

MINUTES OF MEETING
HEALTH SERVICES COUNCIL

DATE: 14 December 2010

TIME: 2:30 PM

LOCATION: Conference Room A
Department of Administration

ATTENDANCE:

Council: **Present:** Victoria Almeida, Esq., (Chair), John X. Donahue, Joseph L. Dowling, M.D., John W. Flynn, Wallace Gernt, Maria Gil, Catherine E. Graziano, R.N., Ph.D, Robert Hamel, R.N., Amy Lapierre, Steven Lonardo, Thomas M. Madden, Esq., Daniel Orgel, MPA, Denise Panichas, Reverend David Shire (Vice-Chair)

Excused: Raymond C. Coia, Esq., Gary J. Gaube, Theresa Jeremiah

Not Present: Robert Ricci, Robert Whiteside

Staff: Valentina D. Adamova, MBA, Michael K. Dexter, MPA, Joseph G. Miller, Esq.,

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 2:40 PM. Minutes of the Health Services Council meeting of 26 October 2010 were adopted as submitted. The Chair noted that conflict of interest forms are available to any member who may have a conflict. A motion was made, seconded and passed by a vote of thirteen in favor and none opposed (13-0) 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: Almeida, Donahue, Dowling, Flynn, Gernt, Gil, Graziano, Hamel, Lapierre, Lonardo, Madden, Orgel, Shire.

2. General Order of Business

The next item on the agenda was the *Report of the Committee of the Health Services Council on the application of Rhode Island Home Care, Inc. for initial licensure as a Home Nursing Care Provider Agency in Providence.* Staff summarized the application and deliberations of the Committee on this matter. Staff reviewed the information provided to the Council for the meeting.

Mr. D'Amico, legal counsel and Chair of the Board of Rhode Island Home Care, Inc. ("RIHC") requested that the Council close the comment period.

The Chair requested that Mr. Miller, legal counsel to the Department, address the issue of the comment period. Mr. Miller noted the comment period provided for historically by the Council at all meetings and the comment period provided for in regulations. He stated that the ad notice to the public advised them to submit comments when practicable. The Chair stated that at all public meetings, the public has a right to speak. Mr. Miller concurred. The Chair stated that she will not preclude the public comment at this point. The Chair noted that she didn't know whether anyone will want to comment, and whether those comments will be duplicative, cumulative or newly discovered information. The Chair stated that it is not the policy of this body to preclude the right of the public to make comments on this or any application.

The Chair asked whether the applicant wants to go through the information filed by RIHC. Mr. D'Amico stated that the applicant will rely on the documents submitted and have nothing further at this point. Staff summarized the Report of the Committee on the application of RIHC ("Committee Report").

Mr. D'Amico made statements to the Council on: the pending lawsuits; Ms. Kulik's business background; information that didn't reflect on a person's character; innuendo and negative statements heard in public comments which were responded to by the applicant; Mr. Keselica being a volunteer and not an employee; a lot of negative information from competitors which the applicant had addressed; and concerns about changes made in their application which were made to comply with the process but now is being held against them. Ms. Kulik and Ms. Morgan also addressed the Council.

Members of the Council made the following statements:

Ms. Gil identified herself as a Committee member whose comments are regarding how the application has been changed. She stated that Mr. Keselica was a key player at that very first meeting and now, today, he is nothing more than a volunteer and his role has diminished over the last six or eight months that the Committee has been listening to this application. Ms. Gil noted that Mr. Keselica is a convicted felon. She noted that through all of the review of this application, the applicant talked about raising funds, people who were involved, and applicant's background. She noted that Ms. Kulik's background is in mortgages, and marketing. She stated that in her estimation that doesn't qualify Ms. Kulik to run a home nursing care agency. She said that this is her opinion and it is based on what she heard and that she would not support this application.

Mr. Hamel noted that his commentary was not based on testimony of people speaking against the application but rather based on the applicant's testimony which was very inconsistent and that the details of the applicant's organization are certainly not consistent with a non-profit home care agency dedicated to serving people in need of medical and

nursing care. He added that he still doesn't have any confidence in the applicant as an organization.

Rev. Shire stated that he did not base his vote at the Committee meeting on Ms. Kulik's nursing background but on her business background and all the record. He noted that Ms. Morgan's nursing background is not the issue here.

