

From: [Lloyd W. Pellman](#)
To: [Simonds,Keene](#)
Cc: hwhatley@chwlaw.us; [Diane Hansen](#); [Chris Brown](#); [Brown, Sheila](#); [Gaspar, Kristin](#); [Paul DeMuro](#)
Subject: [External] Item 6b on March 6 agenda
Date: Thursday, March 2, 2023 5:12:01 PM
Importance: High

I write as Special Counsel to Palomar Health District to comment on Item 6b on the March 6 agenda.

While previous Commission discussion has led to your inclusion of “Commission Option B”, that could only be problematic as both procedurally and substantively that option would not be lawful. As your thorough report and that of Adam Wilson’s detailed report illustrate the administrative approval is, and has been for some time, final.

Procedurally the approval became final upon the occurrence of your issuance of the approval and the subsequent notification of the Commission at the next meeting. As your report clearly indicates, at that point all requirements of Government Code section 56133 and the policies and procedures of the San Diego LAFCO had been satisfied. If the Commission determines it wants to modify its procedures, it can only do so prospectively as such previous administrative actions must be honored as final. As a practical matter, the Commission cannot waive or delete a process retroactively, particularly where parties affected have acted in reliance on the statutory and adopted procedure in place at the time of the approval. For example, Palomar has spent around two million dollars in ramping up to accommodate the patients after the clinics approached them about their needs for the services.

Substantively, Option B would also be defective. The Commission has no explicit statutory authority to conduct an appeal, but the Commission could modify its own policy to provide for such a procedure in the future. To satisfy due process, the procedure would have to be expedited to address the situation requiring attention and the Commission would be limited to reviewing the information that was available at the time the decision to give approval was made. In fact, in any event, in this circumstance that has triggered the discussion no new information has been provided which would lead to a different conclusion months after the approval.

Since the Commission most frequently deals with districts that provide services to properties, it is understandable that some confusion may result when dealing with a district that provides services instead to people as personal services unrelated to location. Just as the Commission would not likely take the position that only individuals who resided in a cemetery district could be buried in the cemetery, or that only individuals who lived within the boundaries of a park district could use the facilities of the park, the Commission cannot control where individuals will seek medical care.

The existence of the contracts between Palomar and the clinics here does not mean the patients at the clinics must go to Palomar; they are free to go to Tri-City if that is their choice. That is the difference between property related services and personal services. And LAFCO has no authority to control the actions of the private clinics.

The focus of everyone should be on the provision of quality healthcare to the residents of North

County. To that end, even before Chairman Desmond had suggested at a Commission meeting that Palomar and Tri-City should have discussions on the subject, Palomar had already hosted a meeting with Tri-City's Board Chair to begin discussions to determine whether and in what ways the two healthcare districts could work cooperatively to assure that all forms of medical care could be provided to the residents of North County. Palomar has always acted in good faith and in furtherance of quality healthcare for the residents of North County.

Please feel free to share this with the Commissioners.

From: Vincent Loughney <loughnvj@yahoo.com>
Sent: Wednesday, March 1, 2023 8:29 PM
To: Peters, Michaela A <Michaela.Peters@sdcounty.ca.gov>
Subject: [External] Tri City boundary violations

The LAFCO board's decision to allow Palomar Hospital to operate within Tri-City district was in error because there was no medical emergency. Your decision has put our hospital at risk. 90% of baby deliveries (medical business) has been lost. This is your opportunity to correct a serious error in judgement and restore TCMD. The boards members are appointed to LAFCO but it is predicated on your elected offices. Your actions tonight will impact future votes.

Vince Loughney
1930 Comanche St
Oceanside
Sent from my iPhone

From: Cindi L. Corda <CLCorda@TCMC.com>
Sent: Thursday, March 2, 2023 1:00 PM
To: Peters, Michaela A <Michaela.Peters@sdcounty.ca.gov>
Subject: [External] Meeting on Monday

Dear Michaela,

I am sure you have seen this briefing paper. Please consider the lives this impacts. Not only the amazing competent staff that so genuinely cares for our patients, but also our community.

I have lived in this community for over 30 years, I have worked at TCMC as a lactation consultant for nearly 15 years. I have also worked with a low-income prenatal program in North County.

I can tell you clearly that this has impacted families in a negative way.

For a laboring mother to drive right by a hospital that could care for their needs and their baby in the event the baby needed intensive care is a complete disservice to our community.

Please make a conscious, caring decision for our community that needs the services that TCMC so adequately provides.

Sincerely,

Cindi Corda

IBCLC

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Overview

Over the past twelve years, Palomar Health District (PHD) has violated the boundaries of Tri-City Healthcare District (TCHD) on three occasions.

The latest encroachment into the geographic area of TCHD, which involves PHD contracting with Vista Community Clinic (VCC) and True Care (TC), previously long-time partners with TCHD, has upended decades of well-established labor and Neonatal Intensive Care Unit (NICU) services for thousands of women and families in coastal North County, forced many of our community's most vulnerable populations to drive extended distances for care and put TCHD's award-winning services at risk, among other ramifications.

Approval for contracts across district boundaries must be sought from the Local Agency Formation Commission or LAFCO in advance – PHD did not receive approval prior to contracting with VCC and TC, only seeking it many months later.

In those letters, PHD made numerous specious claims about TCHD, alleging that a public health emergency existed in the District, thus necessitating their actions. Despite no evidence to support their contentions, and TCHD being provided only four days to respond, their request was inexplicably approved by the LAFCO Executive Officer (EO).

For several months TCHD has advocated with the LAFCO board to reverse this decision, to no avail.

Call to Action

TCHD continues to seek reversal of that decision and requests that TCHD be made whole.

LABOR & DELIVERY SERVICES DISTRICT BOUNDARY DISPUTE

History

For more than 60 years, TCHD's hospital, Tri-City Medical Center (TCMC), has been capably meeting the needs of mothers and families from all backgrounds with services that are multi-award winning and recognized for quality outcomes. This has been accomplished, in-part, through partnerships with outpatient providers, including a decades-long relationship with VCC and TC, two of the largest Federally Qualified Health Centers (FQHCs) in the region.

As part of this relationship, TCMC provided facilities, nursing, anesthesiology and other coverage at the medical center, while VCC and TC physicians (OBGYNs) delivered babies.



After decades of providing these services in collaboration with these FQHCs, TCHD approached VCC and TC in 2020 about the creation of a Laborist program to help address the clinics' concerns about the cost of care. This is because while FQHCs are paid well for outpatient visits in their clinics, they are not paid for services provided in the hospital. As such, both clinics were subsidizing their physician's pay in return for delivering babies. Unfortunately, despite TCHD's best efforts to develop support for the Laborist Model among the FQHC's leadership and physician partners, VCC and TC clinic physicians were unwilling to do it.

Ultimately, despite their physicians' objections, the clinics moved forward with the concept in 2021, but with PHD. By their own later admission at LAFCO meetings, the clinics clearly stated that the decision to move services to PHD was a financial one, not due to quality concerns. Unfortunately, PHD did not follow LAFCO's rules. Instead, it contracted with the clinics and began operating within TCHD's boundaries prior to requesting LAFCO's permission.

As part of their new arrangement, patients who live in the TCHD boundaries are being directed to bypass the capable services provided by our hospital and to travel an additional thirteen miles to Palomar Medical Center (PMC) in Escondido.

In March 2022, TCHD launched its own Laborist program.

In June 2022, after nearly a year of operating within TCHD's boundaries without LAFCO's permission, PHD finally requested permission to do what they had already done. PHD's initial and follow-up letters to LAFCO's EO contained numerous false statements, leading to the unfounded allegation and perception that a public health crisis existed in TCHD. This was clearly an attempt to retroactively justify their actions and clear violation of LAFCO's rules.

Based on PHD's specious claims, and after giving TCHD only four days to respond, the EO of LAFCO granted PHD permission to operate within the boundaries of TCHD.

Current Situation

LAFCO's decision to grant PHD permission to operate within TCHD's boundaries is having real consequences for the mothers, babies and families of our District, including many who come from diverse, vulnerable communities and has been documented by members of our clinical team at recent LAFCO meetings and in subsequent letters to LAFCO leadership.

As an example, TCHD is now experiencing a rash of patients readmitted to TCMC after being discharged from PMC, including a disproportionately large number of infants who have required additional care in our NICU. In fact, TCMC is the only hospital in North County to readmit NICU patients, as PMC's NICU is too small for readmissions.

In light of the facts of the case, including these clinical impacts, along with PHD's demonstrated falsehoods in their letter requesting authorization to operate within the boundaries of TCHD, and their violation of LAFCO rules in their execution of the contract with the FQHCs, TCHD has approached LAFCO's EO and members of the Commission to reverse the EO's decision.

Based on our testimony and that of the FQHC CEOs at the October 2022 LAFCO meeting, the LAFCO Commission voted unanimously to have the matter reevaluated and returned to the board in 60 days.

At the 60 day mark, a LAFCO designee met with several of the TCHD executive team members to discuss the matter. At that meeting additional insight and details, including specifics relative to the discussions leading up to TCHD creating a Laborist program, were provided that bolster TCHD's position. Unfortunately, a decision has not yet been rendered on this matter but it is scheduled to be discussed at the February 2023 LAFCO meeting.

Call to Action

TCHD seeks reversal of the LAFCO EO's decision and to be made whole, based on the facts of the case including:

- PHD's clear encroachment into TCHD's boundaries in violation of LAFCO policy
- PHD's proven falsehoods presented to retroactively justify their actions
- The revelation that no health emergency existed in TCHD before or at the time of PHD's request
- The tremendous clinical impacts being born by the at-risk mothers, babies and families of our District, and
- The deleterious financial impact that these violations have had on TCHD's operations

ADDITIONAL RELEVANT INFORMATION

Examples of PHD violating TCHD boundaries

- PHD established Minute Clinics within TCHD's boundaries
- PHD's purchase and operation of Graybill Medical group, including clinics within TCHD's boundaries
- PHD contracting with VCC and TC for labor and delivery services within TCHD's boundaries

Contact Information

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Chief External Affairs Officer
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From: [Shannon Barnett](#)
To: [Peters, Michaela A](#)
Cc: materah@tcmc.com
Subject: [External] Administrative approval of outbid district services
Date: Saturday, March 4, 2023 3:44:48 PM

Dear LAFCO Board Members,

I have been a labor and delivery nurse at Tri City for 17 years and know the population we serve well. I do not understand why the financial needs of a clinic supersedes the needs of the patients they are serving. These patients are being asked to find transportation out of their district, in some cases take a bus to Palomar to be evaluated while in labor because they fear they are not doing what they were told to do by their clinic. They do not always have easy access to transportation to get all the way to Palomar Hospital. I feel strongly that this is an unfair ask and the financial/physical needs of the patients they serve needs to be the priority. If they are able to get prenatal care in their own district, why can't they deliver there? Tri City is staffed, has 24 hour physician coverage, 24 hour anesthesia coverage and a level 3 NICU to meet their needs. We have cared for patients that have been brought to us by ambulance because we are the closest hospital and their condition warrants it and they are fearful of what it will cost them because of what was told to them in the clinic and from prior visits to Palomar. This should not be their priority! There has to be a better way to ensure the clinics can support the prenatal care and safe delivery of these patients besides requiring them to travel out of their district for their labor and delivery at Palomar Hospital.

Lastly, the fact that only one of the members of your board is solely responsible for making this decision does not seem appropriate. Please stand up for these patients right to access care in their district without fear of financial penalties...that are not even true!

Sincerely,
Shannon Barnett

From: [Lyn Fernandez](#)
To: [Peters, Michaela A](#)
Subject: [External] Delivery at Tricity Medical Center
Date: Saturday, March 4, 2023 11:19:25 PM

Dear Ma'am,

Thank you for giving me the opportunity to tell our story about how my daughter ended up delivering her baby at Tricity Medical Center.

Around 0900 on February 3, 2023, my daughter, Raelyn, came out of her room, dripping water all over the floor and said, "Mom, I think my water broke." I told her to go shower while I strip the wet sheets from her bed. Then I called Tricity front desk to be connected to the Labor and delivery charge nurse. I spoke with Wendi, the charge nurse, and asked her what to do next after my daughter's water broke and after she showered. She said, "After she showers, tell her to get dressed, get all her things that she would need ready and then come here." I asked, "Come where?" She answered, "Come to Tricity." I responded, "True Care instructed my daughter to call Palomar and go there when ready to deliver." Wendi said that my daughter can deliver her baby at any hospital of her choice. I responded, "Are you sure? I don't want to risk it." What I meant was, I didn't want to risk the insurance not paying for my daughter's delivery because we did not go to Palomar hospital. Wendi reassured me that it will be paid by insurance where ever my daughter chooses to deliver her baby.

I'm glad we ended up at Tricity Medical Center because it was a familiar hospital to me and my daughter and her baby were very well taken cared of. The doctors and the nurses were all very attentive to her and her baby. It was a wonderful experience.

Thank you,
Lyn Fernandez

From: [Wendee Erickson](#)
To: [Peters, Michaela A](#)
Subject: [External] Tri City Medical Center
Date: Friday, March 3, 2023 7:49:16 PM

Keep women and children safe!! Tri City Medical Center has a level 3 NICU and a wonderful and safe environment for women and newborns. We have always maintained the safety of our patients and will continue to do so. Palomar cannot and will not provide a safe environment for women and newborns. Women are turned away, laboring in hallways, newborns are being readmitted to other hospitals with hyperbilirubinemia because they are being discharged too soon. Women are being readmitted with postpartum pre-eclampsia. The word was that there was the “threat” of being unsafe at Tri City but the reality is that Palomar is currently acting unsafely to the women and newborns in their care. Palomar cannot handle the load of patients they are receiving. Since when does the possibility of a threat outweigh the literal threat of lives and wellbeing? Tri City Medical Center is vital to the community it serves.

In addition, patients are being lied to and manipulated to deliver at Palomar because the clinics are telling them they must deliver at Palomar or risk insurance not paying. This is an outright lie! Please ensure the communities of Carlsbad, Vista and Oceanside have a safe and reliable place to deliver their babies without risk of insurance not paying, being admitted to the NICU and readmitted labor and delivery because Palomar cannot handle the patient load. Tri City Medical Center is vital to this community. I am a resident of Oceanside and I delivered all 4 of my children at Tri City Medical Center and cannot imagine delivering anywhere else.

Thank you,
Wendee Erickson