

1                   MINUTES OF SPECIAL MEETING OF NORTH LAKE COUNTY  
2                   HOSPITAL DISTRICT OF AUGUST 23, 2012  
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4 A special meeting of the North Lake County Hospital District (the "District") was held on  
5 August 23, 2012 at 5:30 p.m. in County Commission Chambers, Administration  
6 Building, 315 W. Main Street, Tavares, Florida.  
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8 Mr. Ken Carpenter, Chairman, called the meeting to order and led the Pledge of  
9 Allegiance. M. Meredith Kirste, attorney for the North Lake County Hospital District,  
10 called the roll to ascertain the trustees present for the meeting, with the following  
11 members in attendance: Ken Carpenter, Chairman; Marilyn Bainter; Robert Bone; Roger  
12 Beyers; Jerry Brown; and Frances Grossi.  
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14 MINUTE APPROVAL  
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16 Ms. Bainter requested that an amendment be made on page 2, line 2 in the June 13, 2012  
17 minutes to the words "their" and "them." She also believed that the acronym "HCCRA"  
18 which was used on Page 6, line 23 and on Page 7, line 33 of the July 10, 2012 minutes  
19 was supposed to be "HCRA" and requested that that be amended as well.  
20

21 On a motion by Mr. Beyers, seconded by Ms. Bainter and carried unanimously by a vote  
22 of 6-0, the board approved the minutes of the NLCHD meetings of June 13, 2012 and  
23 July 10, 2012 as amended.  
24

25 FURTHER DISCUSSION OF IMPLEMENTATION OF HB 1299  
26

27 Mr. Carpenter stated that Mr. Chet Ross from Shoemaker, Johnson, and Ross had asked  
28 to be put on the agenda to discuss an engagement letter, which was contained in the  
29 packet of materials supplied at the meeting. He also noted that this letter was only for the  
30 board's reference at this time and that no action was expected from them at this meeting.  
31

32 Mr. Ross explained that he had previously presented to the board his contract which was  
33 originally drafted in January for audit services for a three-year period. However, the  
34 addendum he attached to the top was drafted for this meeting, because the legislation was  
35 approved since he drafted the original letter, which will change the scope of auditing the  
36 District. He requested that the pricing specified in the three year contract only be used  
37 for this fiscal year, because although he expected that this year will be similar to the  
38 previous year, he will come back to the board with an estimate for the next year which  
39 would reflect what their services will be during the next two years after the board  
40 determines what type of controls need to be in place and how things would be done.  
41

42 Mr. Carpenter suggested that this be added to the agenda for the board's first budget  
43 meeting in September to discuss this in further detail.  
44

45 Presentation by St. Luke's Free Medical and Dental Clinic  
46

47 Mr. Carpenter related that he had been approached by a couple of primary care clinics  
since their last meeting, one of which was St. Luke's Free Medical and Dental Clinic, and

1 mentioned that the board members should have received a copy of St. Luke's Request for  
2 Finding and Executive Summary.

3  
4 Ms. Karen Beary, Vice President of Catholic Charities of Central Florida, related that the  
5 organization's mission is to provide vital social services to the needy, and it serves  
6 120,000 people every year. She commented that there were three of their free medical  
7 clinics in the areas of critical need within their nine-county area, one of which is St.  
8 Luke's located in Eustis, which was started in 2010 and was the dream of several faith-  
9 based organizations, doctors, and dentists who came together to serve the very poor, the  
10 indigent, and those without any insurance. She reported that the clinic's services have  
11 doubled in the past year, and their doctors and dentists would like to expand their current  
12 service provision. She mentioned that they have become the medical home for these  
13 patients. She pointed out that they were a sovereign immunity provider agency, which is  
14 an approved program under the legislation, and that they do not charge anything for their  
15 services. She indicated that under this enabling legislation, they could be considered for  
16 some of the funding from the taxing district, although they understand that not all of their  
17 patients would qualify under the very limiting standards and that it would require a lot  
18 more paperwork; however, she believed that almost 90 percent of their patients would  
19 qualify. She noted that the executive summary she provided laid out all of the basics they  
20 were looking for, and she specified that they would use this funding primarily to expand  
21 their outpatient surgical suite with volunteer doctors covered under sovereign immunity  
22 as well as an additional dental suite in order to serve more dental patients, since that was  
23 a great need in Lake County.

24  
25 Mr. Carpenter pointed out that he did not believe there was a Medicare reimbursement  
26 for dental care, and he did not know if that would be an issue, since the language of the  
27 new legislation directed the District to reimburse indigent care at the lower of cost or  
28 Medicare reimbursement for the services provided.

