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Anderson Shackelford's Comments in Opposition to Proposed Policy TE-4 Offered at July 14, 2020 Public Hearing

Good Afternoon. My name is Anderson Shackelford. Throughout these summer public hearings, we have addressed serious issues with a Proposed Policy titled Policy TE-4. Today, we'd like to take a step back and describe what we know about how this Proposed Policy came to be included in the Proposed State Medical Facilities Plan.

I'll begin by providing a brief review of the chronology and Ms. Heath will share further observations.

We do not know who authored Proposed Policy TE-4 but we know it was not requested by any Petitioner.

Only two Petitions were filed in advance of the April meeting of the Technology and Equipment Committee. Two commenters – Novant Health and Alliance – filed comments on those Petitions. Both pointed out that operation of the Standard Methodology had resulted in MRI need determinations in 2020 and MRI need determinations were forecasted in several Counties for 2021. In underscoring these need determinations, the commenters illustrated there was no health planning problem to be solved with a statewide policy: Why? Because the Standard Methodology is working effectively to allocate MRI filing opportunities where needed.

Proposed Policy TE-4 was first posted to the Agency website on or about April 8, 2020, the Wednesday prior to the April 15 Technology & Equipment Committee Meeting.

By the time Proposed Policy TE-4 was first revealed on the website on April 8, the March 18 deadline for submission of Comments on pending Petitions had already passed.

No one could have commented on Proposed Policy TE-4 within the period for Comments on the pending Petitions because the Proposed Policy was not disclosed until after the Comment deadline.

The April 15 Committee Meeting was not a "public hearing," meaning no one could be heard to speak on Proposed Policy TE-4 absent a Committee member asking for input.

No requests for information were made during the meeting and no one from the public was recognized to speak on Proposed Policy TE-4.

No discussion of Proposed Policy TE-4 occurred at the April 15 Committee meeting.

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At its April meeting, the Committee voted to recommend approval of Proposed Policy TE-4. Only three of the seven Committee members voted to recommend approval of Proposed Policy TE-4; the remaining four recused or abstained.

Members voting to recommend approval of the Proposed Policy were Dr. Ullrich of Charlotte Radiology, and Dr. Perry of North Carolina Eye Ear Nose & Throat, P.A., joined by Harnett County Commissioner McKoy.

After that April Committee vote, Alliance Healthcare Services, Inc. (“Alliance”) made a request that the Committee accept, read aloud, and consider Comments on Proposed Policy TE-4, and take a new vote at its May 2020 Meeting.

At this point, the Committee had just voted to recommend Policy TE-4, an Agency-proposed Policy of statewide effect, without first allowing for or entertaining any Comments on the Proposed Policy.

Essentially, Alliance gave the Agency a clear path to remedy this obvious “cart-before-the-horse” problem.

Because the Committee was scheduled to meet again in May 2020, the Agency had the chance to take Comments and address those at its upcoming meeting.

But, by email message, the Agency refused this request. Instead, the Agency indicated the Alliance Comments would not be posted – and members of the Committee would not even receive a link to Alliance’s Comments – until July 2020.

Having decided to “hold” the Alliance Comments and not release them in any fashion before July 2020, the Agency effectively ensured that the SHCC’s vote in June would occur before Alliance could offer remarks through the summer public hearings.

In contrast to the Agency’s approach as to Proposed Policy TE-4, the Agency did extend the time period to allow comments on proposed changes to the psychiatric and substance use disorder methodologies.

Dr. Craddock sent an email to the Interested Parties listserv announcing that the Long Term and Behavioral Health Committee would accept comments through May 6 and such comments would be considered at the May 14 meeting.

This allowed interested parties to comment on proposed changes to the methodology even **after** the period for commenting on petitions for that Committee had closed.

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No similar procedure was followed in advance of the Technology and Equipment Committee Meeting.

Based on the Agency's stance, in June 2020, the SHCC voted to include Proposed Policy TE-4 in the Proposed Plan without first hearing any Comments in opposition to the Policy.

With that, I'll conclude and allow Ms. Heath to complete this discussion.