Ms. Gil noted that it's not the job of the Committee to prompt the applicant to talk about care. She stated that Mr. Hamel is correct that the Committee never heard about the population proposed to be served by the applicant. She stated that one can infer that they don't understand the population they are going to serve. She noted that Ms. Kulik's administrative background may not provide her with the understanding of the home nursing care service and needs of patients. She further stated that there is no guarantee that because someone has a nursing background that they are going to be successful.

Mr. Gernt noted that Ms. Kulik's response is troubling regarding viability of the company. He stated that Ms. Kulik's response that she will probably have to do a loan reinforces to him that she doesn't have a clue about what she is doing and that's a problem for him. He noted that the applicant should have that worked out before coming to the Council.

Dr. Dowling noted his concern regarding character. He noted the InSkip lawsuit against Ms. Kulik and noted reference to a constable who was quoted as saying she was an intentional evader as she would not accept service to court papers. He said that to him this is an implication about character.

The Chair provided an opportunity for public comment. The Chair requested that comments be limited to new information that's not already been presented on the record. The Chair stated that part of the reason this review took eight months was because the applicant was so inept in this process, and the Committee had to tell the applicant at every step of the way what to do. She stated that staff should be commended for working diligently. She noted that this matter was supposed to be voted on two months ago and the applicant asked for a continuation and the Council agreed to give them that. She stated that it's been clear to her and she has been to every meeting, of the care and consideration that's been afforded to the applicant because when the applicant came before the Committee it was a very incomplete application and she doesn't think that the applicant understood the criteria and understood that each and every aspect of the criteria remain the burden of the applicant to prove. She stated that the burden of proof never shifts to the Council. In her view, the applicant failed miserably in meeting the burden in each and every aspect of the criteria.

There were no public comments.

A motion was made by Ms. Panichas, seconded by Ms. Gil and passed by a vote of twelve in favor, one abstention and one recusal (12-1-1) to accept the Committee Report and recommend denial of the application of RIHC. Those members voting in favor of a denial were: Almeida,

Donahue, Dowling, Flynn, Gernt, Gil, Graziano, Hamel, Lapierre, Lonardo, Panichas, Shire. Mr. Orgel abstained and Mr. Madden recused.

The next item on the agenda was the *Report of the Committee of the Health Services Council on the applications of **FC-GEN Operations Investments, LLC** for changes in effective control of: Grand Islander Center, Kent Regency Center and Grandview Center.* Staff summarized the application and deliberations of the Committee on this matter.

A motion was made by Mr. Gernt, seconded by Dr. Dowling and Rev. Shire and passed by a vote of fourteen in favor and none opposed (14-0) to recommend that the application be approved subject to the conditions of approval. Those members voting in favor were: Almeida, Donahue, Dowling, Flynn, Gernt, Gil, Graziano, Hamel, Lapierre, Lonardo, Madden, Orgel, Panichas, Shire.

The next item on the agenda was the *Report of the Committee of the Health Services Council on the application of **Post Acute Partners, LLC** for change in effective control of Scallop Shell Nursing and Rehabilitation Center, Inc. in Wakefield.* Staff summarized the application and deliberations of the Committee on this matter. Staff noted the comments submitted from New Jersey.

It was noted that the applicant's previous experience was with distressed properties. The applicant stated that their future attention will be to acquire successful properties such as Scallop Shell.

A motion was made by Rev. Shire, seconded by Mr. Donahue and Sen. Graziano and passed by a vote of fourteen in favor and none opposed (14-0) to recommend that the application be approved subject to the conditions of approval. Those members voting in favor were: Almeida, Donahue, Dowling, Flynn, Gernt, Gil, Graziano, Hamel, Lapierre, Lonardo, Madden, Orgel, Panichas, Shire.

Ms. Adamova stated that for her scholar project for the Northeast Regional Public Health Leadership Institute she will arranging speakers on various topics relating to healthcare and members of the Health Services Council will be invited to such meetings.

3. Adjournment

There being no further business, the meeting was adjourned at 4:20 PM.

Respectfully submitted,

Valentina D. Adamova, MBA
Health Economics Specialist