29  
30 Dr. Don Ilkka, a dentist who works with St. Luke's, explained that there is no Medicare  
31 reimbursement for dental treatment and very limited Medicaid reimbursement for adult  
32 dental treatment.

33  
34 Mr. Carpenter also pointed out that the legislation indicates that individuals who have  
35 received or participated in another government program are ineligible to receive funding  
36 from the District, and he assumed that also includes Medicare. He summarized the other  
37 requirements of the legislation that the board has been struggling to comply with as they  
38 were currently written, including preserving the sovereign immunity for the volunteers  
39 and identifying a licensed primary care clinic. He stated that he will recommend that  
40 there be some changes to the legislation, since it was requested in that legislation that the  
41 board make a report at the end of the year suggesting any changes to it. He  
42 recommended considering the reimbursement for at least the non-dental expenses of St.  
43 Lukes clinic, although they could not be specifically designated as being for the  
44 expansion of the facility under the current legislation.

45  
46 Ms. Beary suggested that the board could consider defining rather than completely  
47 changing the legislative language to make a threshold or minimal number, which may

1 satisfy the intent of the legislation without compromising it. She stated that they could  
2 specifically allocate their fundraising money for the expansion and use the tax monies for  
3 operational needs. She also requested that the board consider asking that dental be added  
4 to the legislation, since there is a great need for it with a seven-month waiting list for  
5 their own clinic. She added that their main goal was to keep patients out of the much  
6 more expensive emergency department.

7  
8 Dr. Ilkka added that there was \$800 million spent nationwide in hospital emergency  
9 rooms for dental treatment absorbed by the state.

10  
11 Ms. Bainter pointed out an article that she had read which indicated that dental health is  
12 very important to medical health in general and that dental treatments are medically  
13 necessary. She also asked if the Eustis clinic had sovereign immunity.

14  
15 Ms. Beary commented that they would immediately have to close their clinic if they were  
16 to lose their sovereign immunity due to the per patient pay rate, since they could not  
17 afford the onerous liability policies that would be required. She also mentioned that they  
18 have an incredible scarcity of diagnostics and labs, which is very expensive.

19  
20 Dr. Kevin Taylor, Medical Director for St. Luke's, elaborated that one of their largest  
21 problems is that although they were very cognizant of the patient's financial issues and  
22 work out deals with labs to get those services way below what the regular cost would be,  
23 the patients have a hard time affording that expense and any follow-up care. He stated  
24 that they refer patients to WeCare, which has a very large backlog, and they hope to get  
25 some better coordination of whatever limited resources there are in the county. He  
26 reiterated that they would not be able to function if they did not maintain their sovereign  
27 immunity, since the doctors would not be able to work there. He stated that he and his  
28 patients would appreciate anything the District could do to help them. He added that  
29 between 70 to 80 percent of the medical patients seen at the clinic have acute dental  
30 needs, and a lot of their other medical needs clear up once those dental needs are taken  
31 care of.

32  
33 Ms. Beary offered to give the board a copy of the license that they received from the  
34 Florida Department of Health which contains the clinic's license and exemption number.

35  
36 Mr. Carpenter asked Ms. Beary to give that to Ms. Meredith Kirste, the board's attorney,  
37 so that she could follow up on that in her research of the primary care clinic definition  
38 and sovereign immunity question. He commented that the board is trying to find a way  
39 to direct some funds to help the free clinics while staying within the guidelines of the new  
40 legislation. He mentioned that Florida Hospital Waterman has been looking into the  
41 sovereign immunity issue with Tallahassee, and he asked Mr. Ken Mattison to provide an  
42 update on that.

43  
44 Mr. Mattison explained that Waterman has been working with Ms. Joyce Coufal,  
45 Regional Coordinator, Volunteer Health Services with the Department of Health, to try to  
46 get from the legal representative from the Department of Health a determination about  
47 the issue of sovereign immunity, and he reported that although Ms. Coufal has talked

1 with the attorney, the attorney has not yet provided something in writing to clarify the  
2 issue. However, the verbal responses she has received indicate that regardless of what  
3 exists in the enabling legislation, sovereign immunity goes away if the money is tracked  
4 to a specific patient, but sovereign immunity protects a clinic if payment is in a bulk or  
5 lump sum without tracking specific patients. He also stated that he was delighted that  
6 there may be options that allow for the taxing district board if possible to interpret the  
7 enabling legislation to allow for block payments, which would enable all three clinics a  
8 way to provide requests for reimbursement.

