

Board of Community Health
Meeting
April 29, 2014

Members Present

Norman Boyd
Donna Moses
Clay Cox
Allana Cummings
Jamie Pennington
Rick Jackson

Members Absent

Bill Wallace
Kiera von Besser
Jack Chapman

The Board of Community Health held a special conference call meeting at the Department of Community Health, Fifth Floor Board Room, 2 Peachtree Street, N.W., Atlanta, Georgia. Commissioner Clyde L. Reese, III was also present. (An agenda and a List of Attendees are attached hereto and made official parts of these Minutes as Attachments #1 and #2). Chairman Norm Boyd presided and called the meeting to order at 9:36 a.m.

Minutes

None to approve

Opening Comments

Chairman Boyd welcomed everyone in attendance and participating via web-ex.

Committee Reports

None to report

Commissioner's Report

Commissioner Reese thanked the Board and members of the public participating via web-ex. Commissioner Reese stated that the Governor has put emphasis on access to healthcare in rural areas and has initiated a three part process to address this important topic. Charles Owens, Director of the State Office of Rural Health is the designee for specific initiatives undertaken for rural health issues.

Commissioner Reese informed the Board that on April 25, 2014 the Governor announced the Rural Health Stabilization Committee members. Information concerning the structure, scheduling and timing of meetings will be shared with the Board.

Commissioner Reese stated this meeting was called to vote on the third part of the Governor's initiative which is proposed rules to establish a category in our licensure regulations for hospitals rural free standing emergency departments. These proposed rules will allow facilities who may be in danger of closing due to financial difficulties or those who have closed within the past 12 months to offer lesser services and enable them to maintain healthcare infrastructure in their community.

Commissioner Reese informed the Board that the public hearing was held on April 15, 2014 and the 30 day comment period ended on April 23, 2014. On March 24, 2014 during the Special Call Teleconference Meeting the Board approved for initial adoption the Rules for public comment.

Commissioner Reese asked Mary Scruggs, Division Chief of Healthcare Facility Regulation Division (HFRD) to present a summary of the public comments received and the Department of Community Health's (DCH) recommendations.

Ms. Scruggs presented a summary of the public comments received by the Department regarding the proposed revised Rules and Regulations for Hospitals, Chapter 111-8-40. The Department held a public hearing on April 15, 2014 at 11:00 am to allow oral comments on the revised rules. The Department provided an opportunity for submission of written comments through April 23, 2014. During the public hearing, oral comments were made by Mr. Jimmy Lewis, CEO of Hometown Health, LLC. Mr. Lewis also submitted written comments. In addition, the Department received written comments from representatives of the following entities: Families First, Georgia Alliance of Community Hospitals, Georgia Hospital Association, Georgia Legal Services Program, Georgia Watch and The Georgia Budget and Policy Institute.

Families First indicated that the revised rules attempt to address the fact that many of Georgia's rural hospitals are struggling financially by allowing some of them to partially close down and to offer only emergency care and certain other services within their communities. Families First expressed its support of the expansion of Medicaid.

Georgia Alliance of Community Hospitals expressed its support of the Department's efforts to revise its licensure rules to allow an existing rural hospital that has been forced to close or is at risk of closing to reduce its scope of operations while retaining a minimum level of essential emergency services. The Alliance also expressed its approval of several requirements within the revised rules, including the proposed rule revision requiring the provision of emergency services. The Alliance suggested the Department consider the following revisions:

- Modify proposed Rule 111-8-40-.02(h) to reference the Ambulatory Surgical Center Approved Procedures in Georgia Medicaid Part II Policies and Procedures.

- Add language explicitly stating that rural free standing emergency departments cannot provide services beyond those expressly authorized in the revised rules.
- Add language to clarify that rural free standing emergency departments are required to obtain CON approval.
- Add language to require the rural free standing emergency department to be located at least 15 miles from an existing hospital in a rural county with fewer than 50 licensed beds and/or that the free standing emergency department could not be located in or contiguous to a rural county that has a licensed general hospital.
- Add language to require the operational policies to require physician services be available at all times while the rural free standing emergency department is operational.

Georgia Hospital Association expressed its support of the revised rules.

Georgia Legal Services Program expressed its support of Medicaid expansion. The GLSP expressed support of the requirement that rural free standing emergency departments be open 7 days a week, 24 hours a day. The GLSP recommended that the rules should be revised as follows:

- Include a full restatement of federal EMTALA provisions and incorporate by reference 42 U.S.C. Section 1395dd.
- Specify standards that the rural free standing emergency departments will be required to meet.
- Require the facility to have a detailed plan and agreements for transferring and transporting patients.
- Allow public review and comments prior to the Department's approval of a permit to a rural free standing emergency department.

Georgia Watch expressed its support of the Department's efforts to find a solution for the rural health crisis. Georgia Watch expressed support of Medicaid expansion. Georgia Watch recommended that the rules be revised to require the rural free standing emergency department to secure a written transfer agreement with hospitals within 35 miles rather than only require the rural free standing emergency department to make all reasonable efforts. Georgia Watch also recommended that the rules should include more detailed requirements regarding the transfer agreements. Georgia Watch expressed its support for the requirements that the rural free standing emergency department remain open 7 days a week, 24 hours a day and provide screening, examination, stabilization and transfer services to patients regardless of their ability to pay.

HomeTown Health, LLC expressed thanks to Commissioner Reese for taking action to encourage discussion regarding an alternative health care delivery model in rural Georgia. HomeTown Health provided the following comments/suggested revisions:

- The requirement to operate 7 days a week, 24 hours a day may not be economically feasible.
- The provisions requiring the rural free standing emergency department to provide certain screening, examination and stabilization services regardless of the patient's ability to pay may not be economically feasible.
- Written transfer agreements should be mandatory and require the transferee hospital to accept transfers.
- The rules should include a defined payment methodology as to how Medicaid, Medicare and commercial payments can be received as well as access to block grants.
- The rules should allow an exception to EMTALA requirements.
- The rules should allow a facility to operate as a hybrid between a voluntary free clinic and a reduced-sized hospital/stand-alone entity.

The Georgia Budget and Policy Institute indicated the revised rules may lead to reduced services being delivered by hospitals in rural communities. The Institute expressed its support of expanding Medicaid.

Ms. Scruggs shared the following information as the Department's response to the public comments:

The revised rules are intended to provide an alternative to existing rural hospitals that may be in danger of closing to remain within the community and continue to provide services on a reduced scale. The licensure rules identify minimum requirements that the rural free standing emergency departments must meet to maintain a license. The Department believes that the requirements to provide emergency services 7 days a week and on a 24 hour basis are consistent with the essential purpose of an emergency department. The requirement to provide a screening examination and, if an emergency condition exists, to provide stabilization services within the emergency department's capacity prior to transfer is also an essential purpose of a free standing emergency department.

For licensing purposes, the Department does not believe it is necessary to define the types of procedures by referencing the Ambulatory Surgical Center Approved Procedures in Georgia Medicaid Part II Policies and Procedures because, participation in Medicaid is voluntary. The Department notes that the Rules and Regulations for Ambulatory Surgical Centers, Chapter 111-8-4, do not include such a reference to define services.

As the revised rules already define the services, both mandatory and optional, to be provided by a rural free standing emergency department, the Department does not believe it is necessary to add additional language stating that the free standing emergency department is not allowed to provide any other services.

As the existing requirements regarding Certificate of Need are defined in statute and published regulations, the Department does not believe it is necessary to include language regarding CON requirements.

Regarding the requests to limit rural free standing emergency department to be located a minimum of 15 miles from an existing hospital in a rural county with fewer than 50 licensed beds and/or prohibit the free standing emergency department from operating in or contiguous to a rural county that has a licensed general hospital, the Department notes that the proposed rules already include two requirements that will limit the number and location of rural free standing emergency departments: (1) that the rural free standing emergency department must be located within a rural county and (2) that only currently licensed rural hospitals (or those whose license expired within 12 months) may apply to downgrade services.

Regarding the request to specify standards that the rural free standing department must meet, the Department notes that language was added to new Rule 111-8-40-.39 “Special Requirements for Rural Free Standing Emergency Departments” to require the rural free standing emergency department to comply with the entirety of the chapter of rules, as applicable to the scope of services offered by the rural free standing emergency department.

Regarding written transfer agreements, the Department believes that the language requiring the rural free standing emergency department to make all reasonable efforts to secure written transfer agreements is appropriate. The Department notes that Rule 111-8-40-.39(d) requires the rural free standing emergency department, if it is unable to stabilize the patient within its capability, to implement a transfer of the patient to another facility that has the capability of stabilizing the patient.

Regarding the recommendation to allow public review and comments prior to the Department’s approval of a permit to a rural free standing emergency department, the Department notes that any individual may request a copy of a permit application in accordance with the Georgia Open Records Act; however, the Department’s decision to approve or deny a requested permit must be made in compliance with applicable law and regulations.

The scope of rules and regulations governing the licensure of rural free standing emergency departments is limited to the minimum requirements and standards a facility

must meet to receive and maintain licensure as well as the process for enforcing compliance with the requirements. The rural free standing emergency department's receipt of reimbursement from Medicaid, Medicare and private insurance as well as access to block grants or local subsidies is outside the scope of rules governing the state licensure process.

On behalf of the Department, Ms. Scruggs requested the Board's favorable consideration of final adoption of the revised rules.

Jamie Pennington MADE a MOTION to approve for final adoption Rural Free Standing Emergency Departments Rule change. Donna Moses SECONDED the MOTION. ON THE MOTION, the yeas were 6, nays 0, and the MOTION was APPROVED. (A copy of Rural Free Standing Emergency Departments Rule Change Public Notice is attached hereto and made an official part of these minutes as Attachment #3).

New Business

None to report

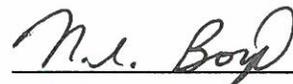
Adjournment

There being no further business to be brought before the Board, Chairman Boyd adjourned the meeting at 9:56 a.m.

THESE MINUTES ARE HEREBY APPROVED AND ADOPTED THIS THE 8th DAY OF May, 2014.



Jamie Pennington
Secretary



Norm Boyd
Chairman

Official Attachments:

- #1 List of Attendees
- #2 Agenda
- #3 Rural Free Standing Emergency Departments Rule Change Public Notice