

IN THE MATTER OF:)
)
SPRING HILL HOSPITAL, INC.) Docket No. 25.00-092967J
) CON No. CN0604-028
)

**THE STATE'S RESPONSE TO SPRING HILL HOSPITAL, INC.'S
PETITION FOR REVIEW OF ADMINISTRATIVE JUDGE'S ORDER
DENYING A CON FOR SPRING HILL HOSPITAL**

The State of Tennessee [the "State"], by and through counsel, submits the following in support of Spring Hill Hospital, Inc.'s request that the Health Services and Development Agency [the "HSDA" or "Agency"] review the Initial Order of the Administrative Judge denying certificate of need ["CON"] No. 0604-028 for the establishment of a 56 bed general hospital, the acquisition of MRI and CT scanners, and the initiation of MRI services in Spring Hill (Maury County), Tennessee.

The undersigned counsel have been and will continue to represent the State in this matter, and are not acting as counsel for the HSDA with respect to this contested case. Should the HSDA exercise its discretion to review the Initial Order, a different Administrative Judge will be present to answer any procedural and legal questions the HSDA members may have.

Background and Procedural History

1. The HSDA has carefully vetted applications for the establishment of new hospitals in Williamson County, denying applications including Cool Springs Institute, application No. CN0403-026D, and Brentwood Community Hospital, application No. CN0311-103D. In doing so, the HSDA heeded opposition submitted by Williamson

Medical Center [“WMC”] and other hospitals arguing that those proposed hospitals would be specialty hospitals masquerading as general hospitals, that they lacked adequate emergency rooms, that they would have “cherry-picked” insured patients for a few selected highly-compensated services while failing to shoulder the burden of indigent care and unprofitable services provided at WMC and others, and that they would have been a mere one and two exits up Interstate 65 toward Nashville (and its numerous health care facilities) from WMC, respectively.

2. On April 14, 2006, Spring Hill Hospital, Inc. filed an application for a general hospital, providing a broad-range of services to the citizens of the Spring Hill area, regardless of ability to pay. Spring Hill Hospital would be located approximately 14.5 miles between WMC and Maury Regional Hospital [“MRH”].

3. By a vote of 7-1, the HSDA approved this CON application at its July 26, 2006 meeting, after careful consideration of the application and several hours of argument from interested parties for and against the application, comments by the public, strong community support and discussion by the HSDA members. The motion to approve noted that even a “conservative estimate” of population growth demonstrates need, financing is “no problem” for HCA, and that the hospital would help attract physicians to this “fast-growing community”.

4. WMC and MRH initiated a contested case proceeding pursuant to T.C.A. § 68-11-1610. The Administrative Judge heard this case *de novo*, which means that arguments and evidence for and against the application were submitted anew and within the procedural and evidentiary constraints of the Tennessee Administrative Procedures Act. While counsel for the State explained the HSDA’s reasoning for approval of Spring

Hill Hospital, and counsel for the State urged the Administrative Judge to reach the same conclusion based upon the evidence in the record, the Administrative Judge's role in a *de novo* proceeding is not upholding or reversing the HSDA's decision, but to decide anew based upon the record established in the contested case proceeding.

5. The Administrative Judge issued an Initial Order on October 12, 2007, in which he **DENIED** the CON application, concluding that WMC and MRH had demonstrated by a preponderance of the evidence that the project is not needed and would not contribute to the orderly development of healthcare. He found that the project is economically feasible.

6. Spring Hill Hospital, Inc. timely filed its request that the HSDA review the Initial Order of the Administrative Judge.

Review of the Initial Order by the HSDA Would be Appropriate in this Case

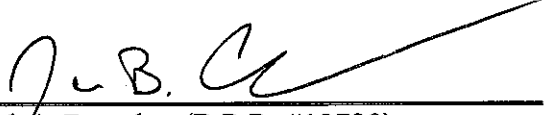
Counsel for the State supports the request for HSDA review of the Initial Order of the Administrative Judge because it would not be unreasonable for a Tribunal with a broad mix of expertise on healthcare, business, and public policy to review the evidence presented before the Administrative Judge and conclude that the Findings of Fact and Conclusions of Law in the Initial Order are materially contradicted by proof in the record.

This is especially true given the unique factual issues resulting from the rapid growth experienced by the Spring Hill area, and the difficulties presented by simply applying the *Guidelines for Growth* to such a unique situation. The HSDA should itself review the evidence and arguments submitted in this contested case and apply its collective experience and judgment to ensure that all relevant factors have been considered properly before a Final Order shall issue.

Respectfully submitted this 2nd day of November, 2007.

STATE OF TENNESSEE

By: _____


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CERTIFICATE OF SERVICE

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This 2nd day of November, 2007.



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