9  
10 Presentation by Jon Cherry, President of LifeStream

11 Mr. Jon Cherry, President of LifeStream Behavioral Center, gave an update of his  
12 presentation from last month regarding the great disparity in the provision for primary  
13 care for the population LifeStream serves for mental illness, and he mentioned that they  
14 have found funding to open a primary care clinic in the Leesburg area from a federal  
15 grant. He then reported that LifeStream put together a proposal for another opportunity  
16 to apply for ACHA funding under the LIP program for new projects in order to expand  
17 the primary care services they provide by creating a primary care clinic to take care of the  
18 medical needs of the individuals they are already serving for mental illness in the Eustis  
19 area, and they would need an additional \$134,000 local dollars from the District if their  
20 application was approved, which would bring in another \$184,000 through the LIP  
21 program from AHCA. He mentioned that they will find out by September 15 whether  
22 they have been approved for this funding.

23  
24 Presentation by Eric Prutsman

25 Mr. Carpenter explained that to clarify discussions regarding funds that acute care  
26 hospitals participating in various Medicaid matching programs have received from the  
27 tax district he has asked Mr. Eric Prutsman, who has previously made a presentation to  
28 the board and is heavily involved in that process in Tallahassee, to give the board an  
29 update on the matching programs this year.

30  
31 Mr. Eric Prutsman noted that the legislation allows the board to continue participation in  
32 the existing match programs through the Agency for Health Care Administration  
33 (AHCA), and currently the District participates in three different programs, which are the  
34 Lower Income Pool (LIP) program, the Exempt Program, and the Buyback Program,  
35 each with their own separate requirements and purposes. He reported that the first  
36 meeting of the LIP Council which coordinates all three of those programs is Thursday,  
37 August 30, and late next week the District's staff will probably receive from AHCA  
38 copies of draft letters of agreement to review and submit, which will be earlier than the  
39 September budget meetings.

40  
41 Presentation of Audit Process by Farlen Halikman

42 Mr. Carpenter reported that although the County uses and is familiar with similar HCRA  
43 guidelines as the legislation requires, there was no interest by the County to provide the  
44 services despite several meetings between him and County staff, and he opined that the  
45 costs of the third-party administrator who provided a proposal to handle all of the  
46 eligibility and other requirements in the legislation were too costly. He recapped that the  
47 board agreed that they did not need to replicate the same system that was used in the

1 West Volusia Hospital Authority, which cost that district over \$800,000 for the  
2 eligibility, accounting, and claims adjudication process. He related that he contacted a  
3 couple of firms recommended to him which have significant health care experience, one  
4 of which was Moore Stephens Lovelace, who provides auditing services to Lake County,  
5 and he opined that they could provide the services the District needs for both eligibility  
6 and financial aspects more efficiently and less costly than what was proposed by the  
7 TPA. He directed the board's attention to a draft proposed work plan outline provided in  
8 the packet and stated that Mr. Farlen Halikman from Moore Stephens Lovelace was  
9 present at the meeting to discuss their recommendation and to answer any questions that  
10 the board may have. He asked Mr. Halikman whether their cost would be determined  
11 based on sample size and asked him to address the difference between control and testing  
12 sample.

13  
14 Mr. Halikman commented that they could take a much smaller sample if they did not  
15 expect to have a significant error rate, and if they did not encounter an error after about  
16 30 to 60 items, they can make an inference that they do not have any pervasive problems  
17 in what they are sampling in the population as a whole. However, if they do expect that  
18 there might be some errors and wanted to record an adjustment to the reimbursement as a  
19 result, then they would want to have something more statistically valid that would not be  
20 able to be challenged by either party to the transaction, which would require a larger  
21 sample size. He specified that if there were 3,000 encounters from the hospitals over the  
22 course of a year, a sample size of about 340 items would result in a 95 percent  
23 competence level; this would be 85 items on a quarterly basis from each hospital, which  
24 he opined was the most practical and efficient way to handle that, with any adjustments  
25 that need to be made done in the fourth quarter. He also commented in regard to medical  
26 necessity that it was very hard to challenge in hindsight the clinical assessment made by a  
27 licensed practitioner who has direct contact with the patient and has done an examination,  
28 and he added that a doctor who prescribes an unnecessary procedure would be guilty of  
29 fraud, abuse, and malpractice. He recommended that the most practical way to deal with  
30 the medical necessity language in HB 1299 is to look at the hospitals' accreditation and  
31 review reports, reviews of compliance officers regarding ADR's (desk reviews from  
32 Medicare), and results of CMS audits that are routinely done by a number of different  
33 regulators. He added that in the final agreed-upon work plan, his firm would check to see  
34 if there is a script from a licensed practitioner authorizing the procedure in the file, check  
35 to see what the Medicare payment would be from the fee screen, and then use the cost-to-  
36 charges ratio from the most recently filed cost report to determine the cost and check to  
37 see that the lower of those costs is the number that is reimbursed. He mentioned that this  
38 was the most practical approach to make sure that they were not using resources that  
39 should be going towards caring for the indigent for administration but yet still complying  
40 with HB 1299.

