

**MINUTES OF THE MEETING  
HEALTH SERVICES COUNCIL**

**DATE: 31 August 2004**

**TIME: 3:00 PM**

**LOCATION: Health Policy Forum**

**ATTENDANCE:**

**Council: Present: Victoria Almeida (Vice Chair), Edward F. Almon, Robert L. Bernstein, Raymond Coia, Maria R. Gil, Catherine E. Graziano, Marvin Greenberg, John Keimig, Robert S.L. Kinder, MD, Denise Panichas, Robert J. Quigley (Chair), DC, Reverend David Shire**

**Not Present: James Daley, Rosemary Booth Gallogly, Wallace Gernt, Robert Ricci, Larry Ross, John Young, Robert Whiteside, William B. Zuccarelli**

**Staff: Valentina D. Adamova, Michael K. Dexter, Joseph G. Miller**

**Public: (see attached)**

## **1. Call to Order, Approval of Minutes and Conflict of Interest Forms**

**The meeting was called to order at 3:00 PM. The minutes of the 29 June 2004 meeting of the Health Services Council were approved as submitted. Staff noted that conflict of interest forms are available to any member who may have a potential conflict.**

## **2. General Order of Business**

**The first item on the agenda was the Election of Vice Chair of the Health Services Council. Staff asked the members of the Health Services Council if there were any nominations. Mr. Coia stated that he makes a motion to nominate Ms. Victoria Almeida based on her attendance record and dedication. There being no other nominations from the floor, the nominations were closed. A vote was taken. The results of the election were as follows: Vice Chair, Victoria Almeida (12 votes).**

**Ms. Gil stated for the record that she is recusing herself with respect to the Report of the Health Services Council on the Application of Bayside Endoscopy Center, LLC.**

**Ms. Panichas stated for the record that she is recusing herself with**

**respect to the Report of the Health Services Council on the Application of Bayside Endoscopy Center, LLC.**

**The next item on the agenda was the Report of the Health Services Council on the Application of Bayside Endoscopy Center, LLC d/b/a Bayside Endoscopy Center at Kent County, LLC for a certificate of need for development of a Freestanding Ambulatory Surgery Center at 1351 South County Trail in East Greenwich. Staff stated that additional data was received and it was sent to the members of the Council. Staff read the memo for the record as follows: To the Health Services Council from staff, subsequent to the Project Review Committee-II meeting of 19 August 2004, the Office of Health Systems Development received a document from Women and Infants Hospital correcting certain data relating to operating and endoscopy rooms provided in a previous survey report of April 2004. The document containing the corrected data is attached herewith. Staff summarized the committee discussions and deliberations on this matter. Staff stated that representatives for both Bayside Endoscopy and Kent County Memorial Hospital (“KCMH”) wish to address the Council.**

**Mr. Goulet, legal counsel to KCMH, made an extended presentation in arguing against Bayside’s application. Mr. Zubiago, legal counsel to the applicant, made an extended presentation in arguing for approval of the Committee recommendation.**

**Mr. Coia inquired if the capital costs associated with the**

implementation would be unaffected by the 6-month review period of this application. The Chairman noted that the applicant never provided information that the capital costs would change. Staff noted that there is provision that allows for a cushion, of \$750,000, at some point and if the applicant still can't live within that limit plus \$750,000, they are required to have additional costs pre-authorized by the Health Services Council.

Mr. Almon stated that the contention seems to be the fulfillment of the present need versus a future need as has been presented. He stated that at the present time the Zimmerman report says that there is no present need but extrapolating those figures forward, there will be a present need as the demography of the population grows. He stated that if the projection is correct and there will be a future need then the state will have capacity to meet it. He posed a question to the applicant of what would happen with this investment if the future need doesn't develop.

Mr. Zubiago stated that there is overwhelming need and that evidence is based on Bayside's analysis of the population and what the literature says is the need for screening colonoscopies. He noted that Rhode Island has set a standard at 75% of the individuals over the age of 50 to have a screening colonoscopy. He stated that currently in the Rhode Island the screening rate is at 37%. He noted that Bayside further says that 75% is not a great goal, because the evidence is overwhelming that the more people have screening colonoscopies

**the less people die from colon cancer. He stated that in terms of the present need, Bayside's data clearly shows more than sufficient present need for 2 more rooms at Kent County.**

**Mr. Almon inquired if Bayside received any response or feedback from the 3rd party payors and insurers regarding this application. Mr. Zubiago stated they have not come forward but it is understood that this is an outpatient procedure and therefore it is probably more cost effective from the payors' point of view than having these types of cases performed in a hospital.**

**A motion was made, seconded and passed by a vote of eight in favor, two opposed and two recusals (8-2-2) to recommend that the application be approved. Those members voting in favor of the motion were: Almeida, Almon, Bernstein, Coia, Graziano, Greenberg, Kinder, Quigley. Keimig and Shire opposed. Gil and Panichas recused.**

**Ms. Almeida stated for the record that she is recusing herself with respect to the Report of the Committee of the Health Services Council on the Application of Tender Loving Care Health Care Services of New England, LLC.**

**The next item on the agenda was the Report of the Committee of the Health Services Council on the Application of Tender Loving Care Health Care Services of New England, LLC; TLC Health Care Services,**

**Inc.; TLC Holdings I Corp.; TLC Investment Management, LLC for a change in effective control of Tender Loving Care Home Care Services, Inc. d/b/a Staff Builders Home Care Services located at 380 Broadway in Providence. Staff summarized the committee discussions and deliberations on this matter.**

**A motion was made, seconded and passed by a vote of eleven in favor, none opposed and one recusal (11-0-1) to recommend that the application be approved. Those members voting in favor of the motion were: Almon, Bernstein, Coia, Gil, Graziano, Greenberg, Keimig, Kinder, Panichas, Quigley, Shire. Almeida recused.**

**The next item on the agenda was the Report of the Committee of the Health Services Council on the Application of The Providence Community Health Centers, Inc. for initial licensure of an Organized Ambulatory Care Facility located at 557 Broad Street in Providence. Staff summarized the committee discussions and deliberations on this matter.**

**A motion was made, seconded and unanimously passed by a vote of twelve in favor, and none opposed (12-0) to recommend that the application be approved. Those members voting in favor of the motion were: Almeida, Almon, Bernstein, Coia, Gil, Graziano, Greenberg, Keimig, Kinder, Panichas, Quigley, Shire.**

**The next item on the agenda was the Report of the Committee of the Health Services Council on the Application of Cowesett Home Care, Inc. for initial licensure of a Home Care Provider Agency at 297 Cowesett Avenue in West Warwick. Staff summarized the committee discussions and deliberations on this matter. Staff noted a comment was received from Phoenix Home Care on 30 August 2004 with respect to this application, copies of which have been handed out to the members of the Council. Staff noted that Mr. Russo, legal counsel to the objector, would address the Council. Staff noted that Mr. Dolan, legal counsel to the applicant, is present to answer questions.**

**The Chairman confirmed that all members of the Council read the objector's comments. A member noted that the Council requires that any comments be provided 24 hours in advance. Mr. Russo apologized for the late submission of the comments but noted that this was new information. He stated that he has an affidavit from an employee of Phoenix Home Care, who was contacted by an employee of Cowesett Home Care, Inc. ("Cowesett") regarding leaving the employment of Phoenix Home Care, Inc. ("Phoenix"), taking their patients, and contacting patients to ask them to switch their home care providers. Mr. Russo stated that there is no objection regarding the qualifications of Cowesett to provide services rather the comments are regarding character. He noted that his witness is not here today to testify before the Council.**

**The Chairman requested that Ms. Russo submit the affidavit to Mr. Miller, legal counsel to the Department of Health.**

**Mr. Dolan introduced Mr. Bucci, President of Cowesett and Ms. Ellison, proposed administrator. He stated that there have been prior proceedings before the Council and there have been no objections or comments on this application other than a statement by a person who is not here. He stated that the affidavit has no credibility and the charges are against a person who is not an employee of Cowesett. He noted that the affidavit states that only CNAs could contact patients and that no patients were contacted by employees of Cowesett. He stated that the proposed facility would be a competitor and that the objector has threatened litigation but these issues have nothing to do with the qualifications of Cowesett's staff to run a facility. He noted that the appropriate forum to resolve these questions and allegations, however unfounded, is the Superior Court. He requested that the Council accept the recommendation to approve this application.**

**A Council member clarified that the person against whom allegation are made is not an employee of Cowesett which Mr. Dolan confirmed.**

**The Vice Chair stated that the issues raised here today belong in the Superior Court and if through the Superior Court process there are facts and circumstances that the Superior Court judge brings to the attention of the Health Service Council, it would address it at that point.**

**A motion was made, seconded and unanimously passed by a vote of twelve in favor, and none opposed (12-0) to recommend that the application be approved. Those members voting in favor of the motion were: Almeida, Almon, Bernstein, Coia, Gil, Graziano, Greenberg, Keimig, Kinder, Panichas, Quigley, Shire.**

**The next Health Services Council meeting was tentatively scheduled for 28 September 2004.**

### **3. Adjournment**

**There being no further business the meeting was adjourned at 3:55 PM.**

**Respectfully submitted,**

**Valentina D. Adamova**