

Board of Community Health  
Meeting  
October 13, 2022

**Members Present**

Norman Boyd  
Russel Crutchfield  
Roger Folsom  
David Crews  
Anthony Williamson  
Nelva Lee  
Cynthia Rucker  
Shane Mobley  
Robert Cowles

**Members Absent**

The Board of Community Health held its meeting via Zoom teleconference. (An agenda and a List of Attendees are attached hereto and made an official part of these Minutes as Attachments #1 and #2). Chairman Norman Boyd presided and called the meeting to order at 10:30 a.m.

**Minutes**

The August 25, 2022 and September 8, 2022 meeting's minutes were unanimously approved.

**Opening Comments**

None to report.

**Committee Report**

None to report.

**Commissioner's Report**

Commissioner Noggle thanked the Board, members of the public and staff for their participation via Zoom.

The following updates were provided to the Board:

- Wrapping up Board actions pending with the Centers for Medicare and Medicaid Services (CMS) from last year's budget.
- Focusing on our budget requests for the upcoming year and beginning to have some preliminary conversations about any potential legislation that the Department will want to pursue for next year.

- We are working on rate studies with our actuarial firm; still on track to complete some time in December.
- Received CMS approval for our dental rate increase state plan amendment (SPA) that was included in the budget.
- Care Management Organization (CMO) procurement continues to move forward, as we continue to do some internal analysis and look at a request for proposal (RFP) design, currently, on track for a release sometime this winter.
- Pathways 1115 Waiver
  - Received a very favorable court decision.
  - We are reviewing our timelines and project plans to move the 1115 limited Medicaid expansion under Governor Kemp's leadership soon and have started to re-engage our project team and will schedule meetings with our partner agencies to make sure we are all on a timeline to move forward.
- Federal public health emergency (PHE) is slated to end on October 15<sup>th</sup>. We expect to receive notice today or tomorrow from CMS for an extension. We are still operating under the assumption they will provide a 60-day notice.
- Recognition for employees' years of service milestones.

Kim Morris, Director of Reimbursement presented to the Board for final adoption the Changes to Disproportionate Share Hospital (DSH) Allocation Methodology Public Notice.

Ms. Morris noted for the Board that this proposal was first presented and adopted at the May 13, 2021, Board meeting. The Department submitted State Plan Amendment (SPA) 21-0014 to Centers for Medicare and Medicaid Services (CMS) in June 2021 and decided to re-issue a public notice specific to the change in DSH methodology to ensure it could implement the proposed changes for the SFY23 DSH allocations.

The proposed change would increase the allocation basis for hospitals receiving directed payments through a directed payment program (DPP) by the amount of any intergovernmental transfer (IGT) or certified public expenditure (CPE) received on behalf of the hospital, for DSH payment adjustments made on or after October 1, 2022.

No additional federal or state funds are required for this change. The change in methodology is to ensure hospitals participating in the State's directed payment program do not receive a reduction in their DSH allocation.

An opportunity for public comment was held on September 12, 2022 at 11:00 a.m. via Zoom. Written comments were due on or before September 19, 2022. No oral or written comments were received.

Ms. Morris respectfully asked for the Board's favorable consideration of final adoption.

David Crews MADE a MOTION to approve for final adoption the Changes to Disproportionate Share Hospital (DSH) Allocation Methodology Public Notice. Nelva

Lee SECONDED the MOTION. ON THE MOTION, the yeas were 9, nays 0, abstained 0, and the MOTION was APPROVED.

(A copy of the Changes to Disproportionate Share Hospital (DSH) Allocation Methodology Public Notice is attached hereto and made an official part of these minutes as Attachment #3).

Karesha B. Laing, Interim Executive Director, Office of Health Planning presented to the Board for final adoption the Rules and Regulations for Health Planning, Certificate of Need, Ga. Comp. Rules & Regs., r. 111-2-2.

The proposed rule changes reflect amendments to Rule 111-2-2-.07(1)(g)1 and 2, Review Procedures for the Certificate of Need Program. The proposed changes make updates to the criteria that must be met for a party to oppose an application for a Certificate of Need for a proposed project.

Specifically, the proposed changes require either that, in order to oppose an application for a Certificate of Need, an opposing party must offer substantially similar services as proposed in Georgia and within a 35 mile radius of the proposed project, or have a service area in Georgia that overlaps the applicant's proposed service area; or that an opposing party must have submitted a competing application in the same batching cycle and propose to establish in Georgia the same type of facility proposed or offer, in Georgia, substantially similar services as proposed and have a service area located in Georgia that overlaps the applicant's proposed service area. Additional revisions are proposed to correct grammar, provide clarity, and modernize the rules.