41  
42 Mr. Carpenter related that the estimate he received from Mr. Halikman based on the  
43 3,000 encounters from both hospitals using the estimated sample size that he mentioned  
44 was about \$50,000 to \$60,000, which was a lot lower than the estimate from the TPA.  
45 He pointed out that the board also needed to decide if they were going to require an audit  
46 for the recipients of less than 10 percent of the proceeds, which would also have an  
47 impact on the cost.

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Mr. Brown asked if they needed to further define the parameters before they get bids from both of the firms that Mr. Carpenter contacted.

Mr. Carpenter responded that he would ask them to present some cost estimates based on 3,000 encounters from each hospital, and if the board decides to audit the recipients receiving a smaller percentage of the tax proceeds, they would need to consider the audit of those as well.

Proposed Audit Period Change to 7/1/12 to 6/30/13

Mr. Carpenter explained that the fiscal year for the tax district begins on October 1 and runs through September 30 of each year, and the hospitals have indicated that they will be able to provide their lists on a quarterly basis within 60 days after calendar quarter end. He expressed a desire to have four quarters worth of data for next year's board to consider at the budget hearings in September, but realized that the fourth quarter would not end until after the budget meetings if they stayed with the same fiscal year, which would result in not having four quarters of audited data to make the decision regarding the millage rate. He suggested changing the audit period from July 1, 2012 to June 30, 2013 so that they could have that data sometime in August to allow the audit work to be prepared with final reports available for the board to consider next year.

Mr. Beyers clarified that the suggestion was not to change the fiscal year, but only the reporting of the status of the audits.

On a motion by Mr. Beyers, seconded by Mr. Bone and carried unanimously by a vote of 6-0, the board moved that the audit period be changed to run from July 1 to June 30 for the purposes of determining qualified indigent care under the requirements of HB 1299.

Discussion of whether to audit providers receiving less than 10 percent of tax proceeds

Mr. Carpenter commented that although they could be within the letter of the law as it is written by not requiring audits for those providers receiving less than 10 percent, he wanted to be careful not to knowingly circumvent the documentation requirements and determination of the eligible costs.

Ms. Bainter stated that the board needed to figure out when they would start qualifying the providers, and she commented that she would like to see them provide some funding to St. Lukes, which could be without dental until that issue is straightened out.

Mr. Beyers asked what the intent of the exclusion of the ten percent was in the legislation.

Mr. Carpenter believed that the intent was to include the free clinics without burdening those clinics with having to hire administrative staff for the documentation that would be required, with the understanding that each clinic probably does not have an operating budget in excess of \$430,000.

1 Mr. Bone suggested that they look at that on a case by case basis if it were under 10  
2 percent, depending on the background of the provider and the amount of funding it would  
3 receive.

4  
5 Mr. Brown agreed that a case by case basis seems logical to him, although he was  
6 inclined not to require the audit.

7  
8 Mr. Carpenter offered a possible suggestion to invoke the audit for everyone for the first  
9 year and then making a decision going forward about whether any recipient receiving less  
10 than 10 percent is audited. He pointed out that there was also language in the legislation  
11 which stated that if the payments made to the hospitals ever exceed the documented  
12 indigent care costs, the hospitals are required to pay that excess money back. He  
13 specified that Ms. Beary indicated that she had a detailed budget for St. Luke's as well as  
14 actuals for the prior year and an estimate for this coming year, which would give the  
15 board some information that they could use to determine whether to direct some funds to  
16 them. He commented that the board members could think about it and come to a final  
17 conclusion at the first meeting in September, and the legal opinion they were waiting for  
18 would help them make those decisions.

19  
20 Ms. Bainter opined that she did not think that the board has completed anything or has  
21 made significant progress, and she believed that they should hire a health care attorney.

22  
23 Mr. Carpenter commented that they have been invoking some experienced and qualified  
24 health care minds and legal counsel to work on this issue, but there is not a black and  
25 white answer to some of the questions raised. He elaborated that some of the detail that  
26 was necessary was not in the current bill, and there will have to be some changes in the  
27 terminology in order to make it clearer. He stated that he does not have a problem hiring  
28 a health care attorney, but he would like to limit the costs involved with that, and he  
29 would have to check around and see if there were any experienced health care attorneys  
30 locally or whether they would have to go outside the local area. He opined that the  
31 attorneys will end up telling the board that if they wanted to support the local clinics, they  
32 would have to change the wording in the current legislation.

