

DRAFT MEETING MINUTES

Florida Commission on Review of Taxpayer Funded Hospital Districts

Meeting Date: December 6, 2011

Time: 10:00a.m. – 4:00p.m.

Location: Agency for Health Care Administration, Conference Room A

Members Present: Dominic Calabro, Chair, Brad Dinkins, Randall McElheney, Paul Duncan (via phone), Jacob C. Jackson (via phone), Marshall Kelley (via phone), J. Scott McCleneghen (via phone) and Jeff Gregg, Executive Director.

AHCA Administrators and Staff Present: Beth Eastman, Ryan Fitch, Bill McCort and Marisol Novak.

Interested Parties Present: Michael Glazer; Bill Bell, Florida Hospital Association; Dee Schaeffer, Halifax; Glenn Brhaus, Greenberg Trauig; Jay Benz, MHS; Sonya Sowards, Florida Tax Watch; Blaine Cherry, Florida Tax Watch; Ellen Simon, Sarasota Memorial; Harry Duncanson, Memorial Healthcare; Richard Oliver, Carlton Fields; Kevin Beck, Robert M. Levy; Jay Garth, Carlton Fields.

Welcome and Introductions: Dominic Calabro, Chair, called the meeting to order and welcomed the Florida Commissioner's Review of Taxpayer Funded Hospital Districts (Commission members) and interested parties.

Findings and Recommendations of Commissioner Dinkins: Commissioner Dinkins presented a revised proposal of findings and recommendations to the Commission due to the lack of consensus on his previous proposal to dissolve the hospitals districts. He welcomed feedback from the other Commissioners.

Commissioner McElheney stated some concerns with Commissioner Dinkins finding that private hospital had a lower average cost per day for patient expenses than the public/government hospitals. Commissioner McElheney stated that the wording of this statement might be misleading. Chairman Calabro brought up Dr. Lee's findings that public hospital costs were 12 to 14 percent higher. Dr. Duncan concurred with Dr. Zinale's findings which showed public hospital costs closer to private hospital costs.

Commissioner Dinkins' finding that there was an imbalance of Medicaid reimbursement rates that favored certain public/government hospitals over private ones spurred debate among the Commissioners. Commissioner McElheney stated that Medicaid rates are very complicated and not set-up to favor a facility but based on cost experience. Mr. Fitch, Financial Analysis Supervisor, was consulted and stated that the Medicaid rates are based on cost and there were plans to modify the system. Commissioner Kelley echoed Mr. Fitch's statement and elaborated by bringing up the Legislative study/ implementation plan that might base Medicaid rates on DRGs in the future.

During the discussion of findings, Chairman Calabro stated that the language on all drafts will go through revision and mentioned that “word-smithing” and editing will need to come into play when the Tax Commission report is generated.

After discussion on Commissioner Dinkins’ findings, his recommendations were presented to the Commission. Commissioner Dinkins recommended providing the same sovereign immunity benefits for private hospitals as those done exclusively for the public/government hospitals to create a “level playing field”. Chairman Calabro does not agree with blanket immunity but might be amenable to sovereign immunity on indigent care. Commissioner Jackson stated that transparency went hand-in-hand with sovereign immunity. Commissioner McElheney indicated that his understanding of the sovereign immunity for public hospitals had to do mainly with the hospital’s care to the indigent. Commissioner Kelley stated that the Commission has heard no testimony and has no expertise on sovereign immunity.

Commissioner Dinkins recommends removing all inequities where the state is providing more favorable funding to public/government hospitals than to private hospitals. Commissioner Duncan takes issue with the word “inequities” as costs have to do with patient mix not demography. Commissioner Dinkins states that word is a fair definition of the situation. Commissioner McElheney concurs with Commissioner Duncan and states that the inequity is in the Medicaid program. Commissioner Jackson adds that physician contracts contribute to the cost differences.

Commissioner Duncan cautions the Commission about the wording of its final report and that it will need careful “word-smithing”. Chairman Calabro assures the Commission that careful wording will be exercised when composing the final report.

Commissioner Dinkins recommends removing eminent domain powers from all hospital districts and public/governmental hospitals. Commissioner Jackson cautions that hospital districts cannot be separated from all special districts and that this recommendation constitutes a legal question. Chairman Calabro would like to consult general counsel on the subject.

Commissioner Dinkins recommends a taxation referendum. Chairman Calabro likes the idea of local control on taxation but cautions that there are limits and obligations particularly with bond issues. Commissioner Duncan echoes Chairman Calabro’s caution specifically mentioning that the bond market is typically a thirty year cycle. Commissioner Dinkins understands these issue but his concern is for the citizen taxpayer. It is suggested to use the word “review” not “elimination” in this recommendation if used in the final report. Commissioner Negron’s recommendation for a 10 year review on hospital districts is brought up by Chairman Calabro as an alternative recommendation to the taxation referendum.

Commissioner Dinkins recommends that all local taxes collected for a hospital district or public/governmental hospital shall be used exclusively for medically indigent persons who are qualified residents. Commissioner Duncan questions the intention of this recommendation and would like clarification on exactly what would be considered indigent care. Chairman Calabro states that money

provided for indigent care should follow the patient and that all “predatory practices” should be addressed. Chairman Calabro stated his concern that the focus of hospital districts should only be on indigent care and not on advancing the institution’s name in comparison to a competitor.

Commissioner Dinkins presented a recommendation on indigent care and tax exempted hospitals. Commissioner Duncan clarified that tax exempt data can also mean services beneficial to the community not just exclusively charitable contributions. Commissioner Jackson ask for clarification about “if a district has one or more for-profit hospitals then the dollar amount of the non-profit’s tax exemptions shall be credited against any local tax revenue that should be awarded.”

Commissioner Dinkins recommended that board members of hospital districts shall be elected in a referendum vote by the electorate in that district. Commissioner McElheney strongly disagreed with this recommendation citing costs, the fact that many expert individuals are not willing to go the expense and time of an election and the capability of the Governor and County Commissioners. Chairman Calabro states that he is opposed to taxation without representation and agrees with an elected board in districts with taxing authority. Commissioner Dinkins believes that the appointment process is relatively new and a person cannot compare an appointment to a local hospital board with an appointment to an ambassador position in Africa.

Commissioner Dinkins recommends a sunset provision for hospital districts. Chairman Calabro would like to emulate Larry Metz proposal in regards to a sunset provision and would like remind the Commission to exercise responsibility and caution with this provision because of bond issues.

Commissioner Dinkins recommends one hospital district per county. Chairman Calabro states that he is keen on natural boundaries. Commissioner McElheney questions this recommendation citing the need differences of Broward County to some of the counties in the Panhandle. Commissioner Jackson echoes this sentiment and states that he does not want a blanket statement on this issue but a comprehensive analysis of need. Commissioner Jackson also states that the current districts were conceived locally and if we consolidate districts, the Commission will be taking control from local authorities. Commissioner Dinkins yielded on this recommendation.

Presentation by the Citrus County Hospital Board: Michael Smallridge, Chairman of the Citrus County Hospital Board, briefly addressed the Commission citing that the Board’s main concern has been with accountability and transparency issues with the foundation the board leased the hospital to. Mr. Smallridge ended his address by stating the importance of keeping the community in the community hospital and the public in the public hospital.

William Grant with the Law Office of Grant & Dozer took over the presentation stating that the Citrus County Hospital Board originally leased the hospital in 1990 and that at that time, the Citrus County Hospital Board and the Board of Directors at the foundation running the hospital were one and the same. This changed over time. By 2006 frictions had arisen due to incongruent ideas between the hospital board and the hospital—they wanted to take different managerial directions. There are

currently six lawsuits pending on this issue and there may be more. Mr. Grant notes that the taxpayers are paying for both sides of each lawsuit.

According to Mr. Grant, Citrus County Hospital Board had many concerns with the foundation leasing the hospital including: the need for 150 public record requests in order to obtain documents, the shifting of bad debt to charity care, \$2.3 million in executive severance packages, issuance of \$60 million in bonds and increases in ad valorem tax rates.

Mr. Grant stated that most of the issues faced by the Citrus County Hospital Board could have been avoided with a few amendments to 155.40 that would assure accountability and oversight. Mr. Grant cited that any amendments to 155.40 can be retroactively applicable due to a 1996 case that was ruled on by the Florida Supreme Court. Mr. Grant implores the Commission to consider including the suggestions to 155.40 in the final report to the Governor.

Mr. Grant cites that none of the work done by the Citrus County Hospital Board has been done without reward as the Hospital presented a balanced budget this year for the first time. In addition, procurement and travel policies have been implemented.

Mr. Grant states that the Hospital Board is looking at emulating the model for indigent care currently being used at Lake Shore Hospital where the money follows the qualified patient. Commissioner McElheney states he finds this to be an interesting idea as it provides primary care, not just hospital care.

The Commission broke for lunch from 12:55 pm to 1:46 pm.

Review and Approval of November 21st Meeting Minutes: Chairman Calabro called for a review and approval of the minutes from the November 21, 2011 commission meeting. The minutes were approved.

Comments from Dr. Zinale: Dr. Zinale asked to speak to the Commission to reiterate past statements. He asked the Commission to look at the published data and the audio records of past meetings. Dr. Zinale brought up the previous chart that showed that public hospitals produce \$664.7 million (75.9 percent) of net Medicaid payments earned from local funds but only receive \$381.2 million (35.0 percent). The remaining \$709.3 million goes to investor-owned hospitals, children's hospitals, teaching hospitals and community hospitals.

Dr. Zinale states that Munroe Regional Medical Center has been brought up quite a bit by the Commission but cites that MRMC is not an accurate portrayal of all hospital districts. He also points to Commissioner Duncan's written comments on Dr. Lee's analysis and Commissioner Kelley's comments on Dr. Zinale's numbers. Dr. Zinale reminded the Commission that it is important to know the nature of costs, explain about qualifiers and include all data presented to the Commission.

Dr. Zinale concluded by stating that the factual findings presented by Commissioner Dinkins and agreed upon by the Commission actually have no evidence on the record. Commissioner Dinkins cited that the Commission did not agree on any findings. Chairman Calabro concurred.

Presentation by Citrus Memorial Health Foundation: Richard Oliver, attorney at Carlton/Fields, stated that due to the short notice his client received about the Citrus County Hospital Board's presentation at the Commission and the short amount of time he was allotted at the meeting, he respectfully requested to submit written remarks at a later date. Chairman Calabro accepted.

Mr. Oliver stated that Citrus Memorial Health Foundation has significantly changed the way the hospital has done business and that this incongruence with previous ways of the Citrus County Hospital Board caused most of the conflict. In particular, Mr. Oliver cites the development of outpatient services and engaging in competition with other entities at Citrus Memorial Health Foundation as the turning point in the relationship. Mr. Oliver pointed to the financial improvement of the hospital, including a balanced budget for the first time this year because of the new strategies engaged by Mr. Beatty, the CEO.

Mr. Oliver stated that the issue between the two entities is not as Mr. Grant stated in his earlier presentation—the Citrus County Hospital Board did not want to decouple but rather to have the majority of power of hospital. Mr. Oliver blames an environment of mistrust between the two boards for causing the current situation.

Commission Report Planning: Commissioner Kelley stated that he did not need to present his draft to the Commission, but he would like to remind the members that it is a draft and a work in progress. Commissioner Kelley stated that he trusts the staff, Chairman Calabro and Director Gregg to shape his words.

Chairman Calabro stated that he believed the Commission should add two to three meetings onto the schedule in order to finish the report to the Governor on time. He suggested adding meetings on December 23rd, 27th and 29th.

Commissioner Dinkins mentioned to the Commission that it should take a look at an article on the Commission site about Lee Memorial's investment portfolio.

Meeting Adjourn: The meeting adjourned at 2:16 p.m.