An opportunity for public comment was held on September 7, 2022 at 10:00 a.m. via Zoom. Written comments were due on or before October 13, 2022. No oral comments were received. Written comments were received from the following:

- One hundred twenty-nine (129) Georgia citizens
- Keri F. Conley, General Counsel & Senior Vice President, Health Care Policy, Georgia Hospital Association
- Jonathan Connell, Chairman, Northwest Georgia Hospital Coalition, Inc.
- Earl Gray, Mayor, City of Fort Oglethorpe
- Jeff Mullis, President & CEO, Northwest Georgia Joint Development Authority
- Monty Veazey, President & CEO, Georgia Alliance of Community Hospitals

The written comments were summarized as follows:

1. Georgia Citizens

The one hundred twenty-nine (129) comments of substantially identical language from individual Georgia citizens expressed support for the proposed rule change. The commenters opined that out-of-state entities should not be allowed to interfere with medical access for Georgians. The commenters referenced the pending appeal by a Tennessee hospital of the grant of a Certificate of Need (CON) to CHI Memorial Hospital to construct a replacement facility in northwest Georgia.

2. Georgia Hospital Association (GHA)

GHA expressed full support for the proposed rule change and the Department's effort to clarify which parties have standing to oppose or appeal a Certificate of Need (CON) application. They suggested that the proposed rule change is consistent with the intent of House Bill 186, which became effective on July 1, 2019, and made significant updates to Certificate of Need (CON) laws.

3. Northwest Georgia Hospital Coalition, Inc.

The Northwest Georgia Hospital Coalition, Inc. expressed support for the proposed rule change to ensure critical access to care for Georgians cannot be denied or delayed by entities in other states. They referenced the pending appeal by a Tennessee hospital of the grant of a Certificate of Need to CHI Memorial Hospital to construct a replacement facility in northwest Georgia.

4. City of Fort Oglethorpe

The city of Fort Oglethorpe expressed full support for the proposed rule change to address what it described as a gap in the current law and to ensure critical access to care for Georgians cannot be denied or delayed by entities in other states.

5. Northwest Georgia Joint Development Authority

The Northwest Georgia Joint Development Authority expressed support for the proposed rule change to address what was described as a "loophole" in the regulations and to ensure critical access to care for Georgians cannot be denied or delayed by entities in other states. They referenced the pending appeal by a Tennessee hospital of the grant of a Certificate of Need to CHI Memorial Hospital to construct a replacement facility in northwest Georgia.

6. Georgia Alliance of Community Hospitals (GACH)

The Georgia Alliance of Community Hospitals expressed full support for the proposed rule change, which it described as being consistent with past practice and sound health planning principles. GACH indicated that out-of-state non-applicants have never been a party to Georgia's Certificate of Need (CON) regulatory process. Among other things, GACH indicated that out-of-state non-applicants: are not regulated by Georgia's Certificate of Need (CON) or licensure/health care facility regulation laws or rules; do not complete surveys or report any operational or financial data to the Department for health planning

purposes; and do not make commitments to care for Georgia's indigent or charity care populations. According to the GACH, the proposed rule is needed to confirm the Department's position that an unregulated out-of-state provider is not a party granted standing under the Certificate of Need (CON) Act to oppose or appeal Certificate of Need (CON) decisions.

The Department thanked each of the commenters for the written comments and support.

Ms. Laing respectfully asked for the Board's favorable consideration of final adoption.

Roger Folsom MADE a MOTION to approve for final adoption the Rules and Regulations for Health Planning, Certificate of Need, Ga. Comp. Rules & Regs., r. 111-2-2. Cynthia Rucker SECONDED the MOTION. ON THE MOTION, the yeas were 9, nays 0, abstained 0, and the MOTION was APPROVED.

(A copy of the Rules and Regulations for Health Planning, Certificate of Need, Ga. Comp. Rules & Regs., r. 111-2-2 is attached hereto and made an official part of these minutes as Attachment #4).

Joseph Hood, Chief Operating Officer presented to the Board for final adoption the Rules and Regulations for Healthcare Facility Regulation, Birth Centers, Ga. Comp. Rules & Regs. r. 111-8-7.

The proposed rule change reflects an amendment to a rule cited in Ga. Comp. R. & Regs. r. 111-8-7-.22 by deleting a reference to Chapter 111-8-3 which does not presently exist in the rules.

