

**Minutes of Meeting
Health Services Council
Project Review Committee-I**

DATE: 20 September 2005

TIME: 3:00 PM

LOCATION: Conference Room 401

ATTENDANCE:

Committee I: Present: Edward F. Almon, Joseph V. Centofanti, MD, John W. Flynn, John Keimig, Robert S.L. Kinder, MD, Richard Lepine, Robert J. Quigley, DC, (Chair)

Not Present: Victoria Almeida, Esq., (Vice Chair), Robert Ricci, Robert Whiteside, John Young

Excused Absence: Robert L. Bernstein

Staff: Valentina D. Adamova, Michael K. Dexter, Joseph G. Miller, Esq., Laurie Round, Donald C. Williams

Public: (Attached)

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

Time Extension for the Minutes Availability

The meeting was called to order at 3:00 PM. The Chairman noted that conflict of interest forms are available to any member who may have a conflict. The Chairman requested a motion for the extension of time for the availability of minutes pursuant to the Open Meetings Act. A motion was made, seconded and passed by seven in favor and none opposed (7-0) that the availability of the minutes for this meeting be extended beyond the time frame provided for under the Open Meetings Act. Those members voting in favor were: Almon, Centofanti, Flynn, Kiemig, Kinder, Lepine, Quigley.

2. General Order of Business

The first item on the agenda was the failure to implement/change order request - Rhode Island PET Services, LLC at Kent County Memorial Hospital, Memorial Hospital of Rhode Island, and St. Joseph's Healthcare Services. Staff summarized the information about the June 2002 CON approval and noted that PET services were implemented by Rhode Island PET Services, LLC ("RIPET") at 3 of the 6 proposed hospitals. Staff noted that the Committee needs to decide whether to approve the requested change orders or withdraw the CON from 3 hospitals for failure to implement.

Mr. Zubiago, legal counsel to RIPET, provided background

information and introduced Ms. Driscoll, Director of Radiology at St. Joseph's Healthcare Services ("St. Joseph's). Ms. Driscoll noted that PET services could be provided at St. Joseph's by October of 2005 pending a survey by the Office of Facilities Regulations and that there were no other impediments.

Mr. Dietz, President of Memorial Hospital ("Memorial"), stated that the expansion of the Emergency Room took over the proposed space for the mobile PET unit. Memorial Hospital received a \$12 to \$20 million federal grant to conduct osteoarthritis study and as part of that the federal government paid for the construction of a new MRI building. The hospital is proposing to use that location at 555 Prospect Street, a licensed premise of the hospital, for provision of PET services. The hospital will need to construct a separate bathroom for PET use in the building. Mr. Dietz stated that it would take about 3 weeks for construction and about 2 months to implement.

Mr. Zubiago stated a Change Order was requested on 12 July 2005 regarding the proposed location at Memorial Hospital.

To the Chairman's concern whether the proposed new location is acceptable, Ms. Round from Facilities Regulations, stated that the Prospect Street site has been approved as an off-campus premises for outpatient care. She noted that this is not an inpatient site and Facilities Regulations has not yet been persuaded that it is an

appropriate site for inpatients.

Mr. Callihan, Vice President of Facilities at Kent County Memorial Hospital (“Kent”), stated that there have been a lot of projects at Kent over the last 3 years. To the question of when Kent will be ready to go, Mr. Callihan answered in late December. The proposed new site, Building #2, would be in the same building as the wound center. To the question if the proposed site has been approved, he stated that the hospital has not contacted the Office of Facilities Regulations. To the question if there are any other outstanding impediments, he stated that Kent would need a building permit, which takes 30 days to obtain.

To a Committee question regarding the requirement of free care, staff stated that the requirement is that free care be provided consistent with the policies of the individual point of service hospitals. Mr. Flynn stated that Landmark Hospital (“Landmark”) has provided only 1 free care case and South County Hospital (“South County”) only 2. Mr. Zubiago stated that the Committee needs to take into consideration that Medicaid does not reimburse for PET services and so all Medicaid patients received free care. He clarified that the patient is not billed, but that Medicaid is billed because it is required by law. He noted that once this bill gets rejected by Medicaid it is written off as bad debt.

Staff noted that there are going to be changes to hospital regulations

that will affect what's required with respect to free care for the hospitals and RIPET is required to follow the hospitals' policies.

Mr. Zubiago requested that the Committee terminate the failure to implement proceeding against St. Joseph's because the hospital is ready to implement this service. With regards to Memorial and Kent, he requested that the Committee terminate the failure to implement proceeding and grant them Change Order Requests with respect to proposed changes in mobile PET pad locations. He noted with respect to Memorial that services will be up and running before the end of the year.