33  
34 Mr. Beyers opined that the board has made great progress at every meeting going through  
35 and discussing the information that has been brought up, and the Chairman has come  
36 back with tremendous resources of information and additional options for the board to  
37 consider. He also commented that he did not think having a health care attorney will  
38 speed up that process. He stated that he has been very pleased with the efforts that have  
39 been brought forth and that a lot of the delays are outside of their scope.

40  
41 Mr. Phil Braun, General Counsel for Central Florida Health Alliance, opined that a  
42 governmental attorney would be more helpful than a health care attorney to try to  
43 interpret the legislation, which he believed would cost about \$500 an hour. However, he  
44 did not believe that that attorney would give them a different opinion than what they have  
45 already received, and he pointed out that the sovereign immunity question still is unclear,  
46 even after checking with the attorney for the Department of Health, who oversees  
47 sovereign immunity and is the authority on that issue. He added that the largest issue

1 would probably be the lump sum payment for the clinics, since he believed that would  
2 make it difficult to tie the funding to the indigent care provided, which would risk being  
3 in violation of the law; however, he believed that they could pay a lump sum as long as  
4 the District tied it to indigent care.

5  
6 Mr. Carpenter asked Ms. Kirste about any liability the board would face if they funded  
7 the clinics incorrectly.

8  
9 Ms. Kirste responded that she did not have an answer about that at this time but that she  
10 would research it.

11  
12 Mr. Braun added that the question would depend on whether the board had some good  
13 faith justification.

14  
15 Dr. Tully Patrowitz opined that it would be important for the board to have a health care  
16 attorney as a consultant since this was a complex field, and he also believed that the  
17 board should think independently and should not get advice from stakeholders and those  
18 with a direct interest in order to best represent the public.

19  
20 Mr. Beyers asked whether they would need health care counsel or governmental counsel,  
21 since they were struggling with both questions.

22  
23 Mr. Carpenter responded that he believed that it was the interpretation of the language of  
24 the bill that was at issue. He noted that the eligibility requirements were clearly stated in  
25 the HCRA guidelines, and the costs were fairly simple to figure out; however, it comes  
26 down to the interpretation surrounding the primary care health clinics and other legal  
27 issues. He suggested that they amend the motion to hire an attorney who specializes in  
28 governmental law as opposed to health care law for an interpretation of the language of  
29 the legislation.

30  
31 Ms. Bainter commented that health care is a specialized and complicated industry.

32  
33 Ms. Bainter made a motion, which was seconded by Ms. Grossi to hire a health care  
34 attorney to help the board interpret the legislation, which failed by a roll-call vote of 2-4.

35  
36 Mr. Bone elaborated that he would have to know the scope of what would be asked of the  
37 attorney and how much would be spent to hire one before he would be comfortable  
38 voting to retain an attorney to do that.

39  
40 Ms. Grossi opined that they needed someone to help them make changes to this bill and  
41 asked Ms. Kirste if she would be able to do that.

42  
43 Ms. Kirste responded that she would attempt to take the board's issues and problems they  
44 see to the legislature and perhaps get a redrafting of it.

45  
46 Mr. Carpenter recapped that the major issues of concern at this point were reimbursement  
47 and sovereign immunity, which he believed was more a governmental law interpretation

1 as opposed to specifically regarding health care, and he believed the board should wait  
2 for the written opinion from the state, which hopefully will come soon, before making a  
3 determination to distribute funds to the clinics, although the board could still allocate a  
4 portion of the funds to go to the clinics. He was also not in favor of spending additional  
5 money, especially if it will not help them get any further than they are at this point,  
6 although he might not be opposed to that in the future.

7  
8 OTHER BUSINESS

9  
10 Ms. Kirste related that the budget meetings were scheduled for September 13 and  
11 September 20, 2012 at 5:15 p.m., and she would be sending the board members notices of  
12 those meetings.

13  
14 Mr. Carpenter stated that he will get some proposals from the two audit firms they were  
15 considering to perform the audit procedures, try to have something ready for everyone to  
16 consider at least a week in advance of the next meeting, and possibly have representatives  
17 from both firms present to answer questions at that meeting as well.

18  
19 ADJOURNMENT

20  
21 There being no further business to be brought before the board, the meeting was  
22 adjourned at 7:40 p.m.

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24  
25  
26 \_\_\_\_\_  
27 Ken Carpenter, Chairman