAR has not

provided any results of its review of the rule. He stated that, barring any JLCAR requirements, the rule requires a vote of approval in order to proceed with the rule making process.

Ms. Wheeler asked if the lack of a JLCAR response was a positive sign. Ms. Carrier then briefly explained the JLCAR process for the Board.

Chair Vailas entertained a motion made by Ms. Wheeler to approve the final proposal of the He-Hea 2000 PET services rule. Ms. Almeda seconded the motion and all of the remaining Board members voted in favor of the motion, unanimously approving this agenda item.

3. Public Hearing – He-Hea 1000 Acute Care Services Rule

Discussion: Chair Vailas opened the public hearing for the He-Hea 1000 Acute Care services rule at 9:46 am.

There was no public testimony for the public hearing. Chair Vailas closed the public hearing at approximately 9:47 a.m. Ms. Carrier then stated that per rulemaking requirements, 7 days would be allowed for testimony to be received. Ms. Almeda stated that she would like the rule approved and active for the 8/1/09 RFA and thanked everyone who participated in the subcommittee meetings.

4. LTC Subcommittee Interim Report and Recommendations

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that the Long Term Care Subcommittee of the Board presents its Interim Report and Recommendations for Board consideration. She added that these recommendations require legislative changes that the subcommittee believes will better serve the needs of NH citizens requiring long term care services, as well as improve opportunities for long term care owners and providers. She explained that time has been allotted to discuss this report, and the steps necessary to promulgate such changes with the NH Legislature. Ms. Carrier then stated that HB113, a bill to extend the nursing home moratorium, was scheduled for a hearing today at the LOB and that this bill could provide the opportunity to include these recommendations.

Ms. Wheeler then reviewed the report for the Board. She went over the recommendations. She stated that there was no consensus about lifting the moratorium but that the group agreed to a better need formula, consensus on that topic was not reached. She stated that other recommendations made by the subcommittee are to allow repair and refurbishment without life safety violations and to prohibit on any costs of such projects over the correct threshold from obtaining Medicaid reimbursement. She added that HB113 just extended the moratorium and let the Board know about the January 21st hearing on HB 234 - Study Committee on the CON Process, the expedited approval, etc. Ms. Wheeler stated that the Legislature may send HB113 to a study committee, and there would hopefully be an opportunity for the Board to present its position at these meetings. She then thanked the members of the subcommittee for their work.

Mr. James Tollner arrived to the meeting at approximately 9:53 a.m.

Ms. Almeda then asked how the bed need formula was set. Mr. Michael Lehrman of the NH Catholic Charities was recognized and came forward to explain the formula for the Board. He stated that the data was obtained from the state MDS office and that 69.9% of nursing home

residents are over age 80 and 18% are over the age of 70 but under 80. He added that Rockingham County is at 85% occupancy. Chair Vailas asked if there were statistics for people who have been turned down, and also why a bed need formula is used to determine need. Mr. Lehrman replied that payment systems require homes to run on very thin margins and that a free enterprise system is not in play with this industry due to a controlled revenue stream. Chair Vailas then asked if there are any statistics on people who have not received access to long term care services. Mr. Lehrman replied that he wasn't aware of any major problems, and that the highest occupancy rate is 95%, which is Grafton County. He then stated that the state average is 91%. Mr. Chase stated that people are not being served for reasons other than lack of beds and that NH provides higher funding for certain cases if a patient needs to go out of state for specific services. Chair Vailas expressed his support for allowing renovations but stated that he was uncomfortable with using formulas to determine need for healthcare.

At this time, Ms. Wheeler made a motion to allow the Board to adopt the concept of modifying the statute for allowing renovations and replacement. Mr. Wojtkiewicz seconded the motion and all Board members voted in favor.

Ms. Wheeler stated that she was prepared to go to the hearing on January 21, 2009 to present this to the committee. She stated that the committee is meeting on Wednesday, January 21, 2009 at the LOB in room 205. Mr. Chase and Mr. Wojtkiewicz stated that they might attend as well.

5. Presentation – NH Charitable Trusts and Community Benefit

Discussion: At this time, Chair Vailas welcomed Ms. Terry Knowles, Assistant Director of Charitable Trusts of the Attorney General's office to come before the Board to make a presentation regarding NH Charitable Trusts and Community Benefits. Ms. Knowles began with a brief overview of the law and stated that the law goes beyond hospitals; it oversees all health care charities, all nursing homes, hospice groups, and VNA's. She stated that a community need assessment is done every 5 years. She went on to say that the Attorney General has no jurisdiction except to read the reports, make sure they are complete, etc. Chair Vailas asked if there were charity care percentage requirements from other states, and Ms. Knowles responded that Texas is 5% of gross revenues and that a few are tied to real estate tax benefits. Chair Vailas then commented his desire was too tie CON approval of projects to the level of community benefit. Ms. Wheeler asked if all of the reports are available electronically. Ms. Knowles replied that not all of them are but that she was working on scanning them but some are very lengthy. Ms. Almeda stated that Concord Hospital has gone out to senior centers, schools, etc to assess community benefit but it is hard to get people to attend such sessions. Ms. Knowles stated that the summary of the report is very useful and that Concord Hospital, Wentworth-Douglass Hospital and a couple of others do this as well. She then stated that the United Way often gets involved. Chair Vailas then stated that the Board could become more proactive in assuring that charity care is being provided and become more transparent in identifying this.

Ms. Knowles stated that SB426 from the last legislative session established a committee to study the community benefit for health care charitable trusts. She added that testimony from the Attorney General's office, hospitals and others was provided. Ms. Wheeler questioned if all of the reports will be the same with the new forms. Ms. Knowles said yes and stated that they could expand upon it, but all charities must fill out the form. Mr. Tollner stated that Concord Hospital and Wentworth-Douglass Hospital provide good summaries and asked if the Board could require all applicants to provide these, which the Board could use in its review. Ms. Knowles stated that 75% of hospitals now do "public friendly" brochures. Ms. Carrier stated that there is a section where

applicants have to identify degree to which providers serve the medically underserved population. She stated that the Board hasn't wanted to specify a specific percentage. Chair Vailas asked if the Board could see what happened to the report required by Senator Sgambati's bill. Ms. Carrier replied that she would work on it with Terry Knowles. Attorney Lucy Hodder was recognized from the audience and asked how often members of the public came in to review the reports. Ms. Knowles responded that about 10 citizens have come in and that most requests are from the media. Mr. Stephen Marion was recognized from the audience and suggested asking applicants to identify their needs and how they are being met. Ms. Knowles stated that section 3 of the new form is tied to community assessment. Mr. John Wallace of DHHS was recognized from the audience and stated that the Legislature needs to be more specific on what their expectations are. Chair Vailas suggested establishing a subcommittee to look at that section of the statute. Ms. Almeda suggested that the practice and procedure subcommittee look into this and possibly require a 3-page summary of the community benefit report. She stated that the Board should inform Senator Sgambati of what it is doing.

With no further discussion on this agenda item, Chair Vailas moved onto item number 6 at this time.

6. Other Administrative Business

- The Practice and Procedure Subcommittee meeting will take place directly following the Board meeting.
- The next meeting of the Board is scheduled for Thursday, February 19, 2009.

Mr. Chase then made a motion to adjourn the Board meeting. Ms. Almeda seconded the motion and all Board members voted in favor, unanimously approving this motion. Chair Vailas then adjourned the meeting at approximately 10:54 a.m.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



December 18, 2008
9:30 a.m.
Board Meeting

NH Lottery Commission
14 Integra Drive
Concord, NH 03301

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. Ruth Griffin, Mr. Jack Stanton, Chair Nicholas Vailas, and Ms. Katherine Wells Wheeler

Excused: Ms. Constance Jones, Mr. James Tollner and Mr. Scott Wojtkiewicz

Absent: Dr. Matthew Sochalski

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

Chair Vailas opened the meeting at 9:34 a.m.

1. Consent Agenda

- **Approve November 18, 2008 Board Meeting Minutes**
- **Approve Findings of Fact for LRGH Hillside Ambulatory Surgery Center ASC 08-02, Gilford, NH, \$2,794,127**

Discussion: Chair Vailas asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. He then asked Board members if the consent agenda items required any further discussion. If so, they 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 for January 1, 2009 Mobile MRI Services RFA

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that the RFA for Mobile MRI services is due to be issued January 2, 2009. She stated that to date, no letters of interest have been received, or need expressed. Therefore, the staff recommends that no Mobile MRI RFA be issued effective January 2, 2009, until or unless any request for such is received by December 26, 2008 (allowing sufficient time for posting of the public notice). Ms.

Carrier added that this RFA isn't actually due to be issued until April 1, 2009 as the recent rule amendments created an annual RFA rather than a semi-annual RFA. Staff will proceed with re-visiting the RFA in the spring as required.

Chair Vailas entertained a motion made by Ms. Wheeler to not issue the RFA for Mobile MRI services based on lack of intent. Ms. Griffin seconded the motion and all of the remaining Board members voted in favor of the motion, unanimously approving this agenda item.

3. Public Hearing – He-Hea 2000 PET Rule

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that at this time, the Board would hear testimony in support of and opposition to the proposed PET rule, He-Hea 2000, which is being re-adopted and amended. She stated that upon completion of this public hearing, the rule will move to a hearing before the Joint Legislative Committee on Administrative Rules (JLCAR), sometime early next year. She then briefly reviewed for the Board the major amendments to the rule, including: protection for critical access hospitals; streamlining of data element reporting; annual data reporting; yearly RFA; and deletion of uncompensated care (already added to He-Hea 304).

There was no public testimony and no Board discussion for the public hearing. Chair Vailas closed the public hearing at approximately 9:39 am.

4. Report on CON Project Status

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that at the October 16, 2008 meeting, upon suggestion of the Board Chair, a letter was sent to recent CON recipients requesting information on their projects in light of the current national economic situation. Each CON applicant graciously responded and almost all applicants continue to move forward with their respective projects as presented in the CON applications as filed, and will inform the Board of any changes that could affect the scope of the project or the commencement/expiration dates. She stated that Monadnock Community Hospital was the only hospital to report that they may have potential changes for their project, and will inform the Board of any amendments or adjustments.

Chair Vailas thanked staff for the update and moved on to the next agenda item.

5. Other Administrative Business

- ❑ The Long Term Care Subcommittee meeting will take place directly following the Board meeting.
- ❑ Next meeting of the Board is scheduled for January 15, 2009 at the Merrimack County Nursing Home conference room.
- ❑ There was a LTC Bed Need Formula included in the Board packet.
- ❑ There has been an LSR filed to extend the Nursing Home Moratorium.
- ❑ An update on SB 541 was provided, stating that it has resulted in a formal study commission to review the CON process.

Ms. Wheeler stated briefly that her term is up and that she plans to stay on holdover until her replacement is named.

Ms. Wheeler then made a motion to adjourn the Board meeting. Ms. Almeda seconded the motion and all of the remaining Board members voted in favor of the motion, unanimously approving this agenda item. Chair Vailas then adjourned the meeting at approximately 9:45 a.m.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



November 20, 2008
9:30 a.m.
Board Meeting

NH Lottery Commission
14 Integra Drive
Concord, NH 03301

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. Constance Jones, Mr. Jack Stanton, Mr. James Tollner, Chair Nicholas Vailas, Ms. Katherine Wells Wheeler and Mr. Scott Wojtkiewicz

Absent: Ms. Ruth Griffin and Dr. Matthew Sochalski

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

Chair Vailas opened the meeting at 9:34 a.m.

1. Consent Agenda

- **Approve October 16, 2008 Board Meeting Minutes**

Discussion: Chair Vailas asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. He then asked Board members if the consent agenda item required any further discussion. If so, it would require removal from the consent agenda.

Ms. Almeda 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 Issuance for December 1, 2008 Mobile PET Services RFA

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck gave a brief introduction and stated that based on the calendar year 2007 data, it would appear that the 3 existing vendors have ample capacity to handle increasing volumes at existing mobile PET sites and/or expand services to additional sites which currently do not provide mobile PET services. He added that no need has been expressed and no letters of intent have been received by staff for the issuance of an RFA. Mr. Peck stated that HSPR staff thus recommends that an RFA for mobile PET services not be issued at this time.

Chair Vailas entertained a motion made by Mr. Wojtkiewicz to not issue the RFA for Mobile PET services based on lack of intent. Ms. Almeda seconded the motion and all of the remaining Board members voted in favor of the motion, unanimously approving this agenda item.

3. Approve Initial Proposal – He-Hea 1000 Acute Care rule amendments

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that an Initial Proposal of rule amendments for the He-Hea 1000, Acute Care Services rule was enclosed for review. She stated that these changes are the result of work completed by the Acute Care Subcommittee of the Board, chaired by Member Almeda. She stated that Member Almeda had prepared an overview for the Board for discussion at this meeting.

Ms. Almeda then reviewed the changes to the rule stating that, Health Service Area's were updated, the Bed replacement calculation was updated, and the impact on existing facilities was updated and the rule now requires the calculation of net revenue per adjusted admission. She added that the need formula for new acute care beds was updated, the standards for construction of a new facility were repealed, and a new standard will be developed if/when needed. She also reviewed items to be considered by the Practice and Procedure subcommittee upon recommendation of the Acute Care Subcommittee.

Mr. Tollner made a motion to approve the initial proposal of He-Hea 1000 Acute Care rule amendments. Ms. Wheeler seconded the motion. All Board members voted in favor of the motion and this agenda item was unanimously approved.

4. Littleton Regional Hospital, Request for Exemption of Medical Office Building

Discussion: Chair Vailas welcomed Ms. Susan Palmer-Terry, Consultant for Littleton Regional Hospital, Mr. Warren West, CEO for Littleton Regional Hospital and Mr. George Broder, Owner's Representative for Littleton Regional Hospital to testify before the Board. Ms. Palmer-Terry reviewed the request for the Board and stated that the request falls under RSA 151-C:13, I(a) that exempts Medical Office Buildings from CON review. She stated that LRH is a newer facility built in 2001 and the existing MOB is attached to the hospital. A CON has been submitted to renovate that space for hospital use, which would displace the physician practices. Ms. Palmer-Terry stated that the new addition to the MOB would house physician offices only.

Ms. Almeda questioned whether physician offices would be hospital owned. Mr. Broder replied that the 2nd floor would be hospital practices and the 1st floor will be condominium units. Ms. Carrier reviewed the condition recommended by HSPR staff that the Board review any change in the use of the proposed space.

Ms. Almeda made a motion that the proposed MOB be exempt from CON review with the condition that any future change in the use of space be brought back before the Board. Mr. Chase seconded the motion. All Board members voted in favor of the motion and the motion was unanimously approved.

5. Lakes Region General Hospital, NSR Request of \$2,100,368.89

- **Replacement of Surgical Suite HVAC System, \$1,345,528.89**
- **Fit-up of Additional Operating Room, \$754,840**

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that the total combined cost of these two projects is \$2,100,368.89, which falls below the current statutory threshold of \$2,555,100. She added that, according to LRGH, a CMS inspection in January 2008 resulted in serious deficiencies of the HVAC system in the surgical suite, which must now be corrected before March 2009. She stated that because the installation of this system will run through the ceiling of an existing shelled operating room currently used for storage, LRGH has also chosen to fit up this space now for future use. Ms. Carrier stated that HSPR staff suggests that such petition may be better termed as a change of scope to AC 07-09, issued to LRGH in May 2008, and that the information submitted in the petitions does meet the requirements for a change of scope. She also added that the documentation as submitted *does not* meet the requirements of a Not Subject to Review request as information is missing.

Mr. Henry Lipman, CFO for LRGH, Ms. Ellen Wolff, VP of Patient Services for LRGH and Andrew Eills, Esq., Legal Counsel for LRGH came forward to provide testimony. Attorney Eills briefly stated that LRGH was in agreement with approving the request as a Change of Scope to AC 07-09 and that they were available to answer any questions the Board may have at this time.

At this time, Chair Vailas recognized a motion made by Mr. Chase to approve the Change of Scope to AC 07-09 in the amount of \$2,100,369 to cover the fit-up of the surgical suite and the replacement of the HVAC system. Ms. Almeda seconded the motion. All Board members voted in favor of the motion and the motion was unanimously approved.

6. Public Hearing, LRGH Hillside Ambulatory Surgery Center ASC 08-02, Gilford, NH, \$2,794,127

Discussion: Chair Vailas welcomed Mr. Henry Lipman, CFO for LRGH, Ms. Ellen Wolff, VP of Patient Services for LRGH and Andrew Eills, Esq. Legal Counsel for LRGH to provide testimony. Mr. Lipman started by introducing the project to the Board. Ms. Wolff then reviewed the floor plans and stated that LRGH needs to fit up the ASC space, including 2 additions to the ASC condos. She stated that utilization is now at 91% and they are adding a class C operating room and a Type B minor operating room of 235 square feet. Chair Vailas stated that he believes an OR must be at least 400 s.f. regardless of class because of sedation. Ms. Wolff stated that there would be no anesthesia, just IV sedation but she would check to be sure. She added that the minor procedure room would be used mostly for pain procedures. Ms. Wolff also stated that the cost of the project is approximately \$2.8 million and will be funded from LRGH's equity.

Ms. Wheeler asked if the possible increase needed in the OR space would require a larger addition. Ms. Wolff replied that they may need to acquire more space and that she'd check with the architect and also state licensing. Mr. Lipman stated that they could likely accommodate within the leeway provision of the CON which allows for an inflation factor and 15% to be applied to any approved CON amount.

There was no public testimony and Chair Vailas closed the public hearing at 10:30.

At this time, Chair Vailas heard a motion made by Ms. Almeda to approve ASC 08-02 for \$2,794,127, finding that all standards and criteria are met. Mr. Chase seconded the motion. Mr. Tollner asked for an amendment to the motion that LRGH provide additional information on the room size requirements. Ms. Almeda accepted the amendment with Mr. Chase seconding. The motion was unanimously approved by all of the Board members.

7. Other Administrative Business

- ❑ The P & P Subcommittee meeting will take place directly following the Board meeting.
- ❑ Next meeting of the Board is scheduled for December 18, 2008.
- ❑ There was a proposed 2009 Board meeting schedule for review included in the Board packet.
- ❑ An update on SB 541 was provided, stating that there will be legislation to create a formal study commission.
- ❑ The Nursing Home Moratorium expires on 6/30/09; HSPR staff is watching for legislation to extend the date.
- ❑ The Supreme Court decision on Elliot's Londonderry location was provided for Board review.
- ❑ A brief update on Estudio was provided; most of the documentation is now available electronically through Estudio.

Chair Vailas adjourned the meeting at approximately 10:35 a.m.

Signature:

Nicholas Vailas
Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



October 16, 2008
9:30 a.m.
Board Meeting

Department of Revenue
Community Services Division
Training Room
57 Regional Drive
Concord, NH 03301

Meeting called by: Acting Chair Katherine Wells Wheeler **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Ms. Erin Almeda, Ms. Constance Jones, Dr. Matthew Sochalski, Mr. Jack Stanton, Mr. James Tollner, Ms. Katherine Wells Wheeler and Mr. Scott Wojtkiewicz

Excused: Mr. Robert Chase, Ms. Ruth Griffin and Chair Nicholas Vailas

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

Acting Chair Wheeler opened the meeting at 9:36 a.m.

1. Consent Agenda

- **Approve September 11, 2008 Board Meeting Minutes**

Discussion: Acting Chair Wheeler asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. She then asked Board members if the consent agenda item required any further discussion. If so, it would require removal from the consent agenda.

Mr. Stanton 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. Approve Initial Proposal, He-Hea 2000 PET Rule

Discussion: Acting Chair Wheeler asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that HSPR staff has produced an Initial Proposal of rule He-Hea 2000 PET services for reoption. She added that amendments to this rule include the addition of small hospital service area protection (He-Hea 2002.01 (f) and 2006.01 (r)), elimination of certain data reporting elements and the move from quarterly to yearly reporting of data (He-Hea 2006.03 (k) and (l) and 2003.01 (k) and (l)) the repeal of Uncompensated Care (He-Hea 2003.03 and He-Hea 2006.03) and the issuance of a yearly mobile PET RFA (He-Hea 2004.01).

With no Board discussion, Acting Chair Wheeler recognized a motion made by Dr. Sochalski to approve the initial proposal of the He-Hea 2000 PET rule. Ms. Almeda seconded the motion and all Board members voted in favor of the approval.

3. Portsmouth Regional Hospital, Petition for Change of Scope, AC 06-07 \$4,627,716 And NSR Request to Acquire Additional Fixed MRI Unit, \$1,900,000

Discussion: Acting Chair Wheeler asked Ms. Carrier to introduce this agenda item. She referred to the 2-part petition submitted by Portsmouth Regional Hospital (“PRH”) stating that the first section requests a Change of Scope for its original hospital project to incorporate the development of an outpatient imaging center in leased space near the hospital campus. She added that according to PRH, this center was originally thought to be below the statutory threshold and was thus developed separately. Now, however, the rising costs of construction have caused PRH to reconsider this project. Ms. Carrier stated that HSPR staff concludes that such Change of Scope is eligible for approval with the condition that signed leases be provided upon execution.

Acting Chair Wheeler stated that the Board preferred to vote separately on the 2 parts of the petition. She then welcomed Attorney John Malmberg, Legal counsel for Portsmouth Regional Hospital, Mr. Bill Duffy, Vice President of Engineering, Mr. Dave McClung, CFO and Mr. Bob White, Director of Imaging for Portsmouth Regional Hospital to present testimony to the Board. Mr. Duffy then provided a background on the project and change of scope.

With no further discussion, Mr. Wojtkiewicz made a motion to approve the change of scope for Portsmouth Regional Hospital AC 06-07 to \$67,654,763 with the condition that copies of the lease agreements be provided when executed. Ms. Almeda seconded the motion. All Board members voted in favor of the motion, unanimously approving this part of the agenda item.

Ms. Carrier then introduced the second part of this petition stating that this section of the petition is a not subject to review (NSR) request to acquire a second fixed MRI unit and locate it at the outpatient imaging center. She stated that PRH is making such request under the “substantially similar” clause of RSA 151-C:5, II (d), which permits such equipment to be purchased. Ms. Carrier then stated that PRH has submitted documentation proving that the estimated operating cost as a result of adding the unit will not increase substantially. She added that HSPR staff concludes that PRH is eligible for an NSR for this proposal.

Dr. Sochalski asked the petitioner how long they have had the original unit. Mr. McClung replied that they have had the unit since the original CON was approved in 2001 and that they have supplemented with mobile services since 2003. Dr. Sochalski then asked how much the cost per procedure would increase. Mr. McClung answered that the cost would actually decrease.

Hearing no further discussion, Acting Chair Wheeler recognized a motion made by Ms. Almeda that the MRI equipment at Portsmouth Regional Hospital is Not Subject to Review since it is substantially similar and there would be no substantial increase in operating costs. Dr. Sochalski seconded the motion. All Board members voted in favor of the motion and this part of the agenda item was unanimously approved.

Mr. Tollner arrived at the meeting at 9:53 a.m.

4. Other Administrative Business

- ❑ The LTC Subcommittee meeting will take place directly following the Board meeting.
- ❑ Next meeting of the Board is scheduled for November 20, 2008.
- ❑ The next Practice and Procedure subcommittee will meet immediately following the November Board meeting.
- ❑ There was an article regarding Monadnock Community Hospital's project (AC 06-06) included with the Board packet. The Board Chair suggested sending a letter to CON holders to provide status on their projects in light of the current economic situation. The Board reviewed a draft letter and agreed to have it sent to the respective CON holders.
- ❑ A discussion on Estudio took place where Board members provided their feedback and their desire for electronic or hardcopies in the future.
- ❑ Acting Chair Wheeler requested that the staff send a letter to Ms. Lauren Lebrun thanking her for her service as staff to the Board.

Acting Chair Wheeler adjourned the meeting at approximately 10:01 a.m.

Signature:

Katherine Wells-Wheeler
Acting Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



September 11, 2008
9:30 a.m.
Board Meeting

Department of Revenue
Community Services Division
Training Room
57 Regional Drive
Concord, NH 03301

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. Ruth Griffin, Ms. Constance Jones, Dr. Matthew Sochalski, Mr. Jack Stanton, Mr. Nicholas Vailas, Ms. Katherine Wells Wheeler and Mr. Scott Wojtkiewicz

Absent: Mr. James Tollner

Staff Members: Ms. Cindy Carrier, Ms. Lauren Lebrun and Ms. Angel McFetridge

Chair Vailas opened the meeting at 9:32 a.m.

1. Consent Agenda

- **Approve July 24, 2008 Board Meeting Minutes**
- **Findings of Fact – RiverWoods Company of Exeter, NH, CCRC 08-01, \$3,752,000**
- **Findings of Fact – Region 3 Reconsideration via Joint Proposal:**
 - **Golden View Health Care Center, LTC 07-01, \$4,899,466**
 - **Laconia Genesis Health Care, LTC 07-03, \$2,975,000**
- **Dr. O’Connell’s PainCare Centers, Inc. – NSR Request for Facility Renovations for Outpatient Services, Merrimack, NH - \$621,200**
- **Speare Memorial Hospital – NSR Request for Construction and Renovation for Physician Office Services, Plymouth, NH - \$9,116,876**

Discussion: Chair Vailas asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. He then asked Board members if any consent agenda items required any further discussion. If so, it would require removal from the consent agenda. Ms. Lebrun gave a brief introduction of the consent agenda to the Board.

Dr. Sochalski 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. St. Joseph Hospital – NSR Request for Physician/Medical Office Building in Hudson, NH - \$2,380,209

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that St. Joseph Hospital is seeking to develop a physician/medical office building in Hudson, NH. The hospital portion of the project (29%) results in a cost of \$2,380,209, which falls below the statutory threshold of \$2,555,100. The remainder of the project (71%) is slated for physician offices. Because the cost of the hospital space is below the threshold, and the services (physical therapy, phlebotomy and general radiology) will be considered outpatient, HSPR staff has determined that this proposal is eligible for an NSR determination under RSA 151-C:13, I. She stated that since the cost is more than 75% of the threshold, however, SJH is willing to accept conditions that it provide a copy of the Guaranteed Maximum Price construction contract as soon as it is finalized, along with a comparison of costs to Marshall and Swift and certification of the total project cost estimate by the contractor. Ms. Carrier stated that HSPR staff concludes that the project could be eligible for an NSR determination with the condition that SJH supply a copy of these items prior to project commencement to confirm that the cost is reasonable compared to industry benchmarks and will not exceed the statutory threshold.

There was no public testimony and no Board discussion. Ms. Wheeler made a motion to approve the NSR request from St. Joseph Hospital for physician/medical office building in Hudson, NH with the condition that St. Joseph Hospital provide a copy of the Guaranteed Maximum Price construction contract along with a comparison of costs to Marshall and Swift and certification of the total project cost estimate by the contractor. Mr. Wojtkiewicz seconded the motion. The remaining Board members voted in favor and this agenda item was unanimously approved.

3. Orthopaedic Surgery Center, LLC – NSR Request for Proposed ASC Expansion, Concord, NH - \$1,518,346

Ms. Almeda recused herself from this agenda item.

Discussion: Chair Vailas asked Ms. Lebrun to introduce this agenda item. She stated that Orthopaedic Surgery Center, LLC (“OSC”) of Concord, NH submitted an NSR request for expansion of its Ambulatory Surgery Center. She stated that because the cost of the proposed project is below the statutory threshold, and the services will be considered outpatient, HSPR staff has determined that this proposal is eligible for an NSR determination under RSA 151-C:13, I. However, HSPR staff recommends that the Board attach a condition that OSC provide a copy of the signed construction contract prior to project commencement to comply with He-Hea 301.01(b)(2)(n).

Hearing no further discussion, Chair Vailas accepted a motion from Mr. Chase to approve the NSR request made by Orthopaedic Surgery Center, LLC for a proposed ASC expansion with the condition to provide a copy of the signed construction contract prior to project commencement. Mr. Wojtkiewicz seconded the motion. This agenda item was unanimously approved by the remaining Board members.

Ms. Almeda rejoined the meeting at this time.

4. New Hampshire Imaging Services – Approve Weeks Medical Center, Lancaster, NH for Mobile PET Site, CON PET 01-08

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that New Hampshire Imaging Services (“NHIS”) is planning to establish mobile PET services at Weeks Medical Center in Lancaster, NH, under the auspices of Mary Hitchcock Memorial Hospital (“MHMH”). She stated that in accordance with its 2001 CON conditions, NHIS is required to submit all pertinent documentation to enable Weeks Medical Center to become a receiving site for Mobile PET services. The required documentation has been submitted with the exception of an amendment to MHMH’s RAM license from the Bureau of Radiological Health (“BRH”) that would include Weeks Medical Center as an authorized site. Ms. Carrier stated that the clinical credentials for Dr. Marc Selzer, one of the two physicians providing clinical oversight for the service was provided to the Board today. NHIS states that it would accept a condition to require it to submit the amendment to the RAM license before initiating service. Since the documentation is otherwise in order, HSPR staff would request that the Board determine that NHIS is eligible to add Weeks Medical Center (under the auspices of MHMH) as a site for mobile PET services, with the condition that NHIS submit the amendment to MHMH’s RAM license before initiating service.

With no Board discussion, Chair Vailas recognized a vote made by Ms. Almeda to approve Weeks Medical Center in Lancaster, NH for a mobile PET site provided that they submit the amendment to MHMH’s RAM license before initiating service. Ms. Griffin seconded the motion and the remaining Board members voted in favor and this agenda item was unanimously approved.

5. Determine Issuance – October 1, 2008 ASC RFA

Discussion: Chair Vailas asked Ms. Lebrun to introduce 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 surgery center projects exceeding the statutory threshold. In addition, a message was sent to the electronic notice list regarding this RFA. She stated that since to date, no letters of interest have been received, nor any need expressed. Therefore, HSPR staff recommends that no RFA be issued effective October 1, 2008 until or unless any request is received by September 26, 2008 (allowing sufficient time for posting of the public notice).

Ms. Almeda made a motion to not issue the October 1, 2008 ASC RFA since no letters of intent have been received. Mr. Wojtkiewicz seconded the motion and this agenda item was unanimously approved by the remaining Board members.

6. Adopt Final Proposal He-Hea 600 MRI rule

Discussion: Chair Vailas asked Ms. Lebrun to introduce this agenda item. She stated that at it’s July 31, 2008 meeting, the Joint Legislative Committee on Administrative Rules (JLCAR) approved the final proposal of rule He-Hea 600 MRI, thereby allowing the Board to formally adopt the rule at this time. This rule will now be effective for 8 years.

With no further discussion, Mr. Wojtkiewicz made a motion to adopt the final proposal of the He-Hea 600 MRI rule. Mr. Chase seconded the motion and the remaining Board members voted in favor, unanimously approving this agenda item.

7. Adopt Final Proposal He-Hea 1900 ASC rule

Discussion: Chair Vailas asked Ms. Lebrun to introduce this agenda item. She stated that at it's July 17, 2008 meeting, the Joint Legislative Committee on Administrative Rules (JLCAR) approved the final proposal of rule He-Hea 1900 Ambulatory Surgery Center, thereby allowing the Board to formally adopt the rule at this time. This rule will now be effective for 8 years.

Mr. Chase made a motion to approve the final proposal of the He-Hea 1900 ASC rule. Ms. Almeda seconded the motion. The remaining Board members voted in favor of the adoption, therefore, unanimously approving this agenda item.

8. Approve Initial Proposal of He-Hea 2000 PET Scanners rule re-adoption

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She explained that this agenda item was worded wrong and that it should state that the Board would initiate rulemaking to the He-Hea 2000 PET Scanners rule. She stated that this rule is slated to expire in December 1, 2008, and unless a subcommittee is needed to address rule content, the staff could develop an initial proposal of the rule for approval at the Board's 10/16/08 meeting.

Ms. Almeda asked if the Board voted to allow staff to develop an initial proposal of the rule would the Board be able to make changes down the road. Ms. Carrier stated that they could. Ms. Wheeler clarified with staff that the Board always has the opportunity to make changes.

Mr. Wojtkiewicz made a motion to allow the staff to develop an initial proposal for approval. Ms. Wheeler seconded the motion and the remaining Board members unanimously approved this agenda item.

9. Other Administrative Business

- Next meeting of the Board is scheduled for October 16, 2008. There are no items for the agenda as of yet.
- The LTC Subcommittee will meet immediately following the Board meeting.
- The cut off date for agenda submissions has been moved back 24 hours to Wednesdays at 4:00.
- The next Practice and Procedure subcommittee is scheduled for a meeting on October 6, 2008, at 57 Regional Drive.

Chair Vailas adjourned the meeting at approximately 10:10 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date

HEALTH SERVICES PLANNING AND REVIEW



July 24, 2008
9:30 a.m.
Board Meeting

Department of Safety
Richard M. Flynn Fire Academy
Classrooms 5 and 6
222 Sheep Davis Road, Route 106
Concord, NH 03305

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, Dr. Matthew Sochalski, Mr. Jack Stanton, Mr. Nicholas Vailas, Ms. Katherine Wells Wheeler and Mr. Scott Wojtkiewicz

Excused: Ms. Ruth Griffin, Ms. Constance Jones, Ms. Beth Roberts (Term Expired)

Staff Members: Ms. Cindy Carrier, Ms. Lauren LeBrun, Ms. Angel McFetridge and Mr. Jeffery Peck

Chair Vailas opened the meeting at 9:38 a.m.

1. Consent Agenda

- **Approve June 19, 2008 Board Meeting Minutes**
- **Country Village Center, Lancaster, NH – NSR Petition to Lease 4 Skilled Nursing Facility Beds from Androscoggin Valley Hospital, Berlin, NH**

Discussion: Chair Vailas asked Ms. Carrier to conduct a general swearing-in of audience members planning to testify. He then asked Board members if any consent agenda items required any further discussion. If so, it would require removal from the consent agenda.

Mr. Wojtkiewicz recused himself from voting on the consent agenda and Mr. Stanton had not arrived to the meeting; thus, there wasn't a quorum and the Board was unable to vote. This agenda item was postponed until there were enough voting Board members present later in the meeting.

2. Haven Health Center of Derry, NH – Ratify NSR Request for the Transfer of Ownership to CapitalSource Finance, Inc.

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She informed the Board that the Haven Health Center of Derry, NH has been the subject of bankruptcy proceedings, which resulted in a transfer of ownership between it and CapitalSource Finance, Inc. She added that due to the emergent nature of the transaction, and to maintain operation of the facility, Haven's legal counsel contacted the HSPR office for an advance Not Subject to Review (NSR) determination. Ms. Carrier stated that Board Chair Vailas was consulted in this matter, and he provided approval on behalf of the Board that the project is not subject to CON review. However, in order to satisfy the public record on this transaction, she stated that the entire Board must ratify this decision.

Representing Haven Health Center of Derry was Attorney John Malmberg from Orr & Reno. Attorney Malmberg came forward to provide testimony at this time. He briefly stated that the petition is straightforward and that he was available to answer any questions the Board may have.

Hearing no further discussion, Chair Vailas recognized a motion from Ms. Wheeler to ratify the NSR request for the transfer of ownership to CapitalSource Finance, Inc. Ms. Almeda seconded the motion. All Board members voted in favor of the motion and the motion unanimously passed.

3. Determine Issuance - August 1, 2008 Acute Care RFA

Discussion: Mr. Peck introduced this agenda item. He stated that in order to support a finding of need for this RFA, HSPR staff mailed a notice to all hospital administrators requesting a Letter of Intent for any contemplated acute care projects exceeding the statutory threshold. A message was also sent to the electronic notice list regarding this RFA. He stated that to date, two letters have been received, one from Wentworth-Douglass Hospital of Dover, NH and one from Elliot Hospital in Manchester, NH. Mr. Peck closed by stating that the staff recommends the August 1, 2008 RFA for Acute Care be issued based on these letters of intent.

At this time, Ms. Almeda made a motion to issue the August 1, 2008 RFA for Acute Care projects. Mr. Wojtkiewicz seconded the motion and this agenda item was unanimously approved.

4. Parkland Medical Center, Derry, NH – NSR Request to Acquire Laparoscopic Surgical Equipment – da Vinci System, \$1,600,000

Discussion: At this time, Chair Vailas requested that the representatives from Parkland Medical Center come forward to provide testimony. Attorney John Malmberg, legal counsel for Parkland Medical Center and Ms. Maureen Smith, Vice President of Marketing for Parkland Medical Center came forward. Attorney Malmberg reminded the Board that they had approved a similar request for a daVinci System for Elliot Hospital at last month's Board meeting. Ms. Wheeler asked Attorney Malmberg why Parkland decided to purchase rather than lease the system. Attorney Malmberg stated that Elliot had negotiated a capital lease, and stated that Parkland doesn't anticipate the technology changing so an acquisition made sense.

Ms. Almeda made a motion to grant an NSR determination to Parkland Medical center for the purchase of the da Vinci system for \$1,600,000 as it is substantially similar, under RSA 151-C:5,

II(d) to equipment owned and operated by Parkland Medical Center. Dr. Sochalski seconded the motion and it passed unanimously.

5. Public Hearing – RiverWoods Company of Exeter, NH, CCRC 08-01, \$3,752,000

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that The RiverWoods Company of Exeter, NH would be presenting its application for a Continuing Care Retirement Community (CCRC) to be known as The Boulders, which will be located adjacent to the existing RiverWoods campus in Exeter, NH. He stated that only the nursing home portion of the project is subject to CON review. Mr. Peck stated that all checklist items have been resolved and staff's analysis concludes that the proposal is eligible for a CON with condition at this time.

At this time, Ms. Dawn Barker, VP of Human Resources and Mark Hepp, Project Manager for Riverwoods came forward to present their project. Mr. Hepp provided a handout containing a power point presentation for the Board. Ms. Barker described the CCRC and how it operates. She stated that it opened in 1994 and the Ridge was constructed in 2004. She referred the Board to the handout as she described the facility. She stated that they would be using the same team of developers that they used for the Ridge. Ms. Barker went on to say that an increase in financial strength would decrease fees; there would be 3 communities operating as one entity with the same balance sheet.

Ms. Almeda asked why the project has a higher margin than the combined facility. Ms. Barker replied that they had used conservative assumptions such as interest rates, fees, construction costs and time to reach fill up (3 years). Ms. Almeda stated that if the assumptions didn't play out the margin would be higher. Ms. Barker stated that the operating expenses would be shared, there would be no duplication in salaries for upper management (CEO, CFO, etc) and there would be other economies of scale. Ms. Wheeler questioned whether there was a separate nursing home unit for each community. Ms. Barker replied that there was. Ms. Wheeler then asked how many beds would be in the facility. Ms. Barker replied that there would be 16 skilled beds at Boulders. Ms. Wheeler asked what the current occupancy was and Ms. Barker answered that there was usually 1-2 beds open at a time. Mr. Wojtkiewicz asked what the payment source for CCRC's was and how much the entrance fee and monthly payment was. Ms. Barker replied that for the Boulder's facility the entrance fee is \$350,000 – \$750,000 and the monthly fee is 10% of the entrance fee and that it never increases. Ms. Barker went on to say that the price includes 25 – 30 meals, maintenance, utilities and lawn mowing. She stated that 98% of residents were private pay and about 2% were Medicare. She also stated that the entrance fee is 98% refundable to the estate of the resident. Ms. Wheeler asked what would happen when a resident runs out of money. Ms. Barker replied that the Benevolent Fund would cover them for the rest of their life and added that there are currently 3 residents using this method.

Chair Vailas asked if there were any members of the audience that wanted to testify regarding this project. Representative Neal Kurk, State Representative for District 7 came forward at this time. He stated that there is a moratorium on nursing beds and its purpose was and has been to facilitate a plan to shift people to the community for aging. Representative Kurk suggested a condition be added to this CON and to the next agenda item as well that the beds not be used by Medicaid patients but only by Medicare or private pay patients.

Hearing no other testimony, Chair Vailas then closed the public hearing. Mr. Wojtkiewicz made a motion to grant the CON for the nursing home component of the proposed RiverWoods of Exeter, NH, CCRC 08-01, for \$3,752,000 with a condition that the applicant agrees to the components of

He-Hea 909.02 (a) and (b) relative to the limitations on admissions to the nursing home component of the CCRC for residents and spouses. Mr. Chase seconded the motion and this agenda item was unanimously approved by the Board.

Mr. Jack Stanton arrived at this time and Chair Vailas called for a 10-minute recess.

When the meeting was brought back to order Chair Vailas returned to agenda item # 1, the Consent Agenda, as the Board was now able to vote with Mr. Stanton present. Mr. Wojtkiewicz recused himself from the vote. Ms. Wheeler motioned to accept the consent agenda and Mr. Stanton seconded the motion. All Board members voted in favor of the motion, therefore unanimously approving the consent agenda.

6. Public Hearing – Region 3 Reconsideration via Joint Proposal:

- **Golden View Health Care Center, LTC 07-01, \$4,899,466**
- **Laconia Genesis Health Care, LTC 07-03, \$2,975,000**

Discussion: Mr. Wojtkiewicz recused himself from this agenda item. Chair Vailas asked Ms. Carrier to introduce this item. Ms. Carrier stated that at this time, Golden View and Laconia Genesis would present their Joint Proposal for Reconsideration of the 33 long-term care beds for Region 3. She reminded the Board that it originally awarded a CON to Golden View for the 33 beds, at a total cost of \$933,967, and Laconia Genesis requested and was awarded reconsideration on the decision. She added that during the interim, the two parties devised a Joint Proposal that allocates 21 beds to Golden View and 12 beds to Laconia Genesis. Ms. Carrier then stated that this is the subject of the public hearing and outlined the layout for the hearing. She stated that pursuant to the Pre-Hearing Order the applicants would have a collective 90 minutes to make a presentation to the Board and that this time does not include any questions by the Board, or any public testimony that may be heard. She stated that the HSPR Staff Analysis and Checklists of outstanding items were provided for the Board's review and consideration and that staff also prepared an Executive Summary on this matter to aid the Board's decision. Ms. Carrier read the questions from the Executive Summary into the record:

- Does the new information supplied by the Joint Submission cause the original CON approval to Golden View to be rendered obsolete or inadequate?
- Does the location of the beds between Meredith and Laconia create a valid argument for allocation (and thus refute the definition of Region 3)?
- Does the capital expenditure of \$7,874,466 for the re-allocation of beds justify the claimed benefits, i.e., what is the acceptable cost of collaboration?
- Does the capital expenditure of \$7,874,466 for the re-allocation of beds between Golden View and Genesis Laconia meet the tenets of RSA 151-C:1, I, II, and III?
- Does the Board find failure with one or both projects of the Joint Proposal as presented?

At this time representatives from both facilities approached to testify on behalf of the proposed project. Present were: Mr. Andrew Eills, Esq., Ms. Susan Palmer-Terry, Consultant and Ms. Jeanne Sanders, Administrator for Golden View; Ms. Lucy Hodder, Esq., and Mr. Arthur O'Leary, Regional VP Operations for Genesis Healthcare – Laconia.

Attorney Eills made introductory comments and stated that the Joint Proposal best meets the need for 33 beds and best meets the standards and criteria. He then reviewed the history of the RFA and process to date.

Attorney Hodder introduced the benefits of the proposal and reviewed the specifics of each project and also the benefits of the joint proposal:

- Both projects are 'person-centered' care which is endorsed by CMS;
- focused on 'neighborhoods' for long term and short term residents;
- private rooms and baths;
- expansion of clinical capabilities;
- improved access for all residents of the region;
- maintenance of assisted living beds;
- supported by the community; and
- approached collaboratively as per RSA 151-C:1.

Attorney Hodder stated that the proposed projects will serve two (2) additional Medicaid patients at Golden View and one (1) at Laconia Genesis and will not negatively impact the state coffers.

Chair Vailas inquired as to the percentage of Medicaid at each of the facilities. Mr. O'Leary stated that it is 70% at Laconia Genesis. Chair Vailas then asked if 70% of the 12 new beds would be Medicaid and Mr. O'Leary stated that they would be mostly Medicare. Ms. Sanders indicated that GoldenView would likely be the same.

Ms. Sanders presented the site plan, floor plans and benefits of the project on behalf of Golden View Healthcare stating that the existing building was built in the early 1970's and that space is sparse by today's standards.

Ms. Wheeler asked if there were any thoughts to 'green construction' (e.g. geothermal heat) and Ms. Sanders stated that she was not sure if they have the option to plant the wells due to where the building is situated but they are looking at using paints that meet codes and energy efficient windows, doors and appliances.

Mr. O'Leary presented the site plan and floor plans on behalf of Laconia Genesis stating the existing building is very cramped.

Ms. Wheeler asked if the configuration of the existing rooms were changing, and Mr. O'Leary stated that there will be some office space that will become resident space. He also stated they may be able to reconfigure some space in the future and all patients will have access to the new space for rehabilitation, etc. The existing rooms will not be altered.

Ms. Gloria Thorington, Director of Care Management, Lakes Region General Hospital (LRGH) and Manager of Discharge Planning Staff, LRGH and Franklin Regional Hospital (FRH) and Mr. Henry Lipman, Executive Vice President/CEO, LRGHealthcare (LRGH) asked to be recognized by the Board to present testimony. Ms. Thorington stated that she works with staff at both facilities and that distance is an important factor to many patients and their families. She also stated that there are no facilities for some of the more complex conditions available in the community and these projects would alleviate that. The two (2) hospitals she works for had 4,166 patient days for patients that could have been treated in nursing homes if the facilities were available.

Mr. Lipman stated the joint proposal would be cost neutral to the healthcare system with an added benefit to the patient being in the most appropriate setting.

Mr. Chase stated that the costs for Medicare reimbursement are as follows: \$300/day for hospital swing bed services and \$300 or less at nursing homes.

Ms. Almeda stated that for hospitals without swing beds, if the patient exceeds the Medicare payment period, the hospital does not receive any more reimbursement.

Mr. Lipman then testified on the patient mix issue stating that 90% plus are Medicare patients being discharged to the nursing homes. He also said that any incremental cost to the system is worth it for the improvements to the infrastructure.

Ms. Wheeler stated she was concerned about the dramatic increase in costs associated with the joint proposal and asked the applicants how secure they were in being able to afford the project. Ms. Sanders stated that the Golden View board reviewed the project carefully and is comfortable with the affordability of the project. Ms. Wheeler then asked how the money would be obtained (e.g. private fundraising?) and Ms. Sanders stated that they would be borrowing the money.

Mr. Chase asked Ms. Sanders how many assisted living beds Golden View had and if they see people moving between those beds and the nursing beds. Ms. Sanders replied that there are 22 assisted living beds and they frequently see patients moving back and forth.

The hearing was closed at 11:52 a.m. and Board discussion followed.

Mr. Chase stated there has been a dramatic change in the level of care over the years and all new proposals reflect the new settings for care. As to the funding issue, the State has never reimbursed the full cost of care and right now it is at 80% of cost. The State budget is driven by what it can afford to pay, not the costs of the facilities. This project may cause some reallocation of funds but won't increase the State budget. He also pointed out that Golden View's original proposal took 22 assisted living beds offline and this is a 'hidden cost'. Many patients are willing to step down to assisted living if it is in the same facility and this would generate a cost savings.

Mr. Chase also addressed Representative Kurk's Medicaid restriction request and said it is not fair to impose this condition now.

Dr. Sochalski addressed the Board on behalf of the Department of Health and Human Services stating the Department believes the proposal is illegal and questions why there was only a need for 6 FTEs for the original 33 beds and there is now a need for 47 FTEs for those same beds at eight (8) times the cost. He stated the Board correctly and legally granted the CON to Golden View on 9/20/07 and there is a need to balance collaboration with cost but asked if it was worth \$8 million. Dr. Sochalski stated that this will affect other nursing homes in the State. He stated the Department feels that the questions on page five (5) of the executive summary should all be answered No and does not believe RSA 151-C provides the authority to approve this proposal.

Ms. Almeda stated that some of the difference in the FTEs was due to the re-use of the FTEs from the assisted living unit to the new beds. She also stated she was perplexed by the State saying they don't need more nursing beds but supporting a project taking assisted living beds out of the system, and that she is pleased that the proposal keeps the assisted living beds in the picture.

Ms. Wheeler stated she supported Golden View's original proposal and opposed the reconsideration, but she likes Golden View's new proposal. She is concerned about overall affordability to the residents of the State. However, she is not sure how private payors will be affected and what other costs are incurred to the system.

Attorney Hodder stated that the standard is not cost but affordability. Each center is paying for its own construction and the impact on the State is a net gain because of the provider tax. There are hidden savings to the system when patients are in the appropriate level of care.

Ms. Wheeler asked if it would cost more to have private units with private baths and Mr. O'Leary said it will be more efficient. New construction will create more Medicare patients and less Medicaid, which will increase reimbursement to the facility.

A discussion ensued on cost, efficiency, patient care, etc.

Ms. Sanders stated that they want patients in the proper settings for the care they need. Private rates are governed by the market and there will be minimal effect on Medicaid.

Chair Vailas raised the subject of Representative Kurk's concern that there could be an influx of Medicaid clientele. Mr. Chase stated that if 1,000 people showed up on the Medicaid rolls, there would be no increase in cost to the State. The State would adjust rates and lower the rates and all other providers would make up the cost.

Attorney Hodder stated that the Legislature allowed the moratorium to lapse and the new proposal won't impact the State any more than the originally approved CON. The beds are not geared toward Medicaid patients but need to be available to meet the need when necessary.

Mr. O'Leary stated the project will save the facility from becoming an 'all Medicaid' facility which would cost the State more.

Ms. Wheeler stated she did not think the Board can cap the number of Medicaid beds since it is not within the statute.

Mr. Chase then made a motion as follows:

Based on the information supplied in the Joint Proposal, a CON be awarded to Golden View, LTC 07-01, for 21 beds to be located in Meredith NH at a cost of \$4,899,466 and to Laconia Genesis, LTC 07-03, for 12 beds to be located in Laconia NH at a cost of \$2,975,000.

Ms. Almeda seconded the motion. Dr. Sochalski voted against the motion. On a split vote of five (5) members to one (1) the motion passed and two (2) CON's were granted.

Mr. Wojtkiewicz rejoined the meeting at this time.

7. Other Administrative Business

- Ms. Carrier stated that key staff will be unavailable for the scheduled August 21, 2008 Board Meeting and suggested that the Board not meet in August and hold an early September meeting instead. The Board decided that the next meeting will take place on September 11, 2008.
- The Practice and Procedure Subcommittee will next meet on September 2, 2008, 10am, Room 312, DHHS, Concord, NH.
- Ms. Carrier asked that the Long-Term Care Subcommittee pick a next meeting date; key material has been received and is ready for distribution. The Board decided to

hold the next Long-Term Care subcommittee after the September 11, 2008 Board meeting.

Chair Vailas recognized a motion made by Mr. Chase to adjourn the meeting. Ms. Almeda seconded the motion. All Board members voted in favor; thus Chair Vailas adjourned the meeting at approximately 12:30 p.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date