

**MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE
WINNIE-STOWELL HOSPITAL DISTRICT**

The meeting of the Board of Directors of the Winnie-Stowell Hospital District (“District”) was noticed and filed pursuant to the Texas Open Meetings Act a full 72 hours prior to the opening of said meeting for 9:00 a.m. on the 31th of January, 2019 at the Winnie Community Hospital (“Hospital”) Conference Room, Broadway, Winnie Texas (a copy of said Notice being placed amongst the files of the District).

The roll was called of the members of the Board, to wit:

Ed Murrell, President
Anthony Stramecki, Vice-President
Robert “Bobby” Way, Treasurer
Jeff Rollo, Secretary
Raul Espinosa, Director

All said Board members were present. In addition, to the above named Board members, also present at the meeting were: Sherrie Norris, District Administrator; Yani Jiminez, Indigent Care Director; Sherrie Norris, District Administrator; Yani Jimenez, Indigent Care Director; Hubert Oxford, IV, General Counsel for the District; Chief Executive Officer of Riceland; Mr. Saad Javed, Interim Administrator for Riceland Hospital (“Hospital”); Mr. Mo Danishmund, Chief Financial Officer for Hospital; and Gloria Roemer, Seabreeze Beacon.

President Murrell presided over the meeting at 9:11 a.m. After calling the meeting to order, President Murrell asked for Public Comment. There being none, the Board was then asked to address Agenda Item No. 3, to discuss and take action, if necessary, on receiving audit report for 2017. Since the audit was discussed at length during the January 16, 2019 meeting, there was little discussion concerning the 2017 audit at this special meeting. Therefore, shortly after the agenda item was introduced, a motion was made by Director Stramecki to accept and approve the 2017

Audit prepared by Durbin & Co., LLC. (See **Exhibit “A”**). This motion was seconded by Director Rollo and unanimously approved by all the Board members present.

After the approval of the 2017 Audit, the Board was asked to consider Agenda Item No. 4, to discuss and take action, discuss and take action, if necessary, on making an Intergovernmental Transfer (“IGT”) on behalf of the Winnie Community Hospital for the Deliverable Year 8 (“DY8” advance Uncompensated Care Payment Program. According to staff, February 1, 2019 was the last day for the District to submit its IGT on behalf of the Hospital to receive the first Uncompensated Care Payment for DY8 and therefore, if the District was going to make an IGT on behalf of th Hospital, it needed to be approved at this meeting in order to ensure that th funds were in the District’s Texnet account. Further, staff reported the amount of the IGT was \$162,920.28 and if this is made, the Hospital would receive up to \$389,668.21 in Uncompensated Care payments. Prior to voting on this agenda item, Director Bobby Way inquired on the status of the Hospital’s use of the Uncompensated Care payments from the previous IGT for DY7. In particular, he asked Mr. Danishmund to give a status on the purchase of the x-ray machines. In response, Mr. Danimshmund provided the Board with copies of the invoices for the x-ray machines that totaled up to \$160,000.00 and explained that the service agreement for the x-rays cost an additional \$40,000.00. (See **Exhibit “B”**). In addition, Mr. Danimshund informed the Board that the Hospital was still staffing up the emergency room with doctors but because of the doctors in the emergency room, the Hospital’s bed count as of the meeting was over six patients, which is very good for the Hospital. The Board then thanked the Hospital for their reporting efforts and congratulated the Hospital on their efforts to increase the bed count. Subsequently, a motion was made by Director Stramecki to approve the IGT in the amount of \$162,920.28 on behalf of the

Hospital so that the Hospital could receive its initial Uncompensated Care payment for DY8. This motion was seconded by Director Way and unanimously approved by all Board members.

At the conclusion of the action items, President Murrell called on Attorney Oxford to address Agenda Item No. 5., Attorney Report to discuss status of: 1) Third Amended Transfer Policy and provision that requires the District to set reserves for Graham Interbank account; 2) status of Youth Counselor hiring process; and 3) preparation of grant policy. First, Attorney Oxford stated that he does not have anything to discuss at the time regarding the grant policy but that he was working on something for the next meeting.

Next, he informed the Board that he wanted to remind the Board of provisions in the District’s Third Amended Transfer Policy that requires the District to set aside funds belonging to the District from the Quality Incentive Payment Program Year 2, 1st Quarter Component 2, 3 and Lapsing funds payments in order to establish reserves to cover the difference between the amount of the IGT (i.e., \$6,342,431.99) that was made in May 2018 and the first six Component 1 payments. According to the chart presented and below, Attorney Oxford estimated that the District will receive \$5,989,358.62 between October 2018 and March 2019. If this is accurate, the District needs to set aside (i.e., reserve) \$352,893.37 in its Interbank account from the Year 2, 1st Quarter Component 2, 3 and Lapsing funds that had started to be paid by the Manager Care Organizations.

Payment	QIPP Month	Payment Date	Payment Amount
1	9/18	10/18	\$936,302.74
2	10/18	11/18	\$953,383.89
3	11/18	12/18	\$1,012,174.09
4	12/18	1/19	\$1,014,868.55
5	1/19	2/19	\$1,038,373.13
6	2/19	3/19	\$1,034,436.22
			\$5,989,538.62

Attorney Oxford continued to explain that once all of the Component 2, 3, and Lapsing Funds payments were all deposited into the District's Interbank account (i.e., \$2,580,549.65), the District will need to transfer \$2,227,656.28 (i.e., \$2,580,549.65 less \$352,893.37) to its Prosperity account, of which, \$1,290,274.83 will need to be paid the Managers as their "incentive payments" and the remaining \$937,381.45 belonged to the District.

After the explanation of the Third Amended Transfer Policy, Attorney Oxford briefly updated the Board on his finding concerning the youth counselor's position, in particular, he addressed 1) the nepotism issue; and 2) whether a youth counselor was a professional services and if so, what was a process for hiring a counselor. Attorney Oxford reported that he found authority in Attorney General Opinions on the following issues:

- **Nepotism:** One of the candidates for a youth counselor is a Board member's mother in law. However, she has all the same qualifications as the previous youth counselor and lives in the Winnie area. According to various Attorney General Opinions, Chapter 573 of the Government Code relating to nepotism violations apply to hiring individuals (i.e., persons), not to corporations or companies that hire an individual that would otherwise subject to the nepotism rules. *See* Tex. Att'y Gen. Op. No. JC-0585; *see also* Tex. Att'y Gen. Op. No. DM-0076. Therefore, in this case, if the Board members' mother-in-law went work for an entity that provided counselling and the Board wanted to consider hiring her, they would be allowed to do so.

Counseling and Professional Services: If a licensed professional counselor ("LPC") qualifies as professional services pursuant to Chapter 2254 of the Government Code, the District does not have to go through the Competitive bidding procedures set forth in Chapter 271 of the Local Government and Chapter 2269 of the Texas Government Code. The Texas Attorney General Offices has issued number of opinions that "professional services" may encompass more than the services of set forth in the Professional Service Procurement Act and a service can be designated as a professional service by a political entity if the service in question requires specialized training and skills. *See* Tex. Att'y Gen. Op. No. DM-106.

However, if the Board does designate a LPC as a professional service Section 2254.003 of the Texas Government requires that such professional service providers be selected and the contracts for such services be awarded "on the basis of demonstrated competence and qualifications to perform the services" and "for a fair and reasonable price." *See* Tex. Gov't Code 2254.003(a)(1)-(2). Furthermore, Section 2254.003 does not mandate any selection process, however, Section 2254.004 sets forth additional procedures that a governmental

entity must follow in procuring three of the nine expressly listed types of professional services: architectural, engineering, or land surveying services. *See id* at 2254.002(2). For these professional services, the governmental entity must select the most highly qualified service provider and then attempt to negotiate with that provider a fair and reasonably priced contract. *See id* at 2254,004(a)(1)-(2). If a satisfactory contract cannot be negotiated with the most highly qualified provider, the governmental entity must terminate negotiations with that provider and select and negotiate with the next most highly qualified provider. *See id* at 2254.004(b)(1)-(3). The governmental entity must repeat the process “until a contract is entered into.” *See id* 5 2254.004(c).

Additionally, in the Texas Attorney General GA-0494 opinion, the Attorney General specifically states,

We note that the most reasonable way to assure that such service providers are selected on the basis of demonstrated competence and qualification to perform the services, as the statute mandates, is through a request for qualifications or similar competitive process.

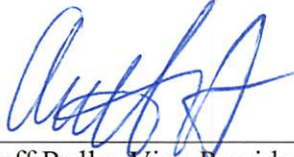
See Tex. Att’y Gen. Op. GA-0494.

In summary, it is the opinion of Attorney Oxford’s that the Director’s mother in law could not be hired personally as a LPC-Counselor for the District but if she was employed by a company that was hired by the District, she would not be barred from working on the District’s behalf. Also, if the position of a LPC-Counselor is designated as a professional services by the Board, the District does not have to go through the competitive bid process set forth by Chapter 271 of the Local Government Code and Chapter 2269 of the Government Code. However, the District should prepare a Request for Qualifications and receive responses in a designated manner in order to award the contract for services on the “basis of demonstrated competence and qualifications to perform the services” and “for a fair and reasonable price.” *See id*.

After the discussion of the Agenda Items and there being no other business, President Murrell reminded the Board that the next Regularly Scheduled Board meeting was on February 20, 2019 at 6:00 p.m. Subsequently, at 10:12 a.m., a motion was then made by Director Stramecki to

adjourn the meeting. This motion was seconded by Director Espinosa, with the unanimous consent of all Board members.


Edward Murrell, President



Jeff Rollo, Vice-President
