

Board of Community Health
Meeting
February 8, 2024

Members Present

Norman Boyd
Roger Folsom
David Crews
Anthony Williamson
Tommy Hopkins

Members Absent

Nelva Lee
Cynthia Rucker
Shane Mobley
Robert Cowles

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 Minutes of the January 18, 2024 meeting were unanimously approved.

Opening Comments

- Chairman Boyd welcomed new Board member Dr. Tommy Hopkins.
- Officer position (Interim Vice-Chairman) nomination:
 - Chairman Boyd nominated Roger Folsom. No further nominations were received, and the nominations were closed.
 - Chairman Boyd called for a vote to approve Roger Folsom as Interim Vice-Chairman. The yeas were 5, nays 0, abstained 0, and the appointment was APPROVED.
- Board By-Laws:
 - Chairman Boyd introduced the revised by-laws to the Board. The Board will vote on the by-laws at the March Board meeting.

Committee Reports

None to report.

Commissioner's Report

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

The following updates were provided to the Board:

- Legislative:
 - Over the past few weeks, the Department testified before the Joint House and Senate Appropriations Committee to kick off budget deliberations.
 - The House and Senate subcommittees on health appropriations met regarding the amended FY2024 bills.
 - The House passed the amended budget earlier this week and it will move forward to the Senate. FY2025 budget hearings are scheduled to begin early next week.
- Commissioner Carlson thanked the following:
 - Governor's office, Office of Planning and Budget (OPB), and House and Senate budget staff for their communication and collaboration.
 - Joe Hood, Cody Whitlock, Brian Lipton, and Rachel Lemoine for their hard work, quick turnarounds, and rehearsals during this budget process.
 - Legislative leaders Brandy Sylvan, and Kaitlin Ward.

All six of our agency bills are moving through the committee process and one passed out of the Senate last week.

- The Department continues to work diligently on the state's largest procurement for the Medicaid managed care contract, an immense project with an aggressive timeline.

Commissioner Carlson thanked the Department of Administrative Services (DOAS), Lynnette Rhodes, Chief Health Policy Officer, Leeclois Bolar, Project Manager, and other subject matter experts for their continued leadership and expertise on this very organized and disciplined evaluation effort.

- Staff Announcements:
 - Stuart Portman, Executive Director, Medical Assistance Plans
 - Joel Presley, Executive Director, State Office of Rural Health (SORH)

The Department is very grateful to Lynnette Rhodes' leadership of the evaluation effort and working with Stuart as he transitions into his new role.

- Employees' years of service milestones.

Brian Annino, Senior Attorney and Designee for Agency Decisions presented to the Board for final adoption the Rules and Regulations for Health Planning, Certificate of

Need, Subject 111-2-2 relating to Specific Review Considerations for Short-Stay General Hospital Beds.

This is an amendment to Specific Review Considerations for Short-Stay General Hospital Beds set forth in Rule 111-2-2-.20.

Through this amendment, the department seeks to create administrative efficiencies for short-stay general hospitals seeking to add beds in response to a closure of a short-stay general hospital affecting the community. A Short-Stay Hospital is a facility with an average length of stay of less than thirty (30) days.

This amended rule would provide urban and rural hospitals a more streamlined regulatory process to seek expansion of hospital beds following a hospital closure.

Specifically, this amendment would allow the Department to grant existing short-stay general hospitals an exception to the need and adverse impact standards set forth in Rule 111-2-2-.20(3)(b) and (d) for facilities meeting one of the following conditions:

- (i) A facility in an urban county or rural county seeking to add short-stay general hospital beds in response to the closure of a short-stay general hospital located within a five (5) mile radius;
- (ii) A facility in a rural county seeking to add short-stay general hospital beds in response to the closure of a short-stay general hospital located in the same rural county or a contiguous county; or
- (iii) A facility in an urban county seeking to add short-stay general hospital beds in response to the closure of a short-stay general hospital located in a contiguous rural county.

To qualify for this exception, the existing hospital must demonstrate that it will serve substantially the same patient population based on patient origin and payor mix data as the closed hospital, to be determined in the sole discretion of the Department.

The expansion may be for up to twenty percent (20%) of capacity of the applicant hospital and the application for a certificate of need under this exception shall be filed no more than eighteen (18) months after the closure of the short-stay general hospital.

The exception may be requested by an applicant only one (1) time in response to the closure of a particular short-stay general hospital unless such applicant provides written justification in support of a second request that is granted by the department in its sole discretion, if such justification was submitted within no more than eighteen (18) months after closure of that hospital.

An opportunity for public comment was held on January 10, 2024 at 2:00 p.m. via Zoom. Written comments were due on or before January 12, 2024. No oral comments were received, and four written comments were received from the following:

- Mayor Andre Dickens, City of Atlanta
- Robb Pitts, Chairman, Fulton County Board of Commissioners
- Morehouse School of Medicine
- Keri F. Conley, Esq., Executive Vice President for Health Care Policy and General Counsel, Georgia Hospital Association

Overall, commenters were supportive of the proposed amended rule. Some commenters proposed extending some of its provisions further.

Ms. Conley wrote on behalf of GHA in support of the proposed amended rule and noted that the proposal provides flexibility in situations where a nearby hospital is forced to close. She noted that “[i]mportantly, this is not a complete exemption from the CON requirements. Hospitals are still required to obtain a CON to add beds unless they qualify for another pre-existing exemption.” Ms. Conley further noted that “[w]e appreciate this balanced proposal as part of the Department’s ongoing work to ensure Georgia patients maintain access to hospital care close to home.”

Morehouse School of Medicine (“Morehouse”) stated that it is “...pleased that the Board of Community Health has proposed changes to the Short-Stay General Hospital Bed rules to recognize the need for the hospital industry to address closed hospitals and the impact such closure has on access to care for the communities served by such hospitals. Further, Morehouse is supportive of the overall goals of CON regulation and its foundational concept of ensuring access to underserved communities.” Morehouse suggested additional changes to the proposed rule to address other services affected by closures including those related to emergency departments and other outpatient and ancillary services offered by the hospitals. While acknowledging that allowing for closed hospital beds to be added to existing hospitals may address the dispersion of inpatient demand from a closed hospital, Morehouse further stated that adding beds at existing hospitals in other locations alone simply will not address the needs of the local underserved communities that the closed hospitals served. Morehouse also expressed concerns that the dispersion of beds to only existing providers is anticompetitive and eliminates the opportunity for any new hospital facility to address the gap in services left by a hospital closure. Morehouse proposed amended language in this proposed rule to also allow for development of a new hospital and that an application for a CON under the exception set forth in the proposed rule be filed no more than 24 months from the closure of a short-stay hospital.

Mayor Dickens of the City of Atlanta stated that “[w]hile we do not oppose these changes, we feel that it is an imperative to modify the proposed CON Rule change language to allow for the development of a new or replacement hospital as an additional critical option to serve the communities impacted by the hospital closure.” Mayor Dickens further

addressed support for the proposed changes proffered by Morehouse School of Medicine. Chairman Robb Pitts, Chairman of the Fulton County Board of Commissioners provided similar comments.

The agency is very thankful for each of these comments. I'd like to take a moment to particularly address the Morehouse comments. Morehouse with support of the Mayor and Chairman Pitts provided very thoughtful concepts for agency consideration. We have engaged in discussions with Morehouse directly and will be continuing those discussions in the coming weeks to further learn about their proposals.

This proposed amended rule is intended to provide administrative efficiencies for existing hospitals to increase capacity in an expeditious manner in the event of a hospital closure rather than for amending our rules for new hospital construction. However, we are going to continue our discussions with Morehouse as an important community stakeholder and provide informational assistance with their efforts and will report back to this Board regarding same.

In summary, this amended Rule would:

- Create a streamlined approach regarding Certificate of Need following a hospital closure;
- Help ensure access to community healthcare in the event of a hospital closure;
- Creates a balanced yet efficient approach to agency review of qualifying applications following a hospital closure.

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

Roger Folsom MADE a MOTION to approve the Rules and Regulations for Health Planning, Certificate of Need, Subject 111-2-2. Tommy Hopkins SECONDED the MOTION. ON THE MOTION, the yeas were 5, nays 0, abstained 0, and the MOTION was APPROVED.

(A copy of the Rules and Regulations for Health Planning, Certificate of Need, Subject 111-2-2 is attached hereto and made an official part of these minutes as Attachment #3).

New Business/Closing Comments

None to report.

Adjournment

There being no further business to be brought before the Board, Chairman Norman Boyd adjourned the meeting at 10:57 a.m.

THESE MINUTES ARE HEREBY APPROVED AND ADOPTED THIS THE 8th DAY OF February, 2024.

Cynthia Rucker
Cynthia Rucker
Secretary

N. L. Boyd
Norman Boyd
Chairman

Official Attachments:

#1 Agenda

#2 List of Attendees

#3 Rules and Regulations for Health Planning, Certificate of Need, Subject 111-2-2