

Meeting Minutes
November 21, 2016
South Carolina Data Oversight Council Special Meeting

DOC Members Present

Mr. Jimmy Walker, SCHA *via phone*
Dr. Shae Sutton, SCDHEC *via phone*
Ms. Heather Tucker, SCDHHS *via phone*
Mr. Jay Wolfe, Governor's Office *via phone*

RFA Staff Present

Chris Finney
Wendy Cimino
Sarah Crawford
Sandra Kelly
Byron Kirby

The November 21, 2016 Data Oversight Council (DOC) special meeting was called to order by Ms. Wendy Cimino at 11:03 p.m. Introductions were initiated by Ms. Cimino; she then restated the purpose of this meeting. The meeting was called to make a decision on the subpoena from Nexsen Pruet compelling the release of Joint Annual Report (JAR) and Annual Hospital Financial Data Report.

Mr. Jimmy Walker wanted clarification of what the recommendations were from the Revenue and Fiscal Affairs Office (RFA) legal counsel. According to Mr. Byron Kirby, RFA's council felt that the decision falls to the DOC and RFA should therefore comply as directed by them. In the absence of a decision from the DOC, the default will be for RFA to comply with the subpoena.

Ms. Cimino then opened the floor for discussion. Ms. Heather Tucker had talked with council at DHHS. The initial inclination of DHHS council was that Ms. Tucker abstains from voting since DHHS is a party named in the suit. However, to have a quorum, Ms. Tucker's recommendation was to comply with the subpoena and move forward.

Dr. Shae Sutton had also contacted DHEC legal staff. There was not time to thoroughly review everything, however their suggestion was to comply with the subpoena. There was a suggestion to determine if there was something that could be done, such as a Protective Order, to

require that the facility names remain confidential, since information on facility name is not normally released.

Mr. Walker also felt he should abstain as a representative of SCHA but does not oppose the release of the information and was appreciative of the decision from DHHS to comply. He was concerned about the precedence of this decision but felt supportive of this idea of transparency in general. In order to have a quorum, Mr. Walker's recommendation was to comply with the subpoena and not oppose RFA releasing information in response to the subpoena.

Mr. Jay Wolfe consulted with the Governor's Office council and echoed similar sentiments of the other agencies. This council also felt it was a decision that falls under the DOC's authority Mr. Wolfe concurred with the other members of the DOC and approved the release of the information in response to the subpoena.

All members present for the meeting agreed to the release of the data in response to the subpoena. Mr. Kirby had two follow-up questions for approval. (1) Does the RFA need to look into a Protective Order as specified by Dr. Sutton? Mr. Wolfe deferred to others on the DOC and Mr. Walker felt that RFA would need to work with their council. (2) Does the RFA need to notify the facilities of the release of the information in compliance with a legal subpoena? Dr. Sutton felt that the RFA does need notify the facilities of the release of this information. Dr. Sutton and Mr. Walker agreed the RFA would send these notifications on behalf of the DOC. Mr. Walker felt that the notifications should be made from Dr. W. David Patterson, Chief of the RFA's Health & Demographics Section.

Dr. Sutton made the official motion to comply with the subpoena, Mr. Wolfe seconded the motion and there were no objections. Ms. Wendy Cimino adjourned the meeting at 11:15 a.m.

FOLLOW-UP:

Mr. Frank Rainwater, the Executive Director of the RFA, approved the release of Summerville Medical Center financial reports for 2010-2012 to Nexsen|Pruet. Summerville Medical Center assumed they would have been included in the subpoena since their parent facility, Trident Medical Center, was requested but they were not explicitly listed in the subpoena so their information was not initially included.