

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina

MINUTES

CALLLED MEETING OF THE EXECUTIVE COMMITTEE
CONFERENCE TELEPHONE MEETING ORIGINATING
FROM THE COMMISSION'S OFFICE
OCTOBER 18, 2017
4:30 P.M.

Members of the Executive Committee Present:

John A. Fagg, M.D., Chairman
Joseph D. Crocker, Vice-Chairman
Charles H. Hauser
Eileen C. Kugler

Members of the Executive Committee Absent:

Robert E. Schaaf, M.D.

Members of Staff Present:

Geary W. Knapp, JD, CPA, Audit Manager & Advisor
Crystal Watson-Abbott, Auditor
Alice S. Creech, Executive Assistant

Others Present:

Devdutta G. Sangvai, M.D., MCC Member
Allen Robertson, Robinson Bradshaw & Hinson, P.A.
Alice Adams, Robinson Bradshaw & Hinson, P.A.
Sue Creekmuir, Duke University Health Systems
Paul Menconi, TD Bank

1. **Purpose of Meeting**

To authorize the financing of certain health care equipment for the benefit of Duke University Health System, Inc. pursuant to a master lease and sublease agreement.

2. **Resolution of the North Carolina Medical Care Commission Authorizing Financing in the Aggregate Principal Amount of up to \$40,000,000 of Health Care Equipment for the Benefit of Duke University Health System, Inc. Pursuant to a Master Lease and Sublease Agreement**

Remarks were made by: Dr. Fagg, Mr. Crocker, Ms. Kugler and Mr. Robertson.

WHEREAS, the North Carolina Medical Care Commission (the "Commission") is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "Act"), (i) to finance health care facilities and pay all or any part of the cost thereof from funds available to the Commission for such purpose, (ii) to acquire personal property constituting health care facilities by lease upon such terms and at such cost as shall be agreed upon by the owner and the Commission, (iii) to lease as lessor personal property, (iv) to lease any health care facility to a non-profit agency for operation and maintenance, (v) to fix and collect rents for the use of health care facilities, and (vi) to pledge and assign the revenues and receipts from any health care facilities and any lease and the rent received thereunder; and

WHEREAS, Duke University Health System, Inc. ("DUHS") is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a "non-profit agency" within the meaning of the Act; and

WHEREAS, DUHS has made application to the Commission requesting that the Commission provide financing for the cost of acquiring and installing certain health care equipment for the benefit of DUHS pursuant to a master lease and sublease agreement; and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted on August 11, 2017, has approved the financing, subject to compliance by DUHS with the conditions set forth in such resolution, and DUHS has complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there has been presented to officers and staff of the Commission a draft copy of a Master Lease and Sublease Agreement dated as of October 1, 2017 (the "Master Agreement") among TD Equipment Finance, Inc. ("TD"), the Commission and DUHS, and the form of Draw Down Schedule (as defined in the Master Agreement) thereto attached as Exhibits A-1 and A-2 the Master Agreement (the Master Agreement and a Draw Down Schedule thereto being referred to herein as an "Agreement" and collectively as the "Agreements"), pursuant to which the Commission will lease medical, computer, office and capital equipment for use at Duke University Hospital, Duke Regional Hospital, Duke Raleigh Hospital and other DUHS facilities (collectively,

the "Equipment") from TD (the obligations of the Commission to make payments to TD for the use of Equipment pursuant to an Agreement being referred to herein as a "Lease" and collectively as the "Leases") and sublease the Equipment to DUHS, and TD, on behalf of the Commission, will pay or provide the proceeds of the Leases in the aggregate principal amount of up to \$40,000,000 to DUHS for the purpose of financing and reimbursing the cost of acquiring and installing the Equipment; and

WHEREAS, the Commission has determined that DUHS is financially responsible and capable of fulfilling its obligations under the Agreements; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, prepayment premium, if any, and interest on the Leases;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Resolution and not defined herein shall have the same meanings in this Resolution as such words and terms are given in the Master Agreement.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the incurrence of the Leases in the aggregate principal amount of up to \$40,000,000. Each Lease shall be repaid and shall bear interest upon the terms and conditions set forth in the related Agreement.

Section 3. Each Lease shall be subject to prepayment at the times, upon the terms and conditions, and with the premium set forth in the related Agreement.

Section 4. The proceeds of each Lease shall be applied as provided in the related Agreement and the related Escrow Agreement, if any. The Commission hereby finds that the use of the proceeds of the Leases to finance the cost of the Equipment will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Master Agreement are hereby approved in all respects, and the Chairman, the Vice Chairman, any member of the Commission designated by the Chairman, the Secretary and the Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Master Agreement in substantially the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The Chairman, the Vice Chairman, any member of the Commission designated by the Chairman, the Secretary and the Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver Draw Down Schedules, in substantially the form of

Exhibits A-1 or A-2 to the Master Agreement, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The Chairman, the Vice Chairman, any member of the Commission designated by the Chairman, the Secretary and the Assistant Secretary of the Commission are hereby authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, financing statements, undertakings, agreements or other instruments, including Escrow Agreements, as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Agreements.

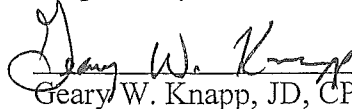
Section 8. This Resolution shall take effect immediately upon its passage.

Executive Committee Action: Motion was made to approve the Tax-Exempt Lease by Mr. Crocker, seconded by Mr. Hauser and unanimously approved.

3. Adjournment

There being no further business, the meeting was adjourned at 4:45 p.m.

Respectfully submitted,



Geary W. Knapp, JD, CPA
Audit Manager & Advisor

Professional Fees Comparison for
Duke University Health System, Inc.
Tax-Exempt Equipment Lease Program with TD Equipment Finance, Inc.

Professional	Fees Estimated In Preliminary Approval Resolution	Actual Fees
Bond counsel	\$30,000	\$20,000
DUHS counsel	35,000	22,000
Lessor counsel	10,000	10,000