An opportunity for public comment was held on September 6, 2022 at 11:00 a.m. via Zoom. Written comments were due on or before September 9, 2022. No oral or written comments were received.

Mr. Hood respectfully asked for the Board's favorable consideration of final adoption.

Shane Mobley MADE a MOTION to approve for final adoption the Rules and Regulations for Healthcare Facility Regulation, Birth Centers, Ga. Comp. Rules & Regs. r. 111-8-7. Russel Crutchfield SECONDED the MOTION. ON THE MOTION, the yeas were 9, nays 0, abstained 0, and the MOTION was APPROVED.

(A copy of the Rules and Regulations for Healthcare Facility Regulation, Birth Centers, Ga. Comp. Rules & Regs. r. 111-8-7 is attached hereto and made an official part of these minutes as Attachment #5).

Joseph Hood, Chief Operating Officer presented to the Board for final adoption the Rules and Regulations for Healthcare Facility Regulation, Ambulatory Surgical Treatment Centers, Ga. Comp. Rules & Regs. r. 111-8-4.

The proposed rule change reflects an amendment to a rule cited in Ga. Comp. R. & Regs. r. 111-8-4-.24 by deleting a reference to Chapter 290-5-32, Rules of Department of Human Services that is obsolete because of the passage of House Bill 481 during the 2019 legislative session.

An opportunity for public comment was held on September 6, 2022 at 2:00 p.m. via Zoom. Written comments were due on or before September 9, 2022. No oral or written comments were received.

Mr. Hood respectfully asked for the Board's favorable consideration of final adoption.

Roger Folsom MADE a MOTION to approve for final adoption the Rules and Regulations for Healthcare Facility Regulation, Ambulatory Surgical Treatment Centers, Ga. Comp. Rules & Regs. r. 111-8-4. David Crews SECONDED the MOTION. ON THE MOTION, the yeas were 9, nays 0, abstained 0, and the MOTION was APPROVED.

(A copy of the Rules and Regulations for Healthcare Facility Regulation, Ambulatory Surgical Treatment Centers, Ga. Comp. Rules & Regs. r. 111-8-4 is attached hereto and made an official part of these minutes as Attachment #6).

Joseph Hood, Chief Operating Officer presented to the Board for final adoption the Rules of Department of Human Services, Chapter 290-5 Public Health, Ga. Comp. Rules & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5- 32-.05.

The proposed rule changes reflect amendments to rules cited in Ga. Comp. R. & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5-32-.05 by repealing said rules made obsolete by the passage of House Bill 481 during the 2019 legislative session.

An opportunity for public comment was held on September 7, 2022 at 11:00 a.m. via Zoom. Written comments were due on or before September 9, 2022. No oral or written comments were received.

Mr. Hood respectfully asked for the Board's favorable consideration of final adoption.

Russel Crutchfield MADE a MOTION to approve for final adoption the Rules of Department of Human Services, Chapter 290-5 Public Health, Ga. Comp. Rules & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5- 32-.05. Roger Folsom SECONDED the MOTION. ON THE MOTION, the yeas were 9 nays 0, abstained 0, and the MOTION was APPROVED.

(A copy of the Rules of Department of Human Services, Chapter 290-5 Public Health, Ga. Comp. Rules & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5- 32-.05 is attached hereto and made an official part of these minutes as Attachment #7).

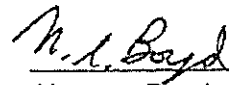
### Adjournment

There being no further business to be brought before the Board, Chairman Norman Boyd adjourned the meeting at 10:55 a.m.

THESE MINUTES ARE HEREBY APPROVED AND ADOPTED THIS THE 13<sup>th</sup> DAY OF October, 2022.



Cynthia Rucker  
Secretary



Norman Boyd  
Chairman

#### Official Attachments:

- #1 Agenda
- #2 List of Attendees
- #3 Changes to Disproportionate Share Hospital (DSH) Allocation Methodology Public Notice
- #4 Rules and Regulations for Health Planning, Certificate of Need, Ga. Comp. Rules & Regs., r. 111-2-2
- #5 Rules and Regulations for Healthcare Facility Regulation, Birth Centers, Ga. Comp. Rules & Regs. r. 111-8-7
- #6 Rules and Regulations for Healthcare Facility Regulation, Ambulatory Surgical Treatment Centers, Ga. Comp. Rules & Regs. r. 111-8-4
- #7 Rules of Department of Human Services, Chapter 290-5 Public Health, Ga. Comp. Rules & Regs. r. 290-5-32-.01, 290-5-32-.02, 290-5-32-.04, and 290-5- 32-.05