The Chairman stated that if the Committee decided to grant these requests, it would be conditioned upon approval from the Office of Facilities Regulation for the proposed site location for Memorial and Kent. Mr. Zubiago agreed.

The Chairman allowed for public comments. Mr. Rocha, legal counsel to The Imaging Institute, Inc., ("TII") addressed the Committee. She noted that TII and another applicant have a pending application for a PET/CT scanners. She noted that some of the point of service hospitals' physicians have not met the requirements to be supervising physicians. She stated that RIPET has filed an expeditious review request for a PET/CT scanner and requested that the Committee not approve RIPET's request to stop the failure to implement proceeding since their PET technology is outdated. She

noted that RIPET is objecting to the CON application of TII.

The Chairman asked Ms. Rocha to clarify her statement with regards to physicians' qualifications. She stated that based on the requirement to be Board Certified in Nuclear Medicine or Nuclear Radiology, and having a PET fellowship focusing on PET studies, that there are no doctors at Kent, Memorial or St. Joseph who meet those qualifications. And with respect to reading PET scans, Kent has not met those requirements.

Staff noted that it received a request from St. Joseph's to have Dr. Weisblatt be certified as the primary physician, and this request is currently under review. Staff noted that Dr. Shapiro has been approved as primary physician at Memorial. Staff noted that there has been no request received from Kent.

Mr. Zubiago noted that the Committee is here to vote on the failure to implement which has nothing to do with any other pending matters. He noted that it's up to the Health Services Council to deny or grant an expeditious review process. He noted that no physician group met the requirements under the Request For Proposal for PET services.

Ms. DeBlasio, legal counsel to X-Ray Associates, Inc. ("X-Ray"), addressed the Committee. She stated that X-Ray has a pending CON application for a PET/CT scanner. She noted that RIPET objected to X-Ray's CON application, and the applicant is undergoing a Public

Meetings process. She joins Ms. Rocha's concern denying RIPET's request to stop failure to implement proceedings. RIPET's request for expeditious review for a PET/CT scanner is a de facto concession that there is need in the state of Rhode Island and she objects to release being granted to RIPET.

Mr. Flynn stated that this really boils down to St. Joseph, Kent and Memorial will be allowed to have use of this at their facility. Mr. Lepine stated that the technology is already available and being utilized, and paid for, and the Committee is voting on whether those hospital can park the mobile PET unit at their facilities. The Chairman noted that provision of services would depend on meeting all of the required qualifications. Staff noted that Kent and Memorial were granted CONs and the issue before the Committee is whether they be granted more time to implement PET services at their facilities. The Chairman noted that St. Joseph's is ready to provide the services and Memorial and Kent have not received all prior approvals before beginning to provide services.

A motion was made, seconded and passed by a vote of six in favor, none opposed and one abstention (6-0-1) to recommend that the Certificate of Need approval not be withdrawn for failure to implement at St. Joseph Health Services conditioned upon that the area to be utilized be in compliance with the Rules and Regulations for the Licensing of Hospitals (R23-17-HOSP) and Licensing of Organized Ambulatory Care Facilities (R23-17-OACF). Those members voting in

favor of the motion were: Almon, Centofanti, Flynn, Kinder, Lepine, Quigley. Keimig abstained.

Staff noted that the Committee may bring the applicant in again for failure to implement if the hospitals have not made any substantial progress by December.

A motion was made, seconded and passed by a vote of six in favor, none opposed and one abstention (6-0-1) to recommend that the Certificate of Need approval not be withdrawn for failure to implement at Memorial and that change order request of Memorial be approved, with a condition that the area to be utilized be in compliance with the Rules and Regulations for the Licensing of Hospitals (R23-17-HOSP) and Licensing of Organized Ambulatory Care Facilities (R23-17-OACF). Those members voting in favor of the motion were: Almon, Centofanti, Flynn, Kinder, Lepine, Quigley. Keimig abstained.

A motion was made, seconded and passed by a vote of six in favor, none opposed and one abstention (6-0-1) to recommend that the Certificate of Need approval not be withdrawn for failure to implement at Kent and that change order request of Kent be approved, with a condition that the area to be utilized be in compliance with the Rules and Regulations for the Licensing of Hospitals (R23-17-HOSP) and Licensing of Organized Ambulatory Care Facilities (R23-17-OACF). Those members voting in favor of the motion were: Almon, Centofanti, Flynn, Kinder, Lepine, Quigley. Keimig abstained.

Staff noted that the recommendation of the Committee will go to the full Health Services Council and staff will prepare a report. The next meeting of the full Health Services Council is scheduled for 27 September 2005 and at that meeting the Council will also hear two requests for expeditious review.

There being no further business the meeting was adjourned at 4:30 PM.

Respectfully submitted,

Valentina D. Adamova