



Lee Health Board of Directors Special Meeting

1:00 p.m. Thursday, June 13, 2024



All lines will be automatically muted by the host.

Please press *6 to mute/unmute

AGENDA

LEE MEMORIAL HEALTH SYSTEM BOARD OF DIRECTORS SPECIAL MEETING

June 13, 2024 at 1:00 P.M.

Location: Gulf Coast Medical Center Board Room, Suite 190

Teleconference Dial-In # 1 415 655 0002 Access Code 2303 571 3124

- I. **Call to Order** (*Donna Clarke, Board Chair*)

- II. **Public Input**

- III. **Fiduciary Process Review and Summary** (*D. Ty Jackson, Partner & Jesse C. Neil, Partner – Holland & Knight*) **(Review)**

- IV. **Conversion Evaluation Best Interests Determination** (*D. Ty Jackson, Partner & Jesse C. Neil, Partner – Holland & Knight*) **(Approve)**

- V. **Adjourn**

Date of Next Board of Directors Meeting: June 27, 2024

Time: 1:00 PM

Location: Gulf Coast Medical Center Board Room, 13685 Doctor's Way Ft. Myers FL 33912

Teleconference: Dial-In #415 655 0002 Access Code 2303 571 3124

Public Input – Agenda Items



Any public input pertaining to items on the Agenda is limited to three minutes and a “Request to Address the Board of Directors” card should be completed and submitted to the Board Staff prior to meeting.

Refer to board Policy: 10.15H: Public Addressing the Board

Non-Agenda Item

Individuals wishing to address the Board on an item NOT on the Agenda, the Board office must be notified of subject matter at least three (3) days prior to the meeting to allow staff time to prepare and to insure the matter is within the jurisdiction of the Board.

Fiduciary Process Review and Summary




Education and Discussion:

- 1 Florida Not For Profit Entities
- 2 Duties and Responsibilities of NFP Directors
- 3 Successor NFP Board – Specific Considerations
- 4 Compliance Under Law for Nonprofit Hospitals
- 5 Conversion Objectives and Considerations
- 6 Oversight and Enforcement

Initial Considerations:

- ❖ Mission, Vision and Values of successor entity
- ❖ Composition of initial Board of Directors of successor entity
- ❖ Compensation of successor entity Directors

The Board of Directors approved the following:

-  Mission, Vision and Values: Lee Health's current Mission, Vision and Values would be the MVV for the successor NFP corporation
-  Board Composition: The Lee Health Board of Directors in place at time of final vote on conversion would serve as the initial Board of Directors for the successor NFP corporation (subject to each Board member's preference)
-  Board Compensation: Members of the successor NFP corporation's initial Board of Directors would be eligible for compensation in the same manner as currently provided in the Enabling Act (subject to each Board member's preference)

Education and Discussion:

- 1 Not For Profit Governance
 - ❖ Articles of Incorporation
 - ❖ Bylaws
 - ❖ Policies and Procedures

- 2 Articles of Incorporation for Lee Health Successor Not For Profit Corporation

Education and Discussion:

- 1 Conversion Case Studies
 - ❖ Kootenai Health
 - ❖ Erlanger Health
 - ❖ Tampa General Hospital

- 2 Articles of Incorporation for Lee Health Successor Not For Profit Corporation

- 3 Bylaws for Lee Health Successor Not For Profit Corporation

- 4 Mission Agreement

Education and Discussion:

- 1 Formation of Not For Profit Successor Corporation
- 2 Articles of Incorporation for Lee Health Successor Not For Profit Corporation
- 3 Bylaws for Lee Health Successor Not For Profit Corporation
- 4 Resolution: Lee Community Healthcare Co-Applicant Model

March 14 Special Meeting



The Board of Directors approved the following:

- ➔ Formation of Not for Profit Corporation – Lee Health System, Inc.
 - Articles of Incorporation
 - Bylaws

- ➔ Resolution: Lee Community Healthcare Co-Applicant Model

March 14 Special Meeting



Education and Discussion:

- 1 Post-Closing Not for Profit Corporation
- 2 Amended and Restated Articles of Incorporation
- 3 Amended and Restated Bylaws
- 4 Mission Agreement

Education and Discussion:

1 Lee Health Leadership Recommendations

- ❖ Larry Antonucci, MD, President & CEO

We believe conversion is a strategic move towards securing our future, our safety-net mission and maximizing our impact in the communities we serve.

