



MARYLAND HEALTH CARE COMMISSION

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Wednesday, April 25, 2012

Minutes

Vice-Chair Falcone called the meeting to order at 3:40 p.m.

Commissioners present: Moon, Conway, Falcone, Fleig, Lyles, McLean, Montgomery, Petty, Schneider, Tanio, and Weinstein.

ACTION: Hearing on Motion Seeking Issuance of an Interlocutory Non-Final Determination Authorizing Holy Cross Hospital to Continue Construction of a New Hospital in Germantown - Holy Cross Hospital of Silver Spring, Inc. (Docket No. 08-15-2286)

Vice-Chair Falcone stated that he would chair the meeting since Dr. Marilyn Moon served as the Reviewer in this matter. Sondra McLemore, AAG, served as counsel to the Commission, and Suellen Wideman, AAG, served as counsel to the Reviewer.

Vice-Chair Falcone said the Commission's January 20, 2011 Decision granting a Certificate of Need to Holy Cross Hospital to build a new hospital in Germantown was appealed by the Adventist Entities, which alleged three errors. He said the Circuit Court for Baltimore City found that two of the three alleged errors were without merit; however, because the Court found that the Commission had erred in using certain data that had not been entered into the record of the review, it reversed and remanded the Commission's Decision so that the Adventist Entities can have an opportunity "to comment on the information employed in the Decision."

Jack Tranter, counsel to Holy Cross Hospital, provided oral argument requesting the Commission to permit Holy Cross Hospital to continue work on the site. Diane Festino Schmitt, counsel to Adventist Entities, presented a response to the oral argument on behalf of the Adventist Entities.

Following the arguments, Dr. Moon stated that she believed that, at this time, the Commission should table its consideration of Holy Cross' motion and suggested that the Commission reschedule the May meeting for a later date, ideally May 31 or June 1, subject to Commissioners' availability. She stated that, if she decided after reviewing the Adventist Entities' comments that she desired additional filings, testimony, or oral argument in the review, the Commission would then vote on Holy Cross' motion. She noted that, depending on what happened in the review, it may be possible to hear oral arguments on exceptions to a Recommended Supplemental Decision at a rescheduled May meeting. Dr. Moon made a motion to table Holy Cross' motion, which was seconded by Commissioner Tanio and unanimously approved.

There being no further business, the meeting adjourned at 4:30 p.m., upon a motion of Commissioner Tanio, which was seconded by Commissioner Montgomery and unanimously approved.