



Teaching Hospitals
Jackson Health System

December 19, 2011

Mount Sinai
Medical Center

Dominic M. Calabro, Chair
Commission on Review of Taxpayer Funded Hospital Districts
106 N. Bronough Street
Tallahassee, FL 32301

Orlando Health

Shands HealthCare

Shands Jacksonville
Medical Center

Tampa General Hospital

Dear Chairman Calabro:

Public Hospitals

I have reviewed the proposed findings and recommendations which were submitted by Commissioner Dinkins for the consideration of the Commission and were discussed at your meeting on December 6, 2011. In general, I am concerned that many of them appear to have no basis in fact. Certainly no evidence seems to have been submitted to the Commission that would support many of the findings, in particular. At least no evidence was submitted that has been made part of the public record. We also feel it is important to note that the Commission should also take care not to take a fact which may apply to one district and create a generalized finding or recommendation which applies to them all.

Bay Medical Center

Halifax Health

Lee Memorial
Health System

Memorial Healthcare System

Broward Health

Sarasota Memorial
Healthcare System

I attempt to address some of the specific findings and recommendations from Commissioner Dinkins below. The order of my comments corresponds to the order in which the Commissioner made them.

Children's Hospitals

Commissioner Dinkins' Proposed Findings

All Children's Hospital

It is true that the hospital districts operate with some level of "politics." One could argue that every large hospital, whether public or private, for-profit or not for profit, operates with a degree of politics. Every entity with a budget the size of these hospitals, which employs the number of people these hospitals employ, and with either shareholders to satisfy or constituents to serve will be involved in politics.

Miami Children's Hospital

Regional Perinatal Intensive
Care Center

Sacred Heart Health System

Anthony Carvalho

It is also true that the governance models of the districts are different. This is as it should be, and is actually a strength of the districts. As Rep. Hudson has pointed out numerous times, these hospitals have evolved to meet unique local needs. They were created and amended by local bills brought forward by their legislative

President

delegations and approved by the legislature. They should be changed in the same manner if the local electorate so desires.

Regarding Dr. Lee's regression analysis of costs, we have provided testimony which demonstrates the considerable flaws in this analysis including, but not limited to:

- Failure to document the statistical approach
- Misspecified equations
- Poor explanatory power, and
- Variables with incorrect signs.

We have demonstrated to the Commission how the costs of public hospitals are actually below those of other hospitals when two obvious hospital outliers are removed from the equations. Given the significant concerns about the validity and the reliability of this approach, we question the value of including Dr. Lee's conclusions as part of this report. We would refer you to Commissioner Duncan's point about this study in his submission. "While Dr. Lee's work is to be applauded, and represents an improvement over simplistic comparisons by attempting to statistically control for some of these variations in hospital circumstances, it remains plagued by questions about which hospitals belong in which groups, and by the specific data used to compare the undefined concept of 'costs.'"

Dr. Duncan's comments at the Commission meeting on December 6 regarding the "imbalances" in reimbursements were directly on point. Public hospitals rates are different because of the range of services which they provide that other hospitals do not, and because of their case mix. As Commissioner Kelly pointed out at several different meetings, state and federal changes that will substantially revise reimbursement rates have already been enacted into law.

With regards to the proposed finding on taxation without representation, we would suggest that even in cases where the district board is appointed, the appointing authority is elected. This is true whether it is the Governor or the local government elected officials making the board appointments.

Some hospitals receiving tax dollars are making profits, some are not. It should be noted that a significant number of hospitals in the state receive benefits from local tax dollars. This is irrespective of whether or not they make a profit. The current distribution through the Low Income Pool (LIP) and the Disproportionate Share Program (DSH) is based on each hospital's level of care to the uninsured and Medicaid populations, as it should be.

The proposed finding regarding compensation of executives is another extremely broad generalization. To date, there has been no data gathering by the Commission regarding salaries of comparable public and private hospitals. If so, we are unaware of it. In addition, there has been no analysis done on market-based salary data to support this finding. What we do know, based on documents submitted to the Commission, is that many of the districts do sophisticated market-based analyses of comparable hospital salaries and benefits.

There are, indeed, some public hospitals providing quality health care without local taxing authority. However, they all receive the benefit of local taxes which generate the substantial federal funds for the LIP, DSH and enhanced rate programs. There has clearly been testimony that several of them would not be able to maintain the level of services they provide without the funds.

We would point out that based on the number and location of private not for profit hospitals in Florida, the vast majority of the benefits of tax exempt status accrues to those entities. This would include the Catholic hospitals, the Baptist hospitals and the Adventist hospitals, as well as the other not for profits. Again, this recommendation is far broader than the charge of this Commission. It would require an analysis of the tax exemption implications for the majority of the hospitals in this state.

It is true that all Florida counties have "statutory authority" to levy a sales tax to support indigent care via referendum. We believe these communities should be able to make local decisions regarding tax support for indigent care.

While there are some examples of districts that chose to sell their hospitals to provide indigent care to their citizens, no analysis been done to demonstrate whether these benefits would exceed the benefits provided by a public hospital over the same term. Commissioner Kelly states in his submission, "There is a continuum here and we have not determined cost-effectiveness of each (sic)."

Commissioner Dinkins' Proposed Recommendations

Commissioner Dinkins' proposed recommendations regarding sovereign immunity and eminent domain were particularly surprising, given that there has been virtually no public discussion of either issue by the Commission. No data or analyses have been presented to support these recommendations.

Regarding the proposed recommendation to remove all "inequities" in reimbursement rates, we would again point to the comments by Commissioners Duncan and Kelly. Clearly the public hospitals provide a different set of services than most other hospitals. They also deal with a very different case mix. Both of these and many other factors are included in the rate setting

process. As pointed out earlier, Commissioner Kelly has correctly said several times that changes which will substantially affect hospital rates have already been enacted into law at both the state and federal level.

As Commissioners Duncan and Kelly have pointed out, the recommendation to require a local referendum every four years to determine if a district property tax should be continued could have negative consequences for the hospital and current bondholders. It would create uncertainties because of inconsistencies with existing covenants and other requirements that were agreed to when bonds were issued. It will also significantly damage the hospitals' ability to secure long-term capital financing.

This is another issue which should be determined district by district via a local bill such as the one Rep. Metz has filed. Commissioner Duncan makes a particularly pertinent point in his submission when he says, "It is not realistic for our Commission to limit its consideration to one very specific type of tax support (locally assessed property taxes through taxing districts)."

Commissioner Dinkins' proposed recommendation regarding limiting the use of tax revenues for indigent care to "qualified residents" conflicts with existing state and federal statutory requirements for hospitals to serve everyone in need.

The recommendation that taxpayer revenues be "used exclusively for medically indigent persons" is unclear, making it impossible to determine the impact of the proposed change. For example, Commissioner Duncan made an excellent point during a Commission meeting about the difficulty of apportioning fixed costs such as utility bills between indigent care and other care.

It is unclear exactly what the proposed recommendation regarding a determination of amount of nonprofit tax exemptions means. As we stated earlier, this would require an analysis of the implications of tax exemptions for the majority of hospitals in this state including private, religious and community hospitals. As Commissioner Duncan stated in his submission, "But we need to keep in mind that together, Florida's hospitals deliver billions of dollars' worth of uncompensated care. This care is needed by the patients who are receiving it. The needs are not going away. Our current set of solutions to this problem is complex and pluralistic, based on the reality of widely diverse hospitals with widely diverse revenue sources and subtle cost shifting among those revenue sources. In the absence of genuinely universal insurance coverage, that solution, however cumbersome, may be the best option available."

Regarding the proposed recommendations on governance, these are issues which should be determined locally. Each district and hospital is unique, as has been pointed out to the Commission many times. There may be circumstances which justify or require some board membership overlap. The local legislative delegation should address this issue where required.

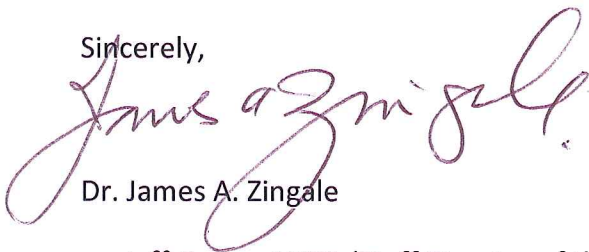
The proposed recommendation that all boards should be elected is still another example of an issue that should be determined by local bill. Many of the districts, for example the one in Bay County, as Commissioner McElheney pointed out, seem perfectly content with appointed boards. Furthermore, this change would diminish the Governor's appointment authority as well as that of other elected officials.

The proposed recommendation regarding a ten year sunset as well as referendum approval of districts seems to duplicate the earlier proposal regarding taxes. As we stated earlier, this recommendation would be damaging to bondholders and to the districts' ability to secure long-term capital financing. Again, there is no reason why each district could not make a decision on this issue by local bill, as Citrus County did during the 2011 legislative session. As Commissioner Kelly says in his submission, "I also think these should be local decisions. Any broad requirement to change the current local situation could have complications we cannot think of at the present time with all of the other changes happening at the same time."

Based on the discussion at the last meeting of the proposed recommendation to limit districts to one per county, we assume that Commissioner Dinkins has dropped this recommendation.

I would appreciate it if you would have either the Commissioners or the staff to the Commission provide documentation of the factual basis for each finding and recommendation that is considered or ultimately adopted by the Commission. A great deal of information has been provided at your meetings and by your staff. We have taken care to review this information and will continue to do so. I appreciate your willingness thus far to accept my testimony at your meetings, and I look forward to continuing our dialogue as you bring your work to a conclusion.

Sincerely,

A handwritten signature in purple ink that reads "James A. Zingale". The signature is fluid and cursive, with a large initial "J" and "Z".

Dr. James A. Zingale

cc: Jeff Gregg, AHCA (Staff Director of the Commission) & Commission Members