Education and Discussion:

1 Lee Health Leadership Recommendations – Financial Sustainability

❖ Ben Spence, Chief Financial and Business Services Officer

Cost Containment:

Essential but is only half of the solution and does not get us to full sustainability

Revenue Growth:

Conversion presents strategic opportunities not otherwise available

2 Path Forward

❖ Larry Antonucci, MD, President & CEO

Education and Discussion:

3 Mission Agreement - Programs & Services

1. Behavioral Health
2. Cancer
3. Cardiovascular
4. General Medicine
5. General Surgery
6. Inpatient Care
7. Medical Education
8. Neonatology
9. Neurosciences
10. Orthopedics
11. Pediatrics
12. Primary Care
13. Trauma Services
14. Women's Health

May 16 Special Meeting

Education and Discussion:

- 1 Mission Agreement
- 2 Conversion Evaluation Draft Resolutions

May 30 Board Meeting

Education and Discussion:

- 1 Revised Conversion Evaluation Draft Resolutions

Continued Transparency



Physician Engagement

- **Medical Staff Town Halls:** 9/14 and 5/23
- **Lee Physician Group Town Halls:** 9/1, 9/6, 5/20 and 5/22
- **Lee Physician Group Meetings:** 4/22, 4/25, 5/2, 5/6, 5/8, 5/20, 5/22 and 6/19



Team Member Engagement

- **Leadership Updates:** 10/30, 1/30 and 5/21
- **Outreach Team:** 10/31
- **Staff Town Halls:** 11/2, 11/10 and 11/14
- **Lee Health Leadership Alumni Meeting:** 11/14
- **VP Town Hall:** 12/21
- **Senior Leader Meetings:** 3/11 and 3/12



Community Townhalls

- Community Town Halls held in each of the five health system board member districts



Public Meetings

- **Conversion Evaluation Report:** 2/15 and 2/29
- **Workshops and Special Meetings:** 11/7, 11/13, 1/11, 2/8, 3/5, 3/14, 4/11, 4/18 and 5/16



Public Hearings

- January 25, 2024
- April 25, 2024



Lee Health Website Updates

- Created LeeHealth.org/LookingAhead
 - Official resources
 - Continual updates to FAQ
 - Additional questions can be submitted to: LookingAhead@LeeHealth.org



Process & Timeline



EVALUATION		DISCERNMENT			NEGOTIATION	
Evaluation Gate	Phase 1 Evaluation	Report Gate	Phase 2 Discernment	Decision Gate	Phase 3 Negotiation	Approvals Gate
<p>WITHIN 180 DAYS OF AUG. 31 VOTE By: Feb. 27, 2024 Deadline for Evaluation Report to be Finalized</p> <hr/> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Lee Health Board of Directors vote to conduct evaluation (Completed 8.31.23) <input checked="" type="checkbox"/> Conduct a Public Hearing <input checked="" type="checkbox"/> Receive Evaluation Report 		<p>WITHIN 120 DAYS OF REPORT RECEIVED By: June 20, 2024 Deadline for LHBOD Vote to Pursue Conversion</p> <hr/> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Examine Evaluation Report & identify structure that provides greatest benefit <input type="checkbox"/> LHBOD Board of Directors Act: <ul style="list-style-type: none"> ▪ Pursue conversion & start Phase 3 ▪ End the process with no changes 			<p>WITHIN 120 DAYS OF LHBOD VOTE Anticipated: October 2024 Deadline for Approval of Agreement by BOCC</p> <hr/> <ul style="list-style-type: none"> <input type="checkbox"/> Negotiate terms for an agreement with Lee County <input type="checkbox"/> Votes to accept or reject terms by: <ul style="list-style-type: none"> ▪ Lee Health Board of Directors ▪ Board of County Commissioners 	



BOARD OF DIRECTORS
RECOMMENDED FOR BOARD ACTION

(Action includes Acceptance, Approval, Adoption, etc.)

Keep form to **one** page, **EMAIL to: boardofdirectors@leehealth.org** by Noon
Eight (8) days PRIOR to presenting.

DATE: June 13, 2024

LEGAL SERVICE REVIEW? YES NO

SUBJECT: Determination whether the best interests of Lee County residents are best served by converting to a nonprofit entity.

REQUESTOR & TITLE: Mary McGillicuddy, Chief Legal Officer & General Counsel

PREVIOUS BOARD ACTION ON THIS ITEM (IF ANY)

(justification and/or background for recommendations – internal groups which support the recommendation)

At its meeting on August 31, 2023, the Lee Memorial Health System Board of Directors (the "Board") authorized an evaluation of the benefits to the residents of Lee County of converting Lee Health to a Florida not-for-profit corporation, in accordance with Chapter 2000-439, Laws of Florida, as amended by Chapter 2023-326, Laws of Florida (the "Amendment to the Special Act").

SPECIFIC PROPOSED MOTION:

Motion to adopt the proposed Resolution finding that based upon the Board's evaluation of the benefits to the residents of Lee County of Conversion, including the Board's review and consideration of the information set forth in the proposed Resolution, the Board determines that the best interests of Lee County residents are best served by Conversion, and to authorize the President/Chief Executive Officer of Lee Health and his designees to take all reasonable steps to negotiate and draft a proposed agreement with Lee County in accordance with the requirements of the Amendment to the Special Act, which agreement shall be subject to final approval by the Board and the Lee County Board of County Commissioners no later than 120 days from today, as provided for in the Amendment to the Special Act.

FINANCIAL IMPLICATIONS Budgeted Account Non-Budgeted
(Annual Project Budget and Total Project Budget)

STAFFING & OPERATIONAL IMPLICATIONS

(including FTEs, facility needs, etc.)

None.

PURPOSE/REASON FOR RECOMMENDATION

No later than June 20, 2024, the Board must determine, by majority vote, whether the interests of Lee County residents are best served by converting to a nonprofit entity.

SUMMARY

As set forth in the Amendment to the Special Act, no later than June 20, 2024, which date is 120 days after the date on which the Board received the final Kaufman Hall Report, the Board must determine, by majority vote, whether the interests of Lee County residents are best served by converting to a nonprofit entity. If the Board determines at this stage of the process that conversion is in the best interests of Lee County residents, Lee Health must negotiate and draft a proposed agreement with the Lee County Board of County Commissioners before conversion may occur.

LEE MEMORIAL HEALTH SYSTEM BOARD OF DIRECTORS

RESOLUTION:

Conversion Evaluation – Discernment Phase Determination

The Board of Directors (“Board”) of Lee Memorial Health System (“Lee Health”), at a public meeting held on June 13, 2024, adopts the following resolution concerning the Board’s determination as to whether the interests of Lee County residents are best served by converting to a nonprofit entity:

WHEREAS, Lee Health is an independent special healthcare district operating in Lee County, Florida, pursuant to special act of the Florida Legislature, Chapter 2000-439, Laws of Florida, as amended (the “Special Act”);

WHEREAS, in 1916 Lee Health’s predecessor began operation of a community-focused, non-governmental nonprofit hospital in Lee County, Florida, including the establishment of Lee Memorial Hospital in downtown Fort Myers;

WHEREAS, in 1963 the Florida Legislature authorized the establishment of a public hospital district in Lee County by special act, Chapter 63-1552, Laws of Florida, and in 1968 Lee Health assumed operation of Lee Memorial Hospital;

WHEREAS, Lee Health has grown from a single hospital to a vibrant, full-service, multi-hospital health system operating in Lee County, Florida (the “Health System”);

WHEREAS, the health care industry has changed significantly since Lee Health assumed operation of Lee Memorial Hospital in 1968;

WHEREAS, even as the health care industry and the Lee County community evolve, the Board embraces its ongoing fiduciary duties of loyalty, care, and obedience to Lee Health and its mission as it endeavors to protect and strengthen the organization;

WHEREAS, pursuant to the passage of Chapter 2023-326, Laws of Florida (the “Amendment to the Special Act”), the Florida Legislature has recognized that continued operation of the Health System as a governmental entity may not be an effective or beneficial governmental function;

WHEREAS, the Amendment to the Special Act authorizes Lee Health to conduct an evaluation of the benefits to the residents of Lee County of converting Lee Health to a community-focused, non-governmental Florida nonprofit corporation (“Conversion”);

WHEREAS, on August 31, 2023, the Board authorized an evaluation of the benefits to the residents of Lee County of Conversion, consistent with the Amendment to the Special Act and its fiduciary duties to Lee Health and its mission;

WHEREAS, at the Board’s direction, Kaufman, Hall & Associates, LLC (“Kaufman Hall”), an independent entity with at least five years of experience conducting comparable evaluations of hospital organizations similar in size and function to the Health System, conducted an evaluation of Conversion according to applicable industry best practices;

AFFIRMATIVE

WHEREAS, Lee Health engaged several third-party legal counsels and advisory firms, and Lee Health management provided factual information, to assist the Board and Kaufman Hall in the evaluation of Conversion;

WHEREAS, on February 21, 2024, Kaufman Hall delivered its Conversion evaluation report (the “Report”) to the Board, which states: “[t]o the extent the Lee Health Board and management believe the system can realize the value of prospective strategic opportunities and increase its competitive position at a level that surpasses the near-term net cost increase outlined herein, and more effectively delivery on its mission – to be a trusted partner, empowering healthier lives through care and compassion – we recommend that Lee Health continue with the conversion process”;

WHEREAS, management has advised the Board that conversion will enable Lee Health to realize strategic opportunities and enhance its competitive position;

WHEREAS, the Amendment to the Special Act requires that the Board, no later than 120 days after receipt of the final Report, must determine, by majority vote, whether the interests of Lee County residents are best served by Conversion;

WHEREAS, if the Board determines that the interests of Lee County residents are best served by Conversion, Lee Health shall negotiate and draft a proposed agreement with the Lee County Board of County Commissioners before Conversion may occur;

WHEREAS, throughout the Conversion evaluation process, the Board has sought input and feedback from the community and other interested stakeholders, both internal and external to Lee Health, including through numerous team member town halls, community town halls in each of the five Board member districts, two public hearings, and ongoing updates to the media and on the Lee Health website, among others;

WHEREAS, the Board has conducted no fewer than ten publicly-noticed Board workshops, special meetings, and/or regular meetings at which the Board has sought feedback and received advice from legal counsel, both internal and external to Lee Health, third-party consultants, and Lee Health leadership regarding the potential Conversion;

WHEREAS, the Lee Health leadership team, comprising sixty senior leaders, has reviewed and made presentations to the Board regarding the potential impacts of Conversion, including a recommendation that Conversion is a strategic move towards securing the Health System’s future, its safety-net mission, and maximizing its impact on the communities it serves;

WHEREAS, as detailed in their presentations to the Board, Lee Health’s President/Chief Executive Officer and Chief Financial Officer have advised the Board that conversion is in the best financial interest of Lee Health and promotes the delivery of healthcare services to the residents of Lee County, including but not limited to, safety net services;

WHEREAS, through these and other actions, the Board has conducted a diligent review process consistent with its fiduciary duties of loyalty, care, and obedience to Lee Health and its mission;

AFFIRMATIVE

NOW, THEREFORE, BE IT RESOLVED THAT:

Based upon the Board's evaluation of the benefits to the residents of Lee County of Conversion, including the Board's review and consideration of the foregoing, the Board determines that the best interests of Lee County residents are best served by Conversion. The Board authorizes the President/Chief Executive Officer of Lee Health and his designees to take all reasonable steps to negotiate and draft a proposed agreement with Lee County in accordance with the requirements of the Amendment to the Special Act, which agreement shall be subject to final approval by the Board and the Lee County Board of County Commissioners no later than 120 days from the effective date of this Resolution, as provided for in the Amendment to the Special Act.

THIS RESOLUTION has been adopted by the Board effective June 13, 2024.

Board Chair



BOARD OF DIRECTORS
RECOMMENDED FOR BOARD ACTION

(Action includes Acceptance, Approval, Adoption, etc.)

Keep form to one page, **EMAIL to: boardofdirectors@leehealth.org** by Noon
Eight (8) days PRIOR to presenting.

DATE: June 13, 2024

LEGAL SERVICE REVIEW? YