

HEALTH SERVICES PLANNING AND REVIEW

August 19, 2010
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

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

Excused: Ms. Deb Grabowski and Ms. Constance Jones

Absent: Mr. Scott Wojtkiewicz

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

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

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

1. Consent Agenda

- **Approve June 17, 2010 Board Meeting Minutes**
- **Genesis HealthCare - NSR Request to Transfer Operators of LTC Entities**
- **SJH Surgicenter, LLC – NSR Request to Transfer Ownership of Nashua ASC to St. Joseph Hospital**

Discussion: Chair Vailas asked Ms. Thibeault to introduce the consent agenda items. Ms. Thibeault briefly stated that the minutes from the June 17, 2010 meeting needed to be approved as well as the NSR request from Genesis HealthCare to transfer Operators of LTC entities. SJH Surgicenter, LLC also submitted an NSR request to transfer ownership of its ASC to St. Joseph Hospital. Chair Vailas then asked Board members if the consent agenda items required further discussion. If so, they would require removal from the consent agenda.

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

2. InSight Premier Health, CON PET 01-06 – NSR Request to Resume Services at The Memorial Hospital, North Conway, NH

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that InSight Premier Health (“IPH”) has submitted documentation to resume PET/CT services under its existing CON to The Memorial Hospital in North Conway, NH. As noted by IPH, this service was discontinued in October 2006. As part of its continued conditions of its CON, IPH must supply certain documentation in order to provide mobile PET/CT services to receiving hospitals. Ms. Carrier stated that, based upon this documentation, IPH is eligible to re-add this site under its CON. She stated that representatives from IPH were on hand to answer any questions the Board may have on this agenda item.

At this time, Mr. Michael Ozga, Operations Manager for InSight Premier Health (IPH) came forward to answer any questions the Board may have.

After no Board discussion, Mr. Tollner made a motion to approve the NSR request made by InSight Premier Health to resume services at The Memorial Hospital in North Conway, NH. Mr. Chase seconded the motion. All Board members voted in favor, thereby approving this agenda item unanimously.

3. InSight Premier Health – NSR Request to Operate Mobile PET unit for Cardiac Imaging

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier referred to the enclosed documentation from InSight regarding the operation of a Mobile PET unit for Cardiac Imaging. She explained that InSight would outfit an existing unit with stress apparatus and PET software to offer this service. InSight also submitted documentation that the unit’s current market value is estimated at \$30,000. The requestor already provides mobile PET service to NH hospitals. Ms. Carrier stated that HSPR seeks to ensure, however, that this additional unit follow the same conditions required by CON PET 01-06 (see above agenda item) relative to operation, safety, licensing and quality for new sites.

At this time, Mr. Kevin Vernon, Area PET Manager, InSight Premier Health (IPH) came forward to provide testimony to the Board. Mr. Wallace asked where the closest service would be located. Mr. Vernon replied that it would be at Wentworth Douglass Hospital in Dover, NH. Mr. Wallace questioned the unit’s current location. Mr. Vernon responded that it was currently idle. Mr. Wallace asked the age of the machine. Mr. Vernon answered that it has a 2002 manufacture date. Mr. Wallace asked the lifespan of the unit and Mr. Vernon stated that it has a short life span since its operations have been phased into PET/CT. Mr. Wallace then asked how long it has been in idle status and Mr. Vernon replied that it has been idle for about a year.

After no further Board discussion, Mr. Tollner made a motion that the request made by InSight Premier Health to operate a Mobile PET unit for Cardiac Imaging is Not Subject to Review with the requirement that the unit follow the same conditions required by CON PET 01-06 relative to operation, safety, licensing and quality for new sites. Mr. Chase seconded the motion. All Board members voted in favor of the motion.

4. Exeter Hospital – NSR Request to Replace RT Equipment \$2,885,257 and Vault Construction \$1,759,615

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that HSPR has received a request from Exeter Hospital to replace its existing linear accelerator under RSA 151-C:5, II (d). The cost of the new equipment is \$2,885,257 which Exeter states is “substantially similar” to the unit it now owns. He explained that upon replacement, the current unit would be placed into back up status. A vault will also be constructed to accommodate the new unit at a cost of \$1,759,615, below the current statutory amount of \$2,712,471. He stated that other details are provided in the request. HSPR staff found an addition error at Appendix D of the submission, which Exeter corrected; this results in lower operating costs than the 2010 costs. HSPR staff concludes that, based on the information submitted, the replacement equipment is likely substantially similar, and the operating cost changes are not substantial. Staff would, however, recommend a condition that Exeter supply a signed construction contract prior to project commencement to ensure total construction costs do not exceed the threshold. Mr. Peck stated that representatives from Exeter were on hand to discuss this agenda item with the Board.

At this time, Mr. Mark Whitney, VP, Strategy, Exeter Hospital, Mr. Mark Corson, Assistant Architect and Attorney Matt Lapointe from Sheehan, Phinney, Bass and Green, Legal Counsel for Exeter Hospital came forward for testimony. Ms. Mary Palmer, VP of Home Care and Cancer Services and Dr. Gary Proulx, Medical Director, Radiation Oncology were also available from the audience. Attorney LaPointe provided a brief background on the proposed project. He stated that the current unit was purchased in 2003 and added that the new machine would have some additional capabilities but is the same type of machine.

Mr. Tollner asked about the increase in cost of \$14 per procedure. Attorney LaPointe answered that the figure was correct per the cost comparison. Mr. Wallace pointed out a “substantial increase” and asked for the figures with and without depreciation. Mr. Peck provided some history of past Board decisions. Mr. Wallace asked Exeter to describe Stereotactic Radiosurgery (“SRS”) to the Board. Dr. Gary Proulx, from the audience, described SRS. Mr. Wallace questioned whether the equipment was really substantially similar. Dr. Proulx stated that SRS is used only about 5% of the time. Chair Vailas stated that it was the same type of equipment. Mr. Wallace questioned whether the back up unit is truly a back up unit. Mr. Whitney responded that Exeter Hospital would have to shut down service for approximately 6 months to switch out the unit. He added that other facilities have handled it this way. Mr. Wallace asked if there would be separate staff to run the new unit. Ms. Palmer replied from the audience, that as a back up unit there wouldn’t be any changes in staff but if the unit was ever put back on line they would have to add staff. Ms. Carrier stated that back up units are not counted in the inventory of RT units. Chair Vailas asked if there was any data on population vs. the number of units. Ms. Carrier responded that HSPR does not do this research but does collect the volume data annually. Ms. Palmer stated that approximately 25 patients per day are needed to support a unit.

At this time, Chair Vailas recognized a motion made by Mr. Chase that the Exeter Hospital request to replace RT equipment and vault construction is not subject to review with a condition that the signed construction contract be submitted prior to project commencement. Mr. Tollner seconded the motion. Mr. Wallace voted against the motion and all remaining Board members voted in favor passing this agenda item with a vote of four to one.

5. Public Hearing – Repeal He-Hea 1102.04 – Cardiac Catheterization Data Collection

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that at this time a public hearing would be held on the repeal of rule He-Hea 1102.04 in accordance with the rulemaking process. Any parties can provide testimony in support of and opposition to this repeal. Upon conclusion of this testimony the hearing must be closed. She added that written testimony will be accepted on this repeal for an additional 7 calendar days and once all testimony is collected, it will be compiled for Board consideration with the development of a Final Proposal of the rule.

At this time, Dr. James Squires, President, Endowment for Health came forward to provide testimony. He expressed his opinion that the Board not repeal this rule. He stated that with Healthcare reform coming there would be changes in how health care is delivered. Having data is important. He stated that baseline data is needed on the number of facilities and utilization and data is needed to be able to answer questions that arise at Board meetings, such as the questions on RT that came up at today's meeting.

Chair Vailas responded by stating that the Board doesn't use the data and the Board doesn't do the planning. He stated that the CON Board wasn't the appropriate entity to collect this data. Dr. Squires stated that the route to correcting the issue is through the legislature. Mr. Wallace asked if the Cardiac Cath standard of need was based on volumes. Ms. Carrier replied that it wasn't. Mr. Wallace asked if this data was collected anywhere else. Ms. Carrier replied that to her knowledge it wasn't. Mr. Wallace requested that staff send Dr. Squires a copy of the data report and wants his opinion on the usefulness of the data. Dr. Squires stated that he would also consult with Dr. Elliot Fisher.

At this time, Mr. Steve Marion consultant for Dartmouth Hitchcock Medical Center, came forward to provide testimony. He stated that he is a strong advocate of research and has worked with Dr. Jack Wennberg. He stated that very little of Dr. Wennberg's research has been on CON programs and expressed that he supports research and National Healthcare but doesn't feel that this data is very useful to the Board.

The public hearing was closed at approximately 10:20 am. Ms. Carrier stated that the final proposal will be produced for the next Board meeting. Chair Vailas stated that he agreed with Mr. Marion that the CON Board is not the place for this research and data mining. Ms. Underwood expressed that she felt if the Board was doing something useful with the data that it would be worth collecting. She added that the Board would need more specific data to do anything useful. Mr. Tollner stated that the information is valuable but that the Board isn't the right place for it.

No further Board action was taken on this agenda item.

6. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, September 16, 2010.
- The Board's LTC Subcommittee will meet immediately following this Board meeting. Mr. Wallace provided an update on the LTC Subcommittee; he stated that HSPR did a survey and will look at the results and will have a proposed formula to present soon.

- The next meeting of the HB234 study committee is scheduled for 10:00 a.m. on September 20, 2010.

Mr. Chase made a motion to adjourn the Board meeting at this time. Mr. Tollner seconded the motion and the meeting was adjourned at approximately 10:25 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

September 16, 2010

9:30 a.m.

Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

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

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

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

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

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

1. Consent Agenda

- **Approve August 19, 2010 Board Meeting Minutes**

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

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

2. Determine October 1, 2010 Ambulatory Surgical Center RFA Issuance

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that in order to support a finding of need for this RFA (Request for Applications), staff mailed a notice to all hospital and ASC administrators requesting a Letter of Intent for any contemplated Ambulatory Surgical Center projects exceeding the current statutory threshold of \$1,808,314. In addition, a notice was sent to the electronic mailing list and a posting was made to eStudio. He stated that no letters of intent have been received; thus staff recommends that the Board conditionally not approve the issuance of an RFA for ASC services unless any letters of intent are received by 9/27/10 (allowing sufficient time for posting the public notice on 10/1/10).

After no Board discussion, Mr. Wallace made a motion to not issue the October 1, 2010 ASC RFA unless any Letters of Intent are received by 9/27/10. Mr. Chase seconded the motion. All Board members voted in favor of the motion.

3. Repeal of He-Hea 1102.04 – Cardiac Catheterization Data Collection – Follow up to Public Hearing/Approve Final Proposal

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier referred to the public hearing to repeal the data collection section of this rule that was held at the August 19, 2010 meeting. At that meeting, testimony was given both in support of and opposition to the repeal of the rule. Dr. James Squires, who testified in opposition of the repeal, was asked by the Board to review the latest data report and provide follow up commentary at this meeting; however Dr. Squires emailed a response which was handed out today. Written testimony was also received from the American Heart Association/American Stroke Association opposing the repeal. Ms. Carrier stated that such testimony must now be considered and a determination made to approve a final proposal of the rule as repealed, or withdraw it from the rulemaking process. She stated that the Board has until December 2010 to file the rule with JLCAR.

Ms. Underwood asked staff if many requests for data are made. Ms. Thibeault responded that a few requests per year are made. Mr. Wallace stated that the data is unrelated to determining need for service and questioned if the data would be useful when need is up for determination in the future. He referred to the testimony of Dr. Squires that suggested additional data that he would like to see collected but again this wouldn't be related to the Board's determination of need for the service. Ms. Carrier then spoke to the testimony from the American Heart Association; she referenced the STEMI mission and stated that the AHA suggests more data elements than what HSPR has been collecting. Ms. Grabowski stated that there have been few requests for the data and staff hasn't used the data too much but if HSPR doesn't continue to collect the data there will be a gap in data for the successor to the Board that comes out of HB234. Chair Vailas stated that the Board doesn't use the data and the Board doesn't have the expertise to analyze the data. Ms. Underwood stated that any hospital could collect this data in the future using historical databases. Mr. Chase stated that the data has value but questions whether the collection

should be done by the Board. Ms. Grabowski asked staff if it is a burden for the hospitals to provide the data or for HSPR staff to compile it. Ms. Carrier responded that it was not. Mr. Marion, from the audience, stated that he disagrees. He stated that he thinks it is a bother for hospitals to provide the data. Ms. Susan Palmer-Terry suggested that rather than repealing the rule, the Board could change the wording from "shall" to "may". Mr. Wallace stated that he doesn't see the value of the data at this point.

At this time, Chair Vailas recognized a motion made by Mr. Chase to continue with the repeal of He-Hea 1102.04 Cardiac Catheterization Data Collection. Ms. Underwood seconded the motion. The motion passed with a vote of 4 to 1, with Ms. Grabowski voting against the motion. Ms. Carrier stated that the final proposal of the rule will now be forwarded to JLCAR and that the rule has already been placed for their consent agenda when it is scheduled for a hearing.

4. Nursing Home Bed Need Formula Discussion

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that a subcommittee of this Board has been working on a revised bed need formula to offer to the Legislature for consideration. The current formula (40 beds per each 1,000 persons aged 65 and older living in the region), as outlined in RSA 151-C:4, II (b) is recognized as out of date. He stated that while no new beds can be awarded due to the moratorium on such now in place, this restriction is slated to expire on June 30, 2012. The subcommittee seeks to offer to the Board – and the Legislature – a sound need formula that will effectively replace this moratorium. Board member Wallace, as the subcommittee chair, then provided additional detail.

Mr. Wallace provided some historical background on the existing need formula, the Moratorium, etc. He stated that occupancy levels have remained steady at about 90%; some beds are licensed but not being staffed or operated. He stated that the subcommittee tried to create a formula that would target utilization by various age groups. He added that any change to the formula would require legislation. Mr. Wallace explained that current utilization by 4 age groupings was analyzed and the utilization varied considerably from county to county. He explained that current utilization levels were used as a baseline and will apply to population 3 years out. He went over the conditions to any bed need determination: 5% beyond current inventory, a 10-bed minimum and the county must have 95% occupancy level for the past year.

Mr. John Poirier spoke from the audience. He wanted to confirm that a 95% occupancy level would be required and Mr. Wallace confirmed this. Chair Vailas asked if the 95% was reasonable. Mr. Poirier replied that it was in fact reasonable and he added that the inventory of beds should include swing beds and CCRC beds. Chair Vailas stated that this would complicate matters. Mr. Marion stated from the audience that CCRCs are not allowed to take patients from outside their population. Mr. Wallace stated that the Board has never included CCRC beds in the inventory. Mr. Marion asked if there was a way to consider skilled bed access and not just overall bed capacity. Mr. Poirier pointed out that it

would be difficult getting to that data. Mr. Michael Lehrman (NH Catholic Charities) from the audience stated that there are few facilities that aren't duly certified. He added that facilities can re-allocate their beds. Ms. Underwood stated that Havenwood has just one floor that is CCRC. Chair Vailas stated that he agreed with member Wallace's logic. Mr. Lehrman stated that it would be easy enough to include CCRC beds. Mr. Wallace stated that if the Board approves of the new formula it could be brought to the HB234 study committee. Ms. Lucy Hodder, Esquire, from the audience asked if the 95% occupancy is at the facility or the region. Mr. Wallace replied that it is for the region.

Chair Vailas recognized a motion made by Mr. Wallace to accept the Nursing Home Bed Need formula as presented. Mr. Chase seconded the motion and all Board members voted in favor of the motion, approving it unanimously.

5. Mt. Carmel Nursing Home, Manchester, NH – Request for RFA for Facility Refurbishment

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that HSPR received a Letter of Intent (LOI) submitted by the Mount Carmel Nursing Home (NH Catholic Charities) of Manchester, NH to refurbish its facility. She stated that the LOI is being submitted under the statutory authority of RSA 151 – C:4, III (a) and the regulatory authority of He-Hea 905.03. An accompanying NSR request has also been filed for renovation of adjacent space, which NH Catholic Charities believes is distinct in nature. HSPR staff did an evaluation of this proposal and has concluded that the project is eligible for an RFA and CON application review. She informed the Board that further discussion is required on the concurrent NSR proposal, (the next agenda item), and whether it can be held separate from this project. She stated that the RFA for this project would likely be exclusive to Mt. Carmel Nursing Home.

At this time, Attorney Andrew Eills, Legal Counsel for Mt. Carmel/NH Catholic Charities, Mr. Michael Lehrman, VP of Healthcare Services, NH Catholic Charities, and Mr. Joe Bohunicky, Administrator, Mt. Carmel Nursing Home came forward to provide testimony. Attorney Eills stated that Mt. Carmel is the first facility to apply for a CON under the refurbishment section of the statute, and the LOI has been appropriately submitted. He stated that the RFA for the CON relates to a different part of the facility. He mentioned that the timing of the two projects is close and that the contractor will be the same. He then spoke to the NSR request; he stated that Mt. Carmel believes the projects are separate. He stated that the projects are distinct and could be done separately. There is a quandary of time to get the projects underway in a timely manner.

Chair Vailas asked the total cost for both projects. Attorney Eills responded that the total is \$3.8 million. Mr. Chase stated that he supports what Mt. Carmel is doing but doesn't agree with the separation of the projects. Chair Vailas added that he is hesitant to set a precedent.

At this time, Mr. Chase made a motion to approve the RFA request for facility refurbishment for Mt. Carmel Nursing Home. Ms. Underwood seconded the motion and all Board members voted in favor of the motion, unanimously approving this agenda item.

6. Mt. Carmel Nursing Home, Manchester, NH – NSR Request for Renovation of Space, \$1,740,000

Discussion: Discussion for this agenda item was tied into agenda item 5. Mr. Wallace made a motion to deny the Mt. Carmel Nursing Home NSR request for the renovation of space. Mr. Chase seconded the motion and all Board members voted in favor of the denial, unanimously denying this agenda item.

7. Other Administrative Business

- Ms. Thibeault stated that the next meeting of the Board is scheduled for Thursday, October 21, 2010.
- Ms. Thibeault stated that the next meeting of the HB234 study committee is scheduled for 10:00 a.m. on September 20, 2010.

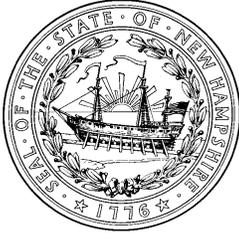
Mr. Chase made a motion to adjourn the Board meeting at this time. Mr. Wallace seconded the motion and the meeting was adjourned at approximately 10:30 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

November 18, 2010

9:30 a.m.

Board Meeting

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

Meeting called by: Mr. John Wallace, Acting Chair **Note Taker:** HSPR Staff

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Robert Chase, Ms. Deb Grabowski, Mr. Christopher Martin, Mr. James Tollner, Ms. Lori Underwood and Mr. John Wallace

Excused: Mr. Nicholas Vailas

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

Acting Chair Wallace opened the meeting at 9:30 a.m. At this time, the Board made introductions as a new Board member started today, and welcomed Mr. Chris Martin to the Board as the NH Healthcare Association representative. Mr. Martin is the Administrator for the Woodlawn Nursing Home in Newport, NH.

1. Consent Agenda

- **Approve September 16, 2010 Board Meeting Minutes**
- **Androscoggin Valley Hospital – NSR Request for Outpatient Cardiology Renovations, \$1,706,373**

Discussion Acting Chair Wallace asked Mr. Peck to introduce this agenda item. Mr. Peck briefly stated that the minutes from the September 16, 2010 Board meeting needed to be approved. Also, Androscoggin Valley Hospital's NSR request for outpatient Cardiology renovations was under the threshold at \$1,706,373 and therefore could be considered as Not Subject to Review. Acting Chair Wallace then asked Board members if the consent agenda items required further discussion. If so, they would require removal from the consent agenda.

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

2. Mt. Carmel/NH Catholic Charities – Ratify RFA Issuance

Discussion: Acting Chair Wallace asked Ms. Carrier to introduce this agenda item. She briefly reminded the Board of its approval to allow Mt. Carmel to submit a CON application for repair and refurbishment under the relatively new exception section of the statute. At the time, HSPR staff believed it appropriate to issue an RFA for the process with Mt. Carmel as the sole applicant. Upon further consideration, however, it appeared that the actual publication of the RFA would be redundant since there could be no other participants in the RFA. Ms. Carrier stated that there would be no harm in processing the application without a public posting of an RFA. She stated that the RFA is specific to Mt. Carmel and that this could be treated similarly to a CCRC within the Moratorium exception; in these cases, applications are accepted without an RFA.

Ms. Grabowski asked for clarification purposes if a facility identifies a need, can they come forward at any time? Ms. Carrier stated that she was correct.

Ms. Grabowski then made a motion to Ratify the RFA issuance in regards to Mt. Carmel and not publish the RFA. She clarified that in the future others will follow the same process. Mr. Chase seconded the motion. All Board members voted in favor of the motion.

3. Adopt He-Hea 1102.04 Cardiac Catheterization Data Repeal

Discussion: Acting Chair Wallace asked Ms. Carrier to introduce this agenda item. She stated that at its October 21, 2010 meeting, the Joint Legislative Committee on Administrative Rules (“JLCAR”) approved the repeal of the Board’s He-Hea 1102.04 Cardiac Catheterization rule. At this time the Board must formally adopt the rule in order for it to be filed and made effective.

At this time, Acting Chair Wallace recognized a motion made by Mr. Tollner to adopt the repeal of He-Hea 1102.04 Cardiac Catheterization Data Collection. Ms. Underwood seconded the motion. All Board members voted in favor of the motion.

4. Greenbriar Nursing Home – Request to Submit CON Application for Facility Refurbishment under RSA 151-C:4, III (a)

Discussion: Acting Chair Wallace asked Mr. Peck to introduce this agenda item. He stated that Greenbriar Nursing Home of Nashua, NH began a renovation project in June 2010 that will now exceed the statutory threshold. As such, Greenbriar will require CON approval in order to complete the project. Such approval can only be given upon receipt and review of a CON application for renovation and refurbishment as allowed by RSA 151-C:4, III (a). Thus, Greenbriar is requesting to submit a CON application. Staff notified Greenbriar of the process and requirement for seeking permission to submit an application, and advised their representative to be prepared to discuss with the Board the status of their project and how it will continue while the CON process is being fulfilled. In any event, the first step to this process is for Greenbriar to receive approval to submit a CON application.

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

Mr. John Getts, Executive Director at Greenbriar Terrace came forward to provide testimony at this time. He stated that \$1.3 million was originally budgeted for renovations of the lobby and some patient rooms. He said that Greenbriar now wishes to continue those renovations. He went on to say that the facility is a 300-bed facility and was constructed in 1963; it is now in need of upgrades.

Mr. Wallace asked when Greenbriar decided to change the scope of the project. Mr. Getts responded that the project began in June and then in the fall it decided to expand upon the renovations. He stated that the first phase is complete (\$1.3 million) and they will now add to the project and do the construction next year with the total cost being approximately \$4 million. Mr. Tollner asked where Greenbriar sees itself with the competition and where this project will position the nursing home for the future. Mr. Getts responded that the appearance will be improved and this will enhance the patient experience as this is the oldest facility in the area; the next closest facilities are located in Nashua and Hudson. This will affect about 100 out of the 300 residents.

Ms. Grabowski asked if there were any life safety issues at the nursing home. Mr. Getts responded that not specifically, but the Fire Marshal welcomes the upgrades (doors, fire alarm, etc.).

At this time, Mr. Chase made a motion to approve the request from Greenbriar Nursing Home to submit a CON application under RSA 151-C:4, III (a). Mr. Martin seconded the motion and all Board members voted in favor of the motion.

5. Elliot Hospital – NSR Request to Replace MRI Equipment, \$2,172,443

Discussion: Acting Chair Wallace asked the representatives from Elliot to come forward to provide testimony. Mr. Rick Elwell, CFO, Mr. Greg Baxter, CEO and Mr. Bob Best, Esquire, legal counsel for Elliot Hospital, came forward to speak. Mr. Baxter gave a brief overview of the project. He stated that the new MRI will be located at the River's Edge facility and the Mammoth Road unit will be moved to the hospital. He added that the oldest unit at the hospital will be removed.

Mr. Wallace questioned the current location of the units. Mr. Baxter gave a background on the MRI machines currently owned by Elliot. He explained that the oldest unit is a 1.5T located at the hospital and was acquired in 2002; the next one is a 1.5T acquired in 2004 and is located at Mammoth Road. The third unit is a 1.5T and is currently located in Londonderry, NH. He stated that the original request was to move the Mammoth Road unit to the River's Edge facility.

Ms. Grabowski asked if a 3.0T unit existed in Elliot's service area currently. Mr. Baxter responded that there is, and explained that a 3.0T has become the standard. He added that this will be a large bore machine, which is new to the market and more patients can benefit from it.

Ms. Carrier stated that HSPR has not received the depreciation expenses on the old unit or an updated proposal as requested by staff. Mr. Elwell confirmed that Elliot has the documentation and it would be given to staff after the Elliot hearing. He stated that there's a 1 – 2% increase in operating costs but no change in reimbursement by insurers, Medicaid or Medicare. From the audience, Attorney Eills questioned what happens to the old unit. Mr. Elwell explained that it will be traded in for credit against the new machine.

With no further discussion, Mr. Tollner made a motion to approve the NSR request for Elliot Hospital to replace/relocate MRI equipment for a total cost of \$2,172,443 with the condition that Elliot provide a signed proposal letter and depreciation expense information. Ms. Grabowski

seconded the motion and all Board members voted in favor of the motion, unanimously approving this agenda item with conditions.

6. Approve New HSPR Form 301C – Change of Scope

Discussion: Acting Chair Wallace asked Ms. Carrier to introduce this agenda item. She stated that HSPR has been developing new forms, and now Form 301C – Change of Scope, created from existing requirements in rule He-Hea 301, is ready for the Board's approval. This form will help to ensure that all information required for any CON change of scope proposals will be uniformly collected and presented. She finally stated that HSPR staff asks that the Board review and approve this form for use.

Mr. Chase then made a motion to approve the use of Form 301C for Change of Scope. Mr. Martin seconded the motion and this agenda item was unanimously approved.

7. Establish Subcommittee to Re-Adopt He-Hea 700 Inpatient Physical Rehabilitation Rules

Discussion: Acting Chair Wallace asked Ms. Carrier to introduce this item. Ms. Carrier stated that the Board's He-Hea 700 rules pertaining to comprehensive physical rehabilitation beds and services will expire in November 2011. She asked that the Board consider establishing a subcommittee to review the rule for any needed changes before re-adoption, especially in the section allotted to the Determination of Need.

Acting Chair Wallace asked what facilities currently fall under the rule. Ms. Carrier responded that Healthsouth and Northeast Rehab do currently. Acting Chair Wallace stated that he wasn't comfortable appointing a committee in the absence of the Board Chair. He added that legislative changes could change this process in the near future.

Mr. John Prochilo, CEO for Northeast Rehab stated from the audience that he sees no need for any changes to the existing rule. Ms. Carrier stated that staff could bring an Initial Proposal back to the Board in early 2011.

Without further discussion, the meeting proceeded to agenda item 8.

8. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, December 16, 2010.
- A summary of the final two HB234 Study Committee meetings was provided to the Board, along with a draft of the committee's report. However, it is not anticipated that this legislation will move forward, due to legislative changes as a result of the election.
- The 2011 Board Meeting Schedule was provided.
- Updated Board member listings are enclosed; please add these to your statute books.

- HSPR staff has updated the 301B (Transfer of Ownership) form to include bed and cost information – a copy was provided.
- HSPR staff has created a CON brochure for informational purposes – a copy was provided.
- A new copy of RSA 91-A Right to Know was provided. Telephone and other electronic participation is now allowed at meetings.

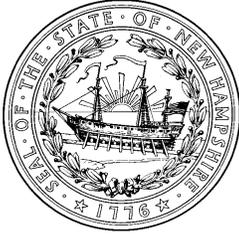
Mr. Chase made a motion to adjourn the Board meeting at this time. Mr. Wallace seconded the motion and the meeting was adjourned at approximately 10:15 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

December 16, 2010

9:30 a.m.

Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Robert Chase, Ms. Deb Grabowski, Mr. Christopher Martin, Mr. James Tollner, Ms. Lori Underwood, Mr. Nicholas Vailas and Mr. John Wallace

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

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

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

1. Consent Agenda

- **Approve November 18, 2010 Board Meeting Minutes**

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault briefly stated that the minutes from the November 18, 2010 Board meeting needed to be approved. Chair Vailas then asked Board members if the consent agenda item required further discussion. If so, it would require removal from the consent agenda.

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

2. New Hampshire Imaging Services – Add CMC as a Mobile PET site

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that New Hampshire Imaging Services (“NHIS”) submitted a request to add Catholic Medical Center as a receiving site for Mobile PET services. Two pieces of documentation are required to satisfy the requirements outlined in the original CON awarded to NHIS to vend Mobile PET service: a copy of

the amended RAM license from CMC as a user of the PET isotope as well as a list of the physicians eligible to oversee PET services. He stated that HSPR staff also requests that, for any physicians additionally named on the RAM license, a copy of the applicable staff accreditation and/or board certification be submitted for such.

Mr. John Malmberg, Esquire, legal counsel for NHIS, came forward to provide testimony at this time. Attorney Malmberg stated that CMC has filed their RAM license application and that no new physicians have been added. He stated that NHIS does accept the condition to submit the amendment to the RAM license prior to beginning service. Mr. Wallace stated his confusion with the relationship between NHIS and Alliance Imaging and asked Attorney Malmberg to clarify. Attorney Malmberg explained that NHIS was formed in 1997 as a consortium of 7 hospitals to apply for mobile MRI services and they originally leased a unit from Alliance's predecessor. They then filed a request to amend the CON and NHIS became a group purchasing organization. Alliance is the largest provider of MRI services in the country. NHIS is its biggest customer and receives good discounts on equipment and services. NHIS has medical direction that oversees the service. Mr. Wallace asked if Elliot and CMC were both members of NHIS and Attorney Malmberg responded that they are. Ms. Grabowski asked if there were any volume requirements on the hospitals for mobile service. Attorney Malmberg stated that there is not.

Mr. Chase then made a motion to approve the request from NHIS to add CMC as a Mobile PET site with the condition that NHIS submit the amendment to the RAM license prior to the beginning of service. Mr. Wallace seconded the motion. All Board members voted in favor of the motion.

3. Board Discussion: Re-Adoption of He-Hea 700 Inpatient Physical Rehabilitation Rules

Discussion: Ms. Underwood stated that the rule affects distinct part units in hospitals as well as freestanding facilities. As the NHHHA representative, she has brought the subject up to other hospitals and the association. She then suggested forming a subcommittee to review the rule as there are technical changes that would be worth reviewing as a group. She stated that she would be willing to lead the subcommittee. Mr. Martin also stated his interest in joining the subcommittee.

As the Chair's direction, this subcommittee was then formed with a meeting date to be determined.

4. Approval of RSA 91-A Right to know Meeting Guidelines

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that a draft guideline for approval to use in instances where a Board member cannot personally attend a Board meeting but still wishes to participate in the meeting was enclosed with the Board packet. Such guideline has been crafted from the authority given by RSA 91-A, Right-To-Know law, and was requested by the Board to be developed for review and approval.

Mr. Wallace stated that the Board needs a decision process for how decisions would be made as to when this procedure could be used, how it would work, etc.

Ms. Carrier stated that HSPR would work on it and bring it back at the January 2011 meeting for Board approval.

5. Other Administrative Business

- Ms. Thibeault stated that the next meeting of the Board is scheduled for Thursday, January 20, 2010.
- She stated that HSPR staff has updated the 301A (NSR) form to include additional bed and equipment information, as well as information pertaining to projects exceeding 75% of the threshold.
- She reminded the Board to complete the filing of the 15-A, Statement of Financial Interests Form, due no later than January 21, 2011. All Board members must file annually to remain as a voting member of the Board.
- She informed the Board that the HB2 Committee on Committees Final Report has now planned to reinstate the HSPR Board (see 11/23/10 HSPR staff email). An LSR (legislative service request) has been filed, 2011-H-0509-R, to reinstate certain State boards and commissions. Once this LSR is given a bill number, we will be able to determine whether HSPR is included in this reinstatement legislation.

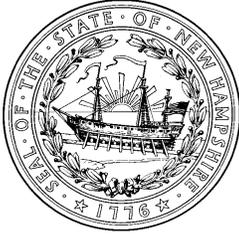
Mr. Chase made a motion to adjourn the Board meeting at this time. Mr. Martin seconded the motion and the meeting was adjourned at approximately 9:52 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

January 20, 2011
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

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

Absent: Mr. James Tollner

Excused: Mr. Christopher Martin

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

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

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

1. Consent Agenda

- **Approve December 16, 2010 Board Meeting Minutes**
- **Frisbie Memorial Hospital – NSR for Wound Care Center, \$615,400**

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. She stated that the minutes from the December 16, 2010 Board meeting required approval as well as the NSR request from Frisbie Memorial Hospital for a wound care center at a cost of \$615,400.

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

2. Public Hearing - Frisbie Memorial Hospital, MRI 10-01, \$1,118,972

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that Frisbie Memorial Hospital (FMH) seeks to establish fixed MRI services at the hospital, located in Rochester, NH. She explained that FMH plans to convert its current mobile service agreement to a fixed unit agreement by leasing an MRI unit from its current mobile vendor. The fixed unit will be acquired via an operating lease, with no capital cost for this equipment. Thus, the project cost is for construction and renovation only. She stated that all items on the checklist of outstanding issues have been resolved. She clarified for the Chair that the project is subject to CON review because regulation requires such when moving from a mobile environment to a fixed environment.

At this time, Chair Vailas asked representatives from FMH to come forward for testimony and opened the public hearing at 9:35 am. Mr. Joseph Shields, Vice President of Planning and Project Management came forward. He explained that here with him today are Mr. Alvin Felgar, President; Mr. John Marzinzik, Vice President of Finance; Mr. Dean DeMaster, Director of Radiology, Dr. Albert Chang from Seacoast Radiology and Attorney Andrew Eills, Legal Counsel for Frisbie Memorial Hospital.

Mr. Shields gave a brief overview and explained that FMH has satisfied volume requirements as per the rule. He stated that the hospital itself experienced a decline in some volumes due to pre-certification requirements and the downturn in the economy but that volume level remains wholly positive. In addition the new unit will increase access to scanning especially for breast MRI patients. He explained that the mobile service is lacking on several levels as the van is outside with an enclosed ramp, which leaves the van with a draft. Chair Vailas asked if Alliance is the entity with the consortium. Attorney Eills replied that it is. Chair Vailas then asked if the price per procedure would increase due to going with the fixed service. Mr. Marzinzik responded that the price per scan is currently \$355 and that it will increase some with the fixed service.

Mr. Alvin Felgar spoke at this time. He stated that he has been CEO for Frisbie Memorial Hospital for 18 years. He then introduced a 4-minute video showing the mobile MRI service that is currently in place as compared to the existing CT service, which is in a setting similar to the proposed fixed MRI. He pointed out the tight quarters and limitations for large or claustrophobic patients. He expressed that having the fixed service would improve the patients experience and decrease the space limitations.

Dr. Albert Chang then spoke to the diagnosing challenges with more acute patients and the benefits of having a fixed unit. He pointed out the expanded coverage for patient care, increased imaging capabilities and the augmentation of sub specialties. As an example, he listed acute stroke and explained that an MRI can provide an image sooner than a CT scan can so that care can begin sooner. Mr. Wallace asked how a fixed-unit would allow for 24/7 service when a mobile does not. Dr. Chang responded that a mobile unit gets moved to other sites some days and that separate units get used for breast vs. other parts of the body.

Mr. Wallace then asked how Alliance staff will be available 24/7 and Mr. Shields responded that Frisbie staff will be cross-trained and Alliance staff will be available for call-ins. He went on to say that at night only emergent scans would be done. The new MRI units have increased modalities that were previously done with CT or requiring contrast. He stated that not only is fixed MRI more convenient, there are technical advantages as well. The Toshiba Titan is a larger bore unit which is much more roomy. He added that image quality is superior as well. Chair Vailas asked how it compared to the Siemens Espirit. Dr. Chang responded that the imaging quality is far superior on the Toshiba and the Toshiba unit is much quieter than Siemens and GE units.

Mr. Shields then spoke to their decision to lease vs. buy the MRI unit. He stated that the hospital agreed with the HSPR staff report that it would be cheaper to own and operate the unit themselves. He added that cash reserves were tight and that they've had good relationships with Alliance Imaging and wanted to continue with this. Mr. Wallace asked the duration of the lease. Mr. Shields responded that it is for 7 years. Mr. Wallace asked for clarification with the utilization projections, as there was a decline for several years. Mr. Shields replied that a fixed unit will allow more procedures to be done, increasing the patient base. Mr. Wallace asked where those patients are going now. Mr. Shields responded that they're going to Dover and Portsmouth.

There was no public testimony. The public hearing was closed at 10:08 a.m.

With no Board discussion, Mr. Wallace then made a motion to approve the Frisbie Memorial Hospital CON MRI 10-01 for \$1,118,972 with the following 3 conditions (1) Proof of MRI registration; (2) Proof of ACR accreditation; and (3) An executed copy of the agreement with Alliance Imaging. Mr. Chase seconded the motion. All Board members voted in favor of the motion.

3. 2011 Nursing Home Bed Need Calculation

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck presented the annual Nursing Home bed need determination for consideration and review. He added that, although some regions do show a need for additional beds, the nursing home moratorium remains in place through June 30, 2012.

Mr. Wallace stated that the HB234 study committee did nothing with the proposed new formula and now the study committee has disbanded due to 2010 voting changes. He added that separate legislation will likely "un-sunset" the Board and suggested that it would be prudent to find a legislator to sponsor legislation to change the formula in the next session. Chair Vailas questioned whether staff was aware of any legislator who would be willing to help with this. Ms. Carrier responded that staff has not seen a re-instatement bill yet only an LSR (legislative service request), and it was unclear at this time which legislator might lend assistance. Mr. Wallace stated that such bill is forthcoming.

No Board action was required for this agenda item nor was any taken.

4. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, February 17, 2011.
- She stated that the Rehab (He-Hea 700) Subcommittee would meet immediately following the Board meeting.
- She advised the Board to take their copies of the 4 Acute Care applications submitted in response to the 8/1/10 Acute Care RFA as Formal Review has begun. She added that staff expects that public hearings will be held on these applications in March and April.

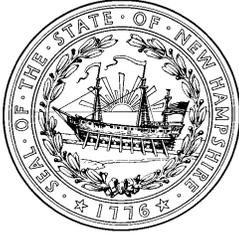
Mr. Wallace made a motion to adjourn the Board meeting at this time. Ms. Underwood seconded the motion and the meeting was adjourned at approximately 10:15 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

February 17, 2011
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

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

Excused: Mr. Christopher Martin

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

Chair Vailas opened the meeting at 9:33 a.m. He began by addressing Governor Lynch's budget speech, stating that he spoke with the governor and the Board will carry on as usual for the time being. He also stated that the CON Board has no authority to impose a moratorium without a statutory change.

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

1. Consent Agenda

- **Approve January 20, 2011 Board Meeting Minutes**
- **Approve Findings of Fact - Frisbie Memorial Hospital, MRI 10-01, \$1,118,972**
- **Wentworth Douglass Hospital – Change of Scope Request to AC 09-03**
- **The Memorial Hospital – NSR Request to Develop a Wound Care Center**

Discussion: Chair Vailas introduced this agenda item. He asked if any of the Board members had an issue with anything on the consent agenda, as it would require removal from the consent agenda. Mr. Wallace made a motion to remove the Wentworth Douglass Hospital Change of Scope request from the consent agenda. Mr. Chase seconded the motion and all Board members voted in favor, unanimously approving the removal of the item from the consent agenda. Ms. Grabowski then made a motion to remove The Memorial Hospital NSR request from the consent agenda. Ms. Underwood seconded the motion. All Board members voted in favor of the removal of the item from the consent agenda.

Mr. Wallace then made a motion to approve the remaining consent agenda items. Ms. Underwood seconded the motion, and the remaining consent agenda items were unanimously approved by all of the Board members.

2. Wentworth Douglass Hospital – Change of Scope Request to AC 09-03

Discussion: Attorney John Malmberg, legal counsel for Wentworth Douglass Hospital, and Mr. Daniel Dunn, VP of Operations came forward at this time to address any Board questions. Mr. Wallace referenced the request and asked what the old birthing unit would now be used for. Attorney Malmberg explained that it would be vacant for the time being but it will be renovated in the future for patient rooms. Mr. Dunn explained that the 2nd floor plans wouldn't change from the original plans. Chair Vailas asked for the square footage of the old birth center. Mr. Dunn responded that it was about 20,000 square feet. Ms. Grabowski referenced the statement by Wentworth Douglass Hospital stating that future costs will be lower since it would be renovations, and then asked when the renovations would be done. Mr. Dunn stated that it might become office space rather than patient beds. Attorney Malmberg stated that if the space was to be used for patient beds it would be 3-4 years from now.

Mr. Chase made a motion to approve the change of scope request and Ms. Grabowski seconded the motion. All Board members voted in favor of the motion, unanimously approving this agenda item.

3. The Memorial Hospital – NSR Request to Develop a Wound Care Center, \$300,000

Discussion: No representatives were present from Memorial Hospital to speak to this request. Ms. Grabowski asked if the technical component included staff. Chair Vailas stated that the project is under the threshold, but that the question could be asked of the hospital should the proposal be accepted as NSR.

With no further discussion, Ms. Grabowski made a motion to approve the NSR request made by the Memorial Hospital to develop a Wound Care Center and requesting HSPR staff to ask the question of the hospital. Mr. Wallace seconded the motion and all Board members voted in favor, unanimously approving this agenda item.

4. Mary Hitchcock Memorial Hospital – NSR Request for Acquisition of Three Fixed MRI units associated with CON AC 10-02

Discussion: At this time, Chair Vailas asked representatives from MHMH to come forward for testimony. Mr. Steve Marion, CON Consultant, Mr. John Peiffer, Managing Director of the Advanced Imaging Center, Mr. James Roberts, Administrative Director, Department of Radiology and Ms. Elizabeth Stedina, Director of Financial Analysis came forward. Mr. Marion provided a brief overview of the NSR request. He stated that the NSR request relates to the CON application that is currently under CON review. He explained that the application included 3 parts, 1. Replace 2 mobile MRI units with fixed units; 2. Federal research grant for intra-operative MRI to serve 250 patients a year; \$9 million of the cost is from the Federal Government; and 3. A Medical Office Building to relocate several outpatient services and doctors' offices. This NSR request is for the 2 fixed MRIs and the one in the intra-operative OR.

Mr. Wallace asked if there were currently 3 fixed MRI's at the hospital. Mr. Marion responded that there were 3 for patient use, 1 for research and 1 additional proposed for the intra-operative OR. Chair Vailas asked if the volumes support the additional unit. Mr. Marion responded that they are not required to show volume by law but assured that all of the units would be kept busy. He confirmed that the intra-operative unit would only serve about 250 patients per year. Ms. Grabowski questioned how the intra-operative unit was substantially similar. Mr. Marion replied that MHMH would have liked to include the units in the CON application but there is a separate rule for MRI. The law allows for an NSR, however, because the new equipment is substantially similar. Ms. Carrier explained to the Board that if they deemed it as not substantially similar then MHMH would have to make a separate request for a Fixed MRI RFA and submit a separate application. Mr. Wallace asked if numbers mattered. Ms. Carrier answered that as long as the service is similar then it is NSR.

Mr. Wallace asked if it would disrupt the OR with the unit moving through it. Mr. John Peiffer explained that the unit lives in a garage between the 2 ORs. He stated that Siemens is the manufacturer, IMIRS is the installer and the magnet is sealed in a shell. Chair Vailas stated that there weren't any grounds to deny this request based on current regulations. Mr. Tollner asked if there were any other facilities in the area with the same technology. Mr. Peiffer responded that Brigham and Women's in Boston, MA, Yale in New Haven, CT and the Children's Hospital in Boston also had the technology.

With no further Board discussion, Mr. Tollner made a motion to approve the Mary Hitchcock Memorial Hospital NSR request for the addition of 3 MRI units with the following 3 conditions (1) Document the actual cost of each unit prior to installation and operation; (2) Adjust the equipment depreciation in both this NSR and CON application AC 10-02 as necessary and reflect the change in the final project cost of that CON; and (3) Consider this NSR request as finally approved contingent upon the approval of CON application AC 10-02. Mr. Chase seconded the motion. All Board members voted in favor of the motion and this agenda item was unanimously approved.

5. Request to Sever Acute Care Applications

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that Catholic Medical Center (CMC) AC 10-05 and Mary Hitchcock Memorial Hospital (MHMH) AC 10-02 have submitted requests to sever their respective CON Applications from the other Acute Care CON applications, currently in formal review. She also stated that Concord Hospital AC 10-03 and Alice Peck Day AC 10-04 support these requests. She explained that if severance is approved, then each application can be heard on its own merits; otherwise, according to the statutory requirements regarding batching, each application must be given a public hearing before the Board can vote on any one of them. She explained that either all 4 applications must be heard on the same day, or if the hearings are split between the March and April meetings, then the first opportunity for the Board to vote on any one of them would be after the last hearing at the April meeting.

Ms. Carrier stated that HSPR staff would agree that severing CMC from the others would have no harm for hearing purposes. If severance is granted to CMC then it and Concord's Acute Care Application Public Hearings could be heard in March. She noted that Alice Peck Day Memorial Hospital responded to the MHMH severance request with a letter of agreement passed out at today's meeting. She stated that it is possible to keep the MHMH and AP Day applications batched and heard together at the April meeting without hardship to CMC and Concord.

Ms. Grabowski asked if the Governor's speech would have any impact on the Board's decision to sever. Chair Vailas confirmed that the Board should do business as usual to avoid any legal issues.

With no further discussion, Ms. Underwood made a motion to approve the requests to sever the acute care applications. Mr. Chase seconded the motion. Mr. Wallace and Ms. Grabowski voted against the motion. The remaining Board members voted in favor and the motion passed by a vote of 4 to 2.

6. Presentation of PET Data Analysis

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. She stated that HSPR staff presents its analysis of the Positron Emission Tomography (PET) PET data it annually collects from hospitals.

Mr. Tollner then made a motion to allow the data to go public. Ms. Underwood seconded the motion and all Board members voted in favor of the motion; thus this agenda item was unanimously approved.

7. Other Administrative Business

- Ms. Carrier stated that the next meeting of the Board is scheduled for Thursday, March 17, 2011.
- She stated that the Rehab (He-Hea 700) Subcommittee would meet immediately following the Board meeting.
- She advised the Board of the new Threshold amounts for 2011.
- She notified the Board of the upcoming HB 390 Reinstatement Bill hearing on 2/24/11 at 11:00 at the LOB, room 306.

Mr. Tollner made a motion to adjourn the Board meeting at this time. Ms. Underwood seconded the motion and the meeting was adjourned at approximately 10:10 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

March 17, 2011
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

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

Absent: Mr. Christopher Martin

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

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

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

1. Consent Agenda

- **Approve February 17, 2011 Board Meeting Minutes**
- **Littleton Regional Hospital, CON MRI 09-01 – Request for a 6-month Extension**

Discussion: Chair Vailas introduced this agenda item. He asked if any of the Board members had an issue with anything on the consent agenda, as it would require removal from the consent agenda. Mr. Wallace requested an explanation of the Littleton Regional Hospital request.

Mr. Warren West, CEO for Littleton Regional Hospital, came forward at this time. Mr. West gave a brief explanation of his request for a 6-month extension for commencement. He stated that the project coincides with another one, CON AC 08-04, and that the proposal is still being worked on. He stated that LRH would start construction as soon as the snow melts. He also let the Board know that they are in the process of selecting an MRI unit but they are waiting for their unit of choice, which is a Phillips, to obtain FDA approval.

Mr. Chase then made a motion to approve the consent agenda items. Ms. Grabowski seconded the motion, and the consent agenda items were unanimously approved by all of the Board members.

2. Presentation of MRI Data Analysis

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. She stated that the Magnetic Resonance Imaging (MRI) data HSPR collects annually from hospitals was included in the Board packet. She explained that this data is used as the basis for the determination of need for both fixed and mobile MRI services. Ms. Thibeault then explained to the Board that the RFA for Mobile MRI would be discussed in the next agenda item.

Mr. Wallace asked if there were adequate machines for current and future demand. Ms. Thibeault responded with a yes. Chair Vailas added that HB 2 is targeting MRI.

Mr. Wallace made a motion to accept the MRI Data analysis and allow it to go public. Mr. Chase seconded the motion. All Board members voted in favor of the motion, unanimously approving this agenda item.

3. Determine April 1, 2011 Mobile MRI Services RFA Issuance

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item as well. Ms. Thibeault stated that one letter of interest has been received from Imaging Resource Alternatives, Inc. of Shelburne, MA (IRA), requesting that the Board issue an RFA for Mobile MRI services. Additional business information has been received from IRA and has been provided to the Board for consideration.

Mr. Wallace pointed out that the prior MRI report just approved stated that there is no need but this request requires the Board to find some need to issue this RFA.

At this time, Ms. Sharon Worsham came forward for testimony. She stated that she is representing Imaging Resource Alternatives, Inc. and has experience in this field. She stated that there hasn't been a RFA in about 10 years and she believes that the state could use some competition as well as new mobile equipment, such as the open MRI IRA plans to bring in.

Mr. Wallace asked if IRA had any potential clients. Ms. Worsham responded that there is one entity lined up. Chair Vailas stated that he believes that competition is good and that some hospitals could use a price break. Ms. Grabowski asked Ms. Worsham to clarify the difference between open and closed MRI. Ms. Worsham explained that the bore size is larger with the open magnet and could accommodate larger persons. Ms. Grabowski then asked if there was any cost data from other states available. Ms. Worsham stated that IRA isn't providing any services yet. Mr. Wallace questioned the state's responsibility under the standard. Ms. Carrier clarified that the Board's rules make it clear that this is it is a pro-competitive process and the Board cannot deny the application for competitive reasons. She also stated that the MRI report indicates capacity but doesn't address competition. Chair Vailas added that people have the right to go through the process.

With no further discussion, Mr. Wallace made a motion to approve the request made by Imaging Resource Alternatives, Inc. to establish Mobile MRI service in NH for the purpose of potentially

enhancing competition and lowering cost. Mr. Chase seconded the motion. Mr. Tollner voted against the motion and all remaining Board members voted in favor, approving this agenda item on a vote of 5 to 1.

Before moving to the agenda item, Chair Vailas asked Mr. Tollner his reason for his no vote on this RFA. Mr. Tollner responded that he didn't think that there is a need for this vendor and that he doesn't believe this vendor would bring down the costs in the state.

4. Determine April 1, 2011 Ambulatory Surgical Centers RFA Issuance

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault referred to HSPR staff's evaluation regarding the issuance of the April 1, 2011 RFA for Ambulatory Surgical Centers. She stated that to date, no letters of interest have been received, or any other need expressed in support of this RFA. Therefore, HSPR staff recommends that this RFA not be issued at this time.

With no discussion, Mr. Wallace made a motion to not issue the April 1, 2011 RFA for Ambulatory Surgical Centers unless or until any letter of interest is received by March 28, 2011 (to allow time for posting of the notice). Ms. Grabowski seconded the motion and all Board members voted in favor.

5. NSR Request - Warde Health Center – Transfer of 4 beds from Webster at Rye, \$109,000

Discussion: Chair Vailas introduced this agenda item. He invited representatives from Warde Health Center to come forward for testimony. At this time, Attorney Andrew Eills, Legal Representative for Warde Health Center came forward. He explained that Webster at Rye would be transferring 4 beds to Warde Health Center. He let the Board know that Mr. Tom Argue, CEO, of Webster at Rye, re-affirmed the transaction by letter, and that the total transaction cost is \$109,000. He also pointed out that the transfer will take place in the same nursing home region.

Mr. Wallace noted that the project involves renovating former office space would and asked if there would be a future request for new office space. Attorney Eills answered no.

With no further discussion, Mr. Tollner made a motion to approve the request to transfer 4 beds from Webster at Rye to Warde Health Center with a cost of \$109,000. Mr. Wallace seconded the motion. All Board members voted in favor, unanimously approving this agenda item.

6. Elliot Hospital – Petition for Declaratory Ruling to Convert 5 Medical Surgical Beds to Psychiatric Beds, \$200,000

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier stated that Elliot Hospital of Manchester, NH, is seeking a Declaratory Ruling from the Board to convert 5 beds from its medical surgical unit to gero-psychiatric beds, increasing the total complement in that unit from 24 to 29. She stated that due to the lateness of this submission and the complexity of the matter, HSPR staff was unable to provide an analysis with this Board packet, but has provided a separate document, which was handed out.

Chair Vailas invited representatives from Elliot Hospital to come forward. Attorney Bob Best, Legal Counsel for Elliot Hospital, Ms. Jennifer Darius, Vice President of Planning and Business Development and Dr. Jwalant Vadalia, Medical Director of Geriatric Psychiatry came forward at this time. Chair Vailas asked staff their recommendation. Ms. Carrier stated that Elliot Hospital believes that the statement of competition is valid. She stated that the Staff's analysis, which includes a 2004 Attorney General's opinion on the subject, indicates that the use of a Declaratory Ruling in this instance may not be appropriate. She did state that the total licensed bed number at Elliot would not change, and that Medicare requires some response from any state agency that controls beds – in this state, CON is the agency. She added that the staff concludes that this proposal could be eligible for a not subject to review determination for the reasons stated within the evaluation. She let the Board know that they could approve based on the fact that there is no change in total licensed beds. Mr. Wallace stated that Licensing had no issue with this. Attorney Best stated that in order for Medicare reimbursement Elliot needs the beds to be designated and recognized as a DPU. Elliot has no preference as to the method used to achieve the goal of the 5 additional beds. Dr. Vadalia added that this is a waiting issue for persons with severe mental health needs.

Board discussion ensued on the request. Mr. Wallace began a motion to approve the conversion of the beds but withdrew it as further discussion began. Mr. Tollner asked what would happen if the Board didn't approve the request. Attorney Best responded that Elliot would be unable to convert the 5 beds and patients will be backed up into nursing homes and other settings. Mr. Chase stated that he believes the Board should grant their request - not as a declaratory ruling but rather as an NSR.

Mr. Chase then made a motion to approve the request made by Elliot Hospital to convert 5 beds to GPU as NSR based on the HSPR staff recommendations. Mr. Wallace seconded the motion and all Board members voted in favor of the motion; thus this agenda item was unanimously approved.

7. Public Hearing – Concord Hospital AC 10-03, \$11,557,824

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated that Concord Hospital (CH) has submitted an application for a construction/renovation project to address space needs in its inpatient operating room suite and outpatient Day Surgery Center. She referred to the HSPR Staff Analysis and Checklist stating that all checklist items have been resolved and that HSPR Staff concludes that the proposal is eligible for a CON at this time.

At this time, Ms. Erin Almeda, Director of Program Development, Ms. Diane Allen, CNO, Dr. Russell Strong, Mr. Domenic Ciavarrro, Vice President of Facilities, Mr. Scott Sloane, Vice President of Finance, Ms. Janna Pitman, Director of Perioperative Services, Ms. Heather Smith, Director of Ambulatory Nursing, Ms. Denise Darby, RN and Mr. Steve Clayman from Lavallee Brensinger came forward.

Ms. Carrier conducted a second swearing in as some representatives providing testimony were not yet present at the start of the meeting.

Ms. Almeda introduced the Concord Hospital representatives and the project by a power point presentation that highlighted the many space and privacy issues now occurring in the pre-and post-op areas of the surgical suite. Ms. Allen spoke next; she began by stating that she started at CH in 1991 as the Director of Day Surgery. She stated that there have been many advances in

care over the past 20 years and cases are more complex now. Ms. Allen then went over pre and post-operative areas via the power point presentation and explained the space constraints. Pre-operative stretchers are only about 4 feet apart and are separated only by curtains. This makes it impossible to comply with HIPAA laws and leaves the patient with no privacy. She added that visitors are bumping into each other or the patients. She stated that the post-operative area has the same issues with space constraints, noise and privacy. Since 20% of the patients are children or infants they wake up crying which makes for an uncomfortable experience for others recovering. Ms. Allen showed some of the patients' comments from the satisfaction surveys, which showed patients' frustration with the space constraints and noise levels.

Dr. Strong spoke at this time. He explained that he has been employed with CH since 1993. He stated that the operating rooms were built in the 1980's and many outpatient procedures were inpatient procedures at that time. He stated that the operating rooms are very tight for the equipment that is used today.

Mr. Ciavarro stated that the suite was built in the mid 1980's and the operating rooms are about 350 square feet but current guidelines suggest they be 400 square feet at a minimum. He stated that there are currently grade changes with ramps to move about the facility; this will be alleviated with the proposed project. Chair Vailas asked if there is a life cycle for operating room space. Mr. Ciavarro replied that CH should keep up with technological changes.

Mr. Clayman stated that the utilities and infrastructure are aged, there's a lack of storage space and the vacated space adjacent to DSC allows for upgrades. Mr. Wallace asked for clarification on the location and phasing of the project. Mr. Ciavarro showed pre and post floor plans and site plans. Mr. Tollner stated that CH has a 30% operating margin and asked how it would maintain that. Mr. Sloane responded that the old assets are fully depreciated and the level of depreciation expense won't increase materially. Mr. Tollner asked for clarification on the expanding capacity yet no increase in staffing. Ms. Allen responded that it would move some cases from the small inpatient operating rooms to day surgery. She added that CH is a trauma center and that it will be able to handle trauma cases faster with the increased capacity. Mr. Tollner asked if CH would be pulling more cases from LRGH as a result. Ms. Almeda stated that there would be no increase in market share as a result of the project. Mr. Tollner then asked if there is any effect on cost shifting. Mr. Sloane stated that no effect is anticipated and there is no intent to shift additional costs to payors. Ms. Grabowski asked if there has been any thought on the shell space. Mr. Ciavarro explained that the laboratory is adjacent and is cramped for space so CH will likely use the shell space in the future to expand the lab. Ms. Almeda added that CH would return to the Board if that cost exceeds the threshold.

Ms. Grabowski asked if CH had an ASC. Ms. Almeda explained that it does have one at Horseshoe Pond that is a joint venture with several doctors as well as Concord Orthopedics that is also a joint venture. Mr. Chase asked how the applicant has avoided issues with HIPAA. Ms. Allen explained that it takes patients to a different area for discussion or finds a way to deal with it as best as possible.

There was no public testimony, and the public hearing was closed at 10:37. Board discussion ensued. Ms. Underwood voiced her concern with the space issues and HIPAA compliance. Chair Vailas stated that hospitals provide great care and come to the Board as required to make changes. Mr. Wallace stated that he would be voting against the application as a departmental position to support the Governors call for a moratorium in his budget address.

Mr. Chase then made a motion to approve the Concord Hospital CON AC 10-03 for \$11,557,824. Mr. Tollner seconded the motion. Mr. Wallace voted against the motion. All remaining Board members voted in favor and this agenda item was approved with a vote of 5 to 1.

8. Public Hearing - Catholic Medical Center AC 10-05, \$4,531,935

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that CMC has submitted an application to address space needs in Radiology and to construct a hybrid operating room for minimally invasive surgery with advanced imaging capabilities. He also added that the outstanding checklist items have been resolved and that CMC is eligible for a CON at this time. Chair Vailas then invited representatives from Catholic Medical Center to come forward for testimony.

At this time, Ms. Allyson Pitman Giles, CEO, Mr. Ted Dudley, CFO and Mr. Roger Dignard, Architect for Catholic Medical Center came forward. Ms. Pitman Giles provided a brief introduction of the representatives and the project. She stated that in regards to the Radiology department there are no private areas for men and women and no separation for inpatient or outpatient procedures. She stated that Portsmouth Regional Hospital is the only other hospital with a Hybrid OR. She added that CMC and the New England Heart Institute (NEHI) serve patients from all over the state. She explained that CMC is renovating an existing OR which can be used as a vascular room or for general surgery, they're using existing space for both portions of the project and are using internal funds with no impact on payors.

Ms. Grabowski asked if the radiology piece was part of the former 2006 CON project. Ms. Pitman Giles stated that it was part of a 2004 project (ED, ICU, etc.) but that the radiology portion was not done. Mr. Wallace asked if the intention was to do the radiology piece with that project. Ms. Lisa Drouse, CMC Director of Planning, clarified the project intentions. Mr. Wallace then asked for an overview of the floor plans. Mr. Dignard reviewed the floor plans. Mr. Wallace asked if new equipment was being purchased and the cost. Ms. Drouse stated that the cost of the equipment purchase is equivalent to half of the project cost at \$1.2 million. Mr. Tollner asked what would happen if the Board approved the hybrid OR but not the radiology piece. Ms. Pitman Giles stated that both portions are very important to the mission and to patient privacy. She added that CMC is the second highest acuity hospital after MHMH. Ms. Grabowski asked if CMC had been cited for any code violations. Ms. Pitman Giles explained that it has not but that CMC's situation in Radiology is very similar to the space and privacy issues explained in the previous agenda item. Mr. Dignard stated that the space is served by 1977 air handlers which do not meet today's standards.

There was no public testimony for this agenda item and the public hearing was closed at 11:00 am. Board discussion ensued on the application. Mr. Wallace stated that the need for this project seems less compelling than some others. Chair Vailas stated that he felt the project would improve quality of care, address HIPAA issues and since it's not an expensive project it won't drive up the cost of care. Mr. Tollner stated that he was struggling with the proposal as presented.

Ms. Grabowski made a motion to approve the Catholic Medical Center CON AC 10-05 for \$4,531,935. Mr. Chase seconded the motion. Mr. Wallace voted against the motion. All remaining Board members voted in favor and this agenda item was approved with a vote of 5 to 1.

9. Other Administrative Business

- Mr. Peck stated that the next meeting of the Board is scheduled for Thursday, April 21, 2011.
- He stated that the Rehab (He-Hea 700) Subcommittee would meet immediately following the Board meeting.

Chair Vailas asked for an update on the rehab subcommittee and suggested that Mr. Wallace join. Mr. Wallace stated that he was tied up with HB 390 and HB 2 but would get caught up. He stated that he hasn't seen the final draft but that they were meeting later in the day.

Mr. Chase made a motion to adjourn the Board meeting at this time. Mr. Tollner seconded the motion and the meeting was adjourned at approximately 11:18 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

April 21, 2011
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Robert Chase, Ms. Deb Grabowski, Mr. Christopher Martin, Mr. James Tollner, Ms. Lori Underwood, Mr. Nicholas Vailas and Mr. John Wallace

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

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

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

1. Consent Agenda

- **Approve March 17, 2011 Board Meeting Minutes**
- **Findings of Fact – Concord Hospital, AC 10-03, \$11,557,824**
- **Findings of Fact – Catholic Medical Center, AC 10-05, \$4,531,935**
- **Dartmouth-Hitchcock Manchester, NSR Request for Pediatric Walk-In Center Services, \$0**
- **Dartmouth-Hitchcock Manchester, NSR Request for General Walk-In Center Services, \$0**

Discussion: Chair Vailas introduced this agenda item. He asked if any of the Board members had an issue with any items on the consent agenda, as it would require removal from the consent agenda.

Mr. Wallace then made a motion to approve the consent agenda items. Ms. Grabowski seconded the motion, and the consent agenda was unanimously approved by all of the Board members.

2. Determination of May 1, 2011 Radiation Therapy RFA Issuance

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. She stated that pursuant to He-Hea 1603.01, the Board must determine a need in order to issue an RFA for Radiation Therapy services effective May 1, 2011. She stated that letters of intent were due to this office by April 1, 2011 and none have been received at this time. The HSPR staff evaluation concerning the need formula for additional units was enclosed in the Board packet for consideration. Ms. Thibeault explained that due to lack of interest and need HSPR staff recommends that this RFA not be issued at this time.

Mr. Wallace made a motion to not issue the May 1, 2011 Radiation Therapy RFA at this time. Ms. Underwood seconded the motion. All Board members voted in favor of the motion.

Mr. Tollner arrived to the meeting at approximately 9:35.

3. Confirm 30-day Extension for MHMH and APD 2011 Acute Care Application Review

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier explained that the 90-calendar day formal review period for the MHMH and Alice Peck Day Acute Care CON applications expired on April 17, 2011 and the Board meeting for the public hearings on these two applications falls beyond this period. She stated that in order to hold the public hearings the Board must vote to extend the review period by 30 calendar days as allowed by RSA 151-C:8, VIII and He-Hea 301.10 (a)(2). Ms. Carrier let the Board know that HSPR staff does not believe there is any material or prejudicial harm in making this determination at this time and that the 2 applicants have been notified of this oversight and have not indicated any issue.

Mr. Wallace then made a motion to approve the 30-day extension for the MHMH and APD 2011 CON application review period. Mr. Martin seconded the motion and all Board members voted in favor, unanimously approving this agenda item.

4. Public Hearing – Mary Hitchcock Memorial Hospital, AC 10-02; \$32,783,866

Discussion: Chair Vailas introduced this agenda item. He invited representatives from Mary Hitchcock Memorial Hospital to come forward at this time. At this time, Attorney Neil Castaldo, Legal Representative for MHMH, Ms. Gail Dahlstrom, VP Facilities Management, and Dr. Sohail Mirza, Spine Surgeon and Chair of the Orthopedics Department came forward to provide testimony. Mr. Steve Marion, Consultant, Mr. Daniel Jantzen, Chief Operating Officer and Ms. Robin Kilfeather-Mackey, CFO were available from the audience.

Attorney Castaldo introduced the project which involves an intra operative surgery center (ASC), additional fixed MRI units, and a new Medical Office Building (MOB). He explained that MHMH reduced its project cost for the MOB due to finalization of the hospital's use of space which has reduced the total project cost. He stated that there are 3 parts to MHMH's mission: clinical care, research and education. All 3 would be addressed in this application. He stated that MHMH would save money by converting from mobile to fixed MRI units. He explained that the MOB has a hospital component and services that don't need to be on the hospital campus are being moved to less expensive space to free up inpatient space on campus. The ASC will have intra-operative advanced imaging for which a \$9 million grant from NIH was received.

Ms. Gail Dahlstrom spoke next, and explained that the hospital is at or above capacity in many areas. The MOB will add capacity in a lower cost way by providing easy patient access and highly flexible space. She then showed a few slides of the facility footprint and floor plans and spoke briefly about them. She addressed the proposed fixed MRIs, stating that there are 2 mobile units running at full capacity. She added that the fixed units would provide a payback in about 7 years. The new units will be located adjacent to the existing MRI suite, and the Board has granted an NSR determination for the equipment.

Dr. Sohail Mirza provided detail regarding the ASC at this time. He stated that the planning started in 2008. He then showed a slide/film presentation of the capabilities of the advanced surgery center and its intra-operative imaging services. He discussed the types of procedures that can be performed in the center. He described the benefits of the new equipment and outlined the risks to the patient when this equipment isn't available.

The Board then proceeded to ask questions concerning the project. Mr. Wallace asked how the project would alleviate the crowding issue if MHMH is operating at full capacity. Ms. Dahlstrom explained that they are at 85% – 100% occupancy, particularly in the critical care area. She stated that MHMH is licensed for 391 beds but not all of them have been in use and this project would allow them to reclaim bed space for patients. Chair Vailas asked if the increase in patient population was from the Upper Valley or Vermont. From the audience, Mr. Marion stated that many specialty pediatric patients come from a wider area such as eastern Vermont and all of NH, while Southern NH makes up about 7-8% of the patients. Ms. Grabowski asked if there was any decrease in referrals from Southern NH. Mr. Marion responded that referrals for heart surgeries have decreased but pediatric cancers, neurosurgeries, etc. still come to MHMH.

Mr. Wallace asked about the use of the space being vacated for services moving to the MOB. Ms. Dahlstrom responded that plans for the space is still being reviewed. Attorney Castaldo stated that MHMH hasn't specifically identified what services will take over the vacated space. Chair Vailas referred to Medicare and Medicaid cost cutting and asked if MHMH is concerned by it. Ms. Kilfeather-Mackey, from the audience, responded that MHMH is concerned. She went on to say that MHMH has a five-year plan and that they will watch the situation closely as healthcare reform proceeds. She stated that the MOB would allow MHMH to better serve outpatients and do it more cost effectively. Resources are better used if services are provided in lowest possible cost space. MHMH is being thoughtful of all capital improvements and sharing infrastructure reduces the cost of the MRI project. Chair Vailas asked if MHMH is projecting an increase or a decrease in revenue. Ms. Kilfeather-Mackey responded that it anticipates lower reimbursement rates and they must operate as efficiently as possible. Chair Vailas asked if there were any specific examples of the amount of money that will be saved by doing procedures in the ASC. Dr. Mirza used a brain tumor as an example and stated that it might save a second surgery if the first surgery was successful. He outlined the percentage of surgeries needing a second procedure, 2-3 % for brain surgery and 3–4 % for spine surgery. Ms. Dahlstrom added that if MHMH can decrease utilization it would save costs and be better for the patient.

Mr. Tollner questioned the projected operating margin. Ms. Kilfeather-Mackey responded MHMH has a target of 3% that was affected by the implementation of the electronic medical records system. She added that it's challenging due to decreasing reimbursements. Mr. Wallace asked the number of procedures to be performed in the ASC. Dr. Mirza responded that initially there would be 30 – 40 a year (1-2 a week) and 40 – 50 a year in the future. Mr. Wallace asked why 2 ORs are needed for this projected utilization. Dr. Mirza replied that the equipment needs vary by procedure and one OR will be used for both animal and human surgeries and one will be used for humans only. He added that some projects would be going on concurrently. Ms. Dahlstrom added

that one OR could be focused on patients while the other could be focused on research. Attorney Castaldo also added that the research phase is a learning phase. Mr. Wallace asked what types of animals are being used. Dr. Mirza stated that MHMH would like to test the technology on something other than actual patients. Mr. Wallace asked how infection control would be handled when the door to the MRI room is open. Dr. Mirza stated that all areas are sterile and have reverse air pressure and negative pressure would be used for animals. Mr. Wallace asked if billing would remain the same as it is currently. Dr. Mirza explained that it depends on what is clinical care or research but MRI will be billed the same way for every patient. Ms. Grabowski stated that the closest ASC is in Boston and asked if MHMH has transferred patients to Boston. Dr. Mirza stated that it has not and that the center there is just coming on line. Ms. Grabowski asked if there were any research projects planned at this time. Dr. Mirza explained that some spine procedures were lined up but that specifics were still being discussed and more projects will be lined up by the time the facility opens. Mr. Tollner asked if there was any increased cost to the patient or insurance company for MRI procedures performed in the ASC. Dr. Mirza and Ms. Kilfeather-Mackey both responded no. Mr. Tollner referred to cost shifting and asked what affect MHMH foresees for the future. Attorney Castaldo stated that commercial insurers and providers are all in this together; federal reimbursements will continue to decrease so MHMH must plan for that. Ms. Grabowski asked if MHMH would still have mobile MRI units. Ms. Dahlstrom stated that it would not. Ms. Grabowski then asked how much money MHMH is saving by doing the ASC and MRI projects together. Ms. Dahlstrom stated that the cost would be \$1.5 million more if only the MRI component was done.

There was no public testimony, and the public hearing was closed at 10:55 a.m. Board discussion ensued. Mr. Wallace explained that the NH House has taken the moratorium on hospital projects out of the budget bill and there is no sense that it is coming back. He then stated that the research activity of this MHMH proposal has appeal but that it comes at a cost and he doesn't have a good sense of the financial impact. Ms. Underwood stated that she felt that the other non-research pieces of the project have merit as MHMH is a referral center for other smaller hospitals and this is important for patients in rural areas of the State.

With no further discussion, Mr. Tollner made a motion to approve the CON application from MHMH AC 10-02 at an adjusted cost of \$32,783,866 (due to the decrease of hospital space in the MOB), with the condition that the financial projections for Dartmouth-Hitchcock and the MRI services be updated should the actual costs of the MRI units (obtained via NSR) differ substantially from the current estimates. Mr. Chase seconded the motion and all Board members voted in favor, unanimously approving this CON with a condition.

At approximately 11:00 am Chair Vailas called for a 5-minute break. Mr. Tollner departed the meeting at this time.

5. Public Hearing – Alice Peck Day Hospital, AC 10-04, \$16,053,539

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. Ms. Carrier explained that the acute care application proposed by Alice Peck Day Memorial Hospital (APD) for a facility wide renovation affecting the swing/inpatient unit; radiology; operating room; entry way and ED entrance; parking and infrastructure would be heard at this time. She stated that the HSPR Staff Analysis and Checklist was enclosed with the Board packet for review and consideration. At this time, due to staff's concerns with the utilization levels for the 4th proposed OR, and the entire funding mechanism for the project, approval of this project is not recommended at this time. APD has responded to the checklist items and any documentation is before the Board today.

Chair Vailas then invited representatives from Alice Peck Day Memorial Hospital to come forward for testimony. At this time, Ms. Susan Palmer Terry, Consultant, Dr. Sue Mooney, Chief Medical Officer and Gynecologist, Mr. Harry Dorman, III, President and CEO, Mr. Alex Jaccaci, Associate VP of Organizational Improvement and Planning, Ms. Elizabeth Loudermilk, Controller, and Mr. Steven Clayman, Architect came forward.

Mr. Dorman introduced the project. He showed slides of the facility, parking lot, emergency entrance, MRI pad, interior conditions, and infrastructure and spoke in detail to each piece of the project. He stated that APD is a Critical Access Hospital as of 2003 and it had a 50-bed ECU, which has been closed. The closure of the ECU provided the impetus for this project as no significant changes have been made in 20 years. He showed floor plans and site plans and responded to Board questions on them.

Dr. Mooney spoke to the needs in the OR suite. She referred to the privacy and space issues. She stated that a CAH can provide quality care at less cost than a large medical center, which provides high value for the patients and payors. Chair Vailas asked the price difference between APD and MHMH. Dr. Mooney stated that APD charges less. Mr. Dorman added that APD has the 2nd lowest revenue per admission in the state. Dr. Mooney went on to say that APD is recruiting additional physicians and it is difficult to predict future surgical volumes. There is demand for better technology in the ORs but this would create space issues in the current setting. She added that the ORs support obstetric services and APD does 300 births per year. She stated that APD is being proactive rather than reactive and it is proactive to make the 4th OR available now.

Chair Vailas asked for the status of sales for the independent living units. Mr. Dorman responded that 47 have been sold so far and there are 9 more that need to sell before starting the proposed project, as the cash is not available without this funding. Ms. Palmer Terry stated that the project applies to definitive parts of the building and will be phased as money becomes available. The first project begins with the medical surgical area. Regarding the surgical OR, this is the final phase of the overall project. The current statistics show that there is insufficient volume to bring it online now. APD proposes a condition on the CON, if approved, that it come back and provide a status on the volumes and reasons to support need for the 4th OR.

Board discussion ensued relative to the cost and pricing of the independent living units and the debt structure between APDLifecare and the hospital. Chair Vailas asked whether APD has the capacity to borrow funds for the project. Mr. Dorman replied no. Mr. Chase questioned the proposed capital campaign and whether it had begun. Mr. Dorman replied that it had not yet started and it will be able to raise \$3 –4 million dollars in 18 months. Further Board discussion ensued. Mr. Dorman stated that APD considered whether it should wait or come before the Board now and determined that it would be best to present the project as phased and with conditions. Ms. Underwood asked the applicant to explain the phasing portions of the project. Mr. Clayman did so, stating that the medical surgical area and the infrastructure would be done first and concurrently. The building additions and the outside issues will be addressed next, followed by renovations to pre and post surgical areas and radiology and lastly the OR.

Mr. Chase asked about the impact should the Board not approve the project at this time. Ms. Palmer Terry stated that APD would come back under reconsideration. She added that the project is very cost effective and is leveraging 2 projects with 1 borrowing structure. Mr. Jaccaci added that the first phase of the project will cost proximately \$5.5 million. Further Board discussion ensued on a decision for this project.

The hearing was then closed at 12:40 p.m. There was no public testimony on this application.

After consideration and deliberation, a motion was made by Mr. Wallace and seconded by Mr. Chase to deny APD's request for \$16,053,539 for facility construction and renovations. All Board members voted in favor of the motion. Thus, on a vote of 6 to 0, the project was denied.

APD immediately presented a request for reconsideration on the application. Mr. Wallace made a motion to accept the request for reconsideration and Mr. Chase seconded the motion. All Board members voted in favor and the request for reconsideration was granted. The rehearing will be held at the Board's May 19, 2011 meeting.

6. Other Administrative Business

- Ms. Carrier stated that HSPR staff has updated the map of existing MRI units (mobile and fixed) and included it with the Board packet for review.
- She informed the Board that the next meeting of the Board is scheduled for Thursday, May 19, 2011.
- The Rehab Subcommittee will meet immediately following the Board meeting.
- She gave an update on the NH House version of HB 2 stating that there were no changes to report.
- She also explained that there are now cards for people who wish to provide testimony. She stated that the process is similar to that at the LOB.

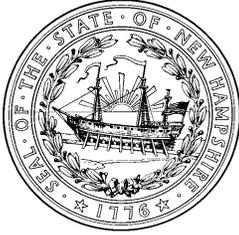
Mr. Wallace made a motion to adjourn the Board meeting at this time. Mr. Chase seconded the motion and the meeting was adjourned at approximately 12:50 p.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

May 19, 2011
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

Attendees: Mr. Robert Chase, Ms. Deb Grabowski, Mr. Christopher Martin, Mr. Nicholas Vailas and Mr. John Wallace

Absent: Mr. James Tollner

Excused: Ms. Lori Underwood

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

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

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

1. Consent Agenda

- **Approve April 21, 2011 Board Meeting Minutes**
- **Approve Findings of Fact – Mary Hitchcock Memorial Hospital, AC 10-02; \$38,132,603 (Project Approval)**
- **Approve Findings of Fact – Alice Peck Day Hospital, AC 10-04, \$16,053,539 (Project Denial)**
- **Woodlawn Nursing Home, Newport, NH - NSR Request for Facility Renovations, \$80,000**
- **Coos County Nursing Home, Berlin, NH - NSR Request for Facility Renovations, \$5,400**
- **Colonial Hill of Rochester Care and Rehab Center – NSR Request for Facility Renovations, \$88,000**
- **Catholic Medical Center – NSR Request to Establish Urgent Care Center, Bedford, NH, \$370,465 (Equipment only)**
- **Hackett Hill Healthcare Center, Manchester, NH – NSR Request for Interior Renovations, \$189,600**

Discussion: Chair Vailas introduced this agenda item. He asked if any of the Board members had an issue with any items on the consent agenda, as it would require removal from the consent agenda.

Mr. Chase then made a motion to approve the consent agenda items. Mr. Wallace seconded the motion. Mr. Martin recused himself from the vote and the consent agenda was approved by all of the remaining Board members.

2. Reconsideration Hearing - Alice Peck Day Memorial Hospital, CON AC 10-04, \$15,680,539

Discussion: Chair Vailas introduced this agenda item. He invited representatives from Alice Peck Day Memorial Hospital to come forward. Ms. Susan Palmer-Terry, Consultant, Mr. Harry Dorman, President and CEO, Ms. Evalie Crosby, CFO, Ms. Mary McLaughlin, Regional Vice President, TD Bank, and Mr. Jay Pierson, Chair, APD Board Finance Committee chair came forward at this time.

Ms. Palmer Terry introduced herself as well as the others at the testimony table. She began by clarifying the difference in the proposed cost for the reconsideration project. She stated that the cost of installing the electrical and plumbing went up by \$547,797; \$188,970 was added for roof repairs and \$485,461 for soft costs, and \$500,000 less because of the removal of the additional OR. Mr. Dorman used a powerpoint presentation to provide a history of Harvest Hill, The Woodlands, and the relationship of these entities to the proposed project. He also reviewed hospital statistics, volumes, etc.

Chair Vailas asked the price difference for reimbursement between APD and MHMH. Ms. Crosby stated that about a year ago in all DRGs and procedures, the APD out-of-pocket cost to the patient was lower. Chair Vailas asked what the specific difference was between the reimbursement. Ms. Crosby stated that she cannot provide this information; she stated that APD is lower but couldn't share this privileged information.

Mr. Dorman then went over the floor plans for the proposed project. He stated that APD disagrees with the HSPR staff evaluation that has termed the medical/surgical space as "discretionary". The proposed project is not discretionary; the hospital needs 25 beds. The normile methodology in the rule shows a need for 17 beds and the current unit only holds 14 beds. There is no space for single rooms and the bathrooms are not ADA compliant. He stated that the beds are needed by both APD and DHMC and submitted to the Board for consideration a letter of support from DHMC. He also stated that the beds must be moved to accomplish the other needed improvements, especially those relating to the boiler, chiller, electrical and ventilation. He then explained the construction schedule as it relates to the CON timeframes.

Ms. Crosby spoke regarding finances and went over the sources and uses of funds, and described the allocation of the \$30 million in bonds. Mr. Wallace asked if the initial \$30 million was intended just for The Woodlands. Ms. Crosby responded that no it wasn't, it was issued knowing the cash beyond the balloon payment would be transferred to the hospital. Mr. Wallace asked what the expectations were regarding the anticipated units not yet committed. Ms. Crosby stated that APD has deposits on 4 out of the 5 units but no move in date is established as the purchasers have homes to sell, etc. Mr. Wallace asked what the entrance fee is. Ms. Crosby stated that the entrance fees range from \$311,000 to \$450,000. In response to Ms. Grabowski's question, Ms.

Crosby broke the deposits down to \$1,500 when interest is expressed, \$6,500 when the unit is selected and 10% when a commitment to the unit is made. She clarified that the 4 committed units have paid the 10%. Ms. Crosby stated that the remaining \$6.5 million of the project has no committed units. She provided the timing of the sources and uses of funds and stated she assumes the sale of 2 units per quarter. She went on to explain that APD would reduce the capital expenditure budget by \$500,000 per year and would reduce operating expenses by the same.

Mr. Wallace asked Ms. Crosby to go over the The Woodlands, including the number of units, the number occupied and number committed. Ms. Crosby explained that the total number of units is 66 and there are currently 40 units occupied, with 49 of them committed to, which leaves 17 with no commitment. Chair Vailas stated that the housing market is bad at this time and it's hard to sell homes in this economy. He stated that it is a huge leap of faith to expect 17 units to sell quickly in this economy. Chair Vailas then asked how APD would come up with the \$3-4 million if the units do not sell. APD then presented to the Board a spreadsheet illustrating the sources and uses of funds. The applicant stated that if the Woodlands units don't sell quickly enough, it would seek financing from TD Bank. Ms. Mary McLaughlin, Regional Vice President, TD Bank, then came forward to testify and respond to the Board's questions and concerns. Ms. McLaughlin stated that APD has \$4 million available to begin the first phase of the project. APD must have 55 of the 66 Woodlands units sold in order to continue with the project. If there is a shortfall, Ms. McLaughlin stated that APD would have the capacity to be issued a line of credit, which is "something the bank would consider." Ms. McLaughlin stated that APD might need to borrow \$4 million, and that this would be an "interest only" loan with interest expense of approximately \$200,000 per year. Ms. McLaughlin stated that APD's debt service ratios would support this additional debt.

Mr. Wallace spoke in regards to the renovation of the SNF wing. He stated that the letter from DHHS stipulates that if APD doesn't receive CON approval then it must move the beds back to the former space. He then asked if it is difficult or impossible to move the beds back. Ms. Crosby responded that APD would only have 14 beds and this would create issues with occupying all of them in regards to gender, infection control and HIPAA regulations. She stated that the hospital has experienced increased patient activity, and this could result in APD turning patients away. This would create less revenue, and put pressure on DHMC for available patient transfers. Mr. Wallace asked if this issue had already existed before the beds were moved. Ms. Crosby answered that it did not with the SNF unit open because beds were more available to patients. To collapse back now would be a hardship for the hospital.

Mr. Pierson spoke at this time. He stated that APD staff has kept the Board Finance Committee informed of the project's progress. He added that the APD Board has approved all of the processes up through the CON, but hasn't approved the project itself until the CON is issued. He stated that they are aware of the financing that TD Bank provided and that there is a back up plan if there is a shortfall in the number of units sold. He added that the Board does have confidence in the project.

After consideration and deliberation, a motion was made by Mr. Vailas and seconded by Mr. Martin to approve the APD CON application for \$16,053,539 (the original amount proposed) for facility construction and renovations, finding that APD has met all applicable Standards and Criteria in RSA 151-C:7, He-Hea 303.02 through He-Hea 303.09, He-Hea 1003 and He-Hea 1004. This approval reflects the removal of the fourth operating room from the project. Ms. Grabowski voted against the motion. All remaining Board members voted in favor of the motion. Thus, on a vote of 4 to 1, the project was approved.

3. Determination of June 1, 2011 RFA – Mobile PET Services

Discussion: Chair Vailas asked Ms. Thibeault to introduce this agenda item. She stated that time has been allotted at this meeting to receive any testimony supporting the interest/need to issue an RFA for Mobile PET services. She informed the Board that no letters of interest have been received, nor any need expressed. She stated that HSPR staff recommends that no RFA be issued effective June 1, 2011, unless any request is received by May 26, 2011 (allowing sufficient time for posting of the public notice).

Mr. Wallace made a motion to not issue the June 1, 2011 Mobile PET RFA at this time. Mr. Martin seconded the motion. All Board members voted in favor of the motion.

4. Determination of June 1, 2011 Acute Care Bed Need (He-Hea 1006.01)

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck referred to the HSPR staff evaluation regarding the determination of need for additional acute care beds. As noted, the formula results in a need for 138 beds statewide. He explained that HSPR has also compared staffed beds to licensed beds, and finds that only 3 hospitals have a utilization rate of 90% or greater – Exeter Hospital, MHMH and Parkland Medical Center. This could suggest that there is some need for additional beds in these hospital service areas. At this time, there has been no request from any facility for additional beds. Therefore, the Board could find that while need exists for additional acute care beds, the lack of interest and the overall low utilization rate does not warrant the issuance of an RFA. If, on the other hand, the Board does find need for additional beds and should an RFA be issued, the HSPR staff recommends some conditions or restrictions be placed upon such RFA, as noted in the evaluation.

Chair Vailas asked if the formula is accurate. Ms. Carrier explained that it does not take utilization into consideration. Chair Vailas expressed that utilization should be included. Mr. Wallace asked when the formula was set. Ms. Carrier, as well as Ms. Erin Almeda from the audience, both stated that the rule was adopted in 2009. Ms. Almeda went on to say that the new formula reduced the beds per 1,000 population. She further explained that the formula looks at population 5 years out and that she did not want the formula to be so conservative that a hospital be precluded from anticipating a need 5 years out. Chair Vailas stated that changes in healthcare cannot be predicted and need shouldn't involve a numerical formula. Ms. Almeda stated that a benchmark is needed and an applicant would have to further prove occupancy rates, etc. Chair Vailas stated that the focus should be on capacity and growth. Mr. Wallace added that he sees no need for an RFA at this time. He stated that most hospitals aren't staffed to their licensed amount now.

Mr. Wallace then made a motion to not issue the Acute Care RFA. Mr. Martin seconded the motion and all Board members voted in favor; thus no RFA for acute care beds will be issued on 8/1/11.

5. Other Administrative Business

- Ms. Thibeault informed the Board that the next meeting of the Board is scheduled for Thursday, June 16, 2011.
- The Rehab Subcommittee will meet immediately following the Board meeting in June.

- She gave an update on HB390, stating that the Senate subcommittee had voted approval of the bill with amendments that did not affect CON. The full Senate meets on the bill Thursday.

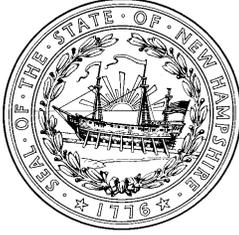
Mr. Wallace made a motion to adjourn the Board meeting at this time. Mr. Chase seconded the motion and the meeting was adjourned at approximately 11:00 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date



HEALTH SERVICES PLANNING AND REVIEW

June 16, 2011
9:30 a.m.
Board Meeting

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

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

Type of meeting: Certificate of Need - Board Meeting

Attendees: Ms. Deb Grabowski, Mr. Christopher Martin, Mr. James Tollner, Ms. Lori Underwood, Mr. Nicholas Vailas and Mr. John Wallace

Excused: Mr. Robert Chase

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

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

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

1. Consent Agenda

- **Approve May 19, 2011 Board Meeting Minutes**
- **Approve Findings of Reconsideration – Alice Peck Day Hospital, AC 10-04, \$16,053,539**
- **Epsom HealthCare Center, Epsom, NH - NSR Request to Transfer Ownership, \$2,500**
- **Maple Leaf HealthCare Center, Manchester, NH - NSR Request to Transfer Ownership, \$2,500**
- **Villa Crest Nursing and Retirement, Manchester, NH - NSR Request to Transfer Ownership, \$2,500**

Discussion: Chair Vailas introduced this agenda item. He asked if any of the Board members had an issue with any items on the consent agenda, as it would require removal from the consent agenda.

Mr. Wallace asked if the buildings in the 3 transfers of ownership requests are remaining under the same owner. Ms. Carrier responded that it was her understanding that they are. Mr. Wallace then

made a motion to approve the consent agenda items. Ms. Underwood seconded the motion. All Board members voted in favor of the motion unanimously approving the consent agenda.

2. Nashua Ambulatory Surgical Center (Physicians Select Healthcare) – Establish an ASC in Nashua, NH, \$491,950

Discussion: Chair Vailas recused himself and asked Mr. Wallace to chair this agenda item. Mr. Wallace then asked Ms. Thibeault to introduce this agenda item. Ms. Thibeault stated that HSPR has received an NSR request from Nashua Ambulatory Surgical Center, LLC, to establish an ambulatory surgical center in Nashua, NH. She stated that the proposed ASC will have two surgical suites and a procedure room, and its services will consist primarily of ENT and orthopedic surgery. She stated that the cost of the proposal is \$491,950 and clarified that this is a correction from the \$480,250 identified in the request. Physicians Select Healthcare, Inc. (“PSH”) is currently the sole member of Nashua Ambulatory Surgical Center, LLC; PSH has approximately 28 shareholders. The facility will be leased from 15 Riverside Realty, LLC, an entity owned by 17 Riverside, LLC, which in turn is owned by thirteen Nashua physicians from different practices. A letter of intent from 15 Riverside Realty, LLC summarizing the terms of the proposed lease was provided at Exhibit A of the request. Ms. Thibeault informed the Board that HSPR Staff recommends a condition be attached to the NSR approval that a copy of the final executed lease for the facility be submitted prior to operation of the facility. She stated that since the capital cost of the proposed project does not exceed the current statutory threshold, and no single piece of equipment will exceed \$400,000, HSPR staff concludes that the proposed project is not subject to CON review, with the condition.

At this time, Ms. Lucy Hodder, Esquire, Legal counsel for Nashua Ambulatory Surgical Center and Ms. Sue Majewski, Secretary, representing Nashua ASC came forward. Attorney Hodder stated that they accept the condition proposed by staff. Mr. Wallace asked if the cost is below the threshold and the number of operating rooms. Ms. Majewski stated that there will be 2 ORs initially and a third one will be shelled. Ms. Grabowski asked if any other freestanding ASCs exist in Nashua. Attorney Hodder stated that there are not so there’s a need for a freestanding facility. Ms. Grabowski then asked for clarification on the ownership. Attorney Hodder stated that physicians will own the facility initially but they hope to develop relationships with other providers in the area.

Ms. Grabowski then made a motion to approve the request from Nashua Ambulatory Surgical Center to establish an ASC in Nashua, NH with the condition that a copy of the final executed lease for the facility be submitted prior to operation of the facility. Mr. Martin seconded the motion and this agenda item was unanimously approved with condition.

Mr. Vailas re-joined the meeting at this time.

3. Northeast Rehabilitation Hospital/Elliott Hospital – Relocate 15 beds from Salem to Manchester

Discussion: Chair Vailas asked Ms. Carrier to introduce this agenda item. She stated Northeast Rehabilitation Hospital (NRH) submitted a notice for the transfer of 15 of its rehabilitation beds from its Salem facility to Elliot Hospital in Manchester. She explained that this unit will be located in leased space at Elliot Hospital and informed the Board that NRH files this notice as compliance with He-Hea 702.06 (e) and (f). Ms. Carrier went on to say that NRH states that this transfer of

beds is similar to that undertaken between NRH and Southern New Hampshire Medical Center in Nashua which was approved by the Board in May 2004 for 15 beds and a subsequent transfer of 5 beds in October 2009. She explained that NRH did not provide the capital cost or equipment cost related to this proposed transfer of beds as the submission was not a request for a Not Subject to Review determination. NRH will reduce its licensed bed complement in Salem by 15 beds from 82 to 67; this transfer will result in no increase or change in ownership of beds in the Southern region. HSPR staff notes that this proposed transfer of beds may raise questions relative to the CON application for a facility-wide renovation of the Salem facility, currently under formal review; NRH has been asked to be prepared to address this issue. However, the 15-bed transfer does not require a CON review under the current regulations.

Attorney John Malmberg came forward to provide testimony at this time. Mr. Wallace asked the licensing status for the beds in Nashua. Attorney Malmberg stated that Northeast Rehab has a separate license for those beds. Chair Vailas asked if NRH bills for those services. Attorney Malmberg stated yes they do.

Mr. Tollner arrived to the meeting at approximately 9:43.

Mr. Wallace asked if there are any costs involved with the transfer. Attorney Malmberg explained that NRH would come back with an NSR request to address the cost as necessary. Ms. Grabowski mentioned the pending CON currently being reviewed. She asked if the Board should postpone action on this agenda item until the public hearing. Ms. Carrier clarified that there could be an impact but that NRH has stated that this is a separate transaction from the CON application. Attorney Malmberg stated that he expects that NRH will need to address questions relating to the CON and its impact and they are prepared to do so. Ms. Grabowski asked if the Manchester market has been analyzed. Attorney Malmberg stated that it is within the same region, which is the Southern Region in which both Salem and Manchester are included.

Public testimony was allowed at this time.

Ms. Lisa Drouse, Director of Planning for CMC, Attorney Andrew Eills, Legal Counsel, Mr. Allen Ericson, COO for CMC, and Ms. Pat Stavolone, Executive Director of Rehab services came forward at this time. Attorney Eills spoke to 3 points relative to the NRH submission; context, process and interrelatedness between the pending CON and this submission. In regards to context, he stated that there is currently a committee meeting monthly to discuss service area and impact in the Board's rules, He-Hea 700, and other issues. In regards to the process, Attorney Eills stated that the submission for today's meeting is a notice and that is what is required, but the previous requests from NRH included cost information and more detail. He stated that this process should apply here as well. In regards to interrelatedness, he stated that 15 beds are coming from Salem where there are currently 82 beds; this will decrease to 67. He explained that the CON application addresses 82 beds and the reduction of 15 beds will presumably affect the cost and other aspects of the proposed project. He went on to say that there is an inter-connectedness between the CON application and the movement of beds and that NRH stated that they will return for an NSR; this is because they will need a license for the Manchester beds. Attorney Eills went on to explain to the Board that it has the right and authority to hear this after the CON has been heard. He stated that it wasn't CMC's intention to delay the process but wanted to state that the Board has the right to see all of the information before deciding on this matter.

Ms. Stavolone spoke to the CMC Rehab Medical Unit, and stated that it is the first in the state and is 28 years old. She stated that 75% of CMC discharges come from the service area and that it is currently operating at 60 – 65% of capacity. She stated that adding a second unit in Manchester is

not necessary, and questioned the impact on total utilization. She stated that this could affect continuity of care.

Mr. Martin asked how many rehab beds are at CMC and Ms. Stavolone responded that there are 23 beds in the CMC unit. Ms. Grabowski referenced the 60 – 65% occupancy and asked if they have a historical trend. Attorney Eills stated that this has been the trend and it's similar to NRH's. Ms. Grabowski asked if referrals from the Seacoast would stop. Ms. Stavolone stated yes.

Mr. John Poirier, President of the NH Health Care Association, came forward to speak. Ms. Carrier swore him in as he wasn't present at the start of the meeting. He stated that he was speaking for nursing facilities in the Manchester area. He stated that he agrees with CMC's position and the need to look at occupancy of the Skilled Nursing Facilities. He stated that NRH has spent significant dollars in the Seacoast and he is unsure of its financial viability. There could also be an impact on Healthsouth. He urged the Board to slow the process down and look at the effect on other providers.

Ms. Catherine Devaney from Healthsouth Rehab in Concord, NH came forward at this time. She explained that Healthsouth is only 17 miles from Elliot Hospital and about 40 patients a year come from the Manchester area. She stressed that there is not a lack of rehab services in that market.

Ms. Kathy Cowette from St. Joseph Hospital in Nashua, NH came forward at this time. She asked the Board not to accept the transfer. She stated that the rules are flawed and explained that the subcommittee is currently working on this issue and making progress. Chair Vailas asked her how many rehab beds SJH had; she answered that there are 24 and they are at 60% capacity. Ms. Grabowski asked if the previous move of beds from Salem to SNHMC affected SJH. Ms. Cowette stated that the occupancy went from 80% to 60 – 65%.

Mr. Wallace stated that He-Hea 702.06 is the guiding standard for this and neither impact nor need is in the current rule; this is a problem. The term "Transfer" is not defined. He referred to RSA 151-C:5, II, (e) for the increase or conversion of beds. Attorney Malmberg stated that Elliot Hospital isn't converting or increasing beds. Chair Vailas asked what was being converted. Attorney Malmberg stated that it is still being decided and that is why the NSR request is still pending.

Board discussion ensued at this point. Ms. Underwood gave a brief update on the rehab subcommittee. She explained that the subcommittee has been meeting since January, has worked through several issues and each rehab provider has been represented. She stated that at the last meeting the group narrowed the issues down to: 1. regional vs. statewide bed need and asked facilities to submit data for analysis; and 2. The transfer issue. No agreement has been made regarding the transfers but each facility was asked to submit their position on the issue. Mr. Wallace stated that there was no basis to deny the request according to the current rule. Chair Vailas stated that the timing of the request stinks and that if it was the other way around and another facility did this, NRH would feel the same way. Chair Vailas asked the time frame for action on this request. Ms. Carrier responded that the Board has 120 days to render a decision on the notice.

At this time, Mr. Wallace made a motion to defer the decision for this request to the next Board meeting. Mr. Martin seconded the motion. Ms. Underwood recused from the vote and the motion passed with a vote of 5 to 0.

4. Morrison Nursing Home, Whitefield, NH – NSR Request for Facility Renovations, \$1,801,662

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that the Morrison Nursing Home of Whitefield, NH submitted an NSR request for facility renovations. He explained that phase one of the project, which has been completed, involved renovations to a 19-bed wing to replace three and four bed wards with semi-private and private rooms, renovations to the tub room and kitchenette, and the addition of a hospice room. Phase two of the project will involve improvements to the memory unit, including the nurses stations, resident/family space, and the addition of a kitchenette. He stated that the total cost of the proposed project is \$1,801,662, which is 97 percent of the current statutory threshold. Mr. Peck informed the Board that the requestor was asked to provide its capital expenditures for 2010, and to state whether its capital expenditures within the past 36 months are related to this project, which Morrison Nursing Home did via a handout at the meeting. He stated that since the capital cost of the proposed project does not exceed the current statutory threshold, HSPR staff concludes that the project is not subject to CON review but since the project cost is very close to the threshold, staff recommends that a condition be attached to the NSR approval that all components of the final project cost be documented upon project completion.

Ms. Roxie Severance, Executive Director for Morrison Nursing Home came forward at this time to present testimony on this agenda item. She stated that she accepted the condition. Mr. Wallace stated that he is concerned whether the threshold will be exceeded based on what has been done and what will be done. Ms. Severance stated that the first phase has been completed and the second phase remains to be done. Ms. Grabowski asked why Morrison Nursing Home was coming for an NSR when most of the project is already completed. Ms. Severance answered that they were unaware of the process. Chair Vailas let Ms. Severance know that he understood the confusion. Ms. Carrier stated that staff is looking into the NSR process and working with licensing to get the process in sync.

Mr. Tollner then made a motion to approve the NSR request made by Morrison Nursing Home for facility renovations totalling \$1,801,622 with the condition that all components of the final project cost be documented upon project completion. Mr. Martin seconded the motion and all Board members voted in favor; thus, this agenda item was unanimously approved with condition.

5. Public Hearing – Mt. Carmel Nursing Home, CON LTC 11-01, \$4,200,000

Discussion: Chair Vailas asked Mr. Peck to introduce this agenda item. Mr. Peck stated that at this time, the Board would hear the long-term care application proposed by Mt. Carmel Nursing Home for a renovation project to remodel the facility and achieve a more resident-centered care environment. He stated that this application was submitted under the exception to the moratorium that allows a CON to be issued for “construction or renovation as necessary to repair or refurbish an existing facility” (RSA 151-C:4, III (a)). Mr. Peck stated that the HSPR Staff Analysis and Checklist were enclosed in the Board packet for review and consideration. He added that HSPR Staff concludes that the proposal is eligible for a CON at this time with condition that the applicant specify final financing source(s) prior to project commencement.

At this time, Attorney Andrew Eills, Legal Counsel, Mr. Michael Lehrman, VP, HealthCare Services, NH Catholic Charities, Mr. Joe Bohunicky, Administrator for Mt. Carmel Nursing Home, Mr. Thomas Blonski, President & CEO of NH Catholic Charities, and Ms. Joanne Hollen, CFO for NH Catholic Charities came forward.

The public hearing was opened at 10:30 am. Attorney Andrew Eills gave a brief introduction of the Mt. Carmel Nursing Home, and stated that it is the first nursing facility to request permission to file an application under the exception to the moratorium. Mr. Blonski stated that no major updates have been done since the facility was built in 1969. Mr. Lehrman showed the Board photos of the issues within the facility with a Powerpoint presentation. He stated that NHCC was founded in 1946 and has 6 owned facilities and 2 managed facilities. He explained that Mt. Carmel is a brick and steel building and the structure is sound. He explained to the Board that in response to the HSPR staff recommended condition, there will be no financing; the project will be self funded as there are adequate funds for this. He stated that there will be no impact on private rates in the community nor on Medicare rates. The cost over the threshold will not be included in the Medicaid rate. Mr. Wallace asked if all residents ate in the dining room that is being converted. Mr. Lehrman answered that not all of them do, about 25 – 30 residents eat there, the rest eat on their floors. He explained that after the project there will be dining space on each floor for each neighborhood and there will be a café in the lobby. Chair Vailas asked how large the Alzheimers unit is and Mr. Lehrman responded that there are 37 beds and that is is always full. Ms. Grabowski asked if there is a capital reserve for infrastructure. Mr. Lehrman stated that there is and that these systems were reviewed when planning this project and there is an adequate capital reserve for future needs.

The public hearing for this agenda item was closed at 10:55. There was no public testimony on this application.

After consideration and deliberation, Mr. Wallace made a motion to approve the Mt. Carmel Nursing Home application, CON LTC 11-01, for \$4,200,000 under RSA 151 C:4,III (a). Mr. Tollner seconded the motion and this agenda item was unanimously approved.

6. Other Administrative Business

- Ms. Carrier informed the Board that the next meeting of the Board is scheduled for Thursday, July 21, 2011 and the NRH public hearing will be heard that day, as well as the Acute Care RFA.
- The Rehab Subcommittee will not meet following the Board meeting today. Ms. Carrier stated that she will inform the committee when a meeting date is set.
- She gave an update on HB390, stating that the bill is awaiting the Governor's signature. She also informed the Board that HB 2 is now in the Senate version. Mr. Wallace provided background on this. He stated that there was to be a study of CON by the Department of Insurance and the Senate didn't think it made sense for the Department of Insurance to conduct the study and this was removed from the bill.
- Ms. Carrier stated that the NSR process has created some confusion as of late and staff is working with Licensing to develop a better process. She let the Board know that staff will provide recommendations for improving the process.

Chair Vailas requested that the Rehab Subcommittee meet before the July Board meeting to discuss the transfer process, and report back the status of this issue to the Board. Ms. Underwood, as chair of this subcommittee, agreed to do so.

Mr. Wallace made a motion to adjourn the Board meeting at this time. Ms. Underwood seconded the motion and the meeting was adjourned at approximately 11:10 a.m.

Signature:

Nicholas Vailas
HSPR Board Chair

Approved by
HSPR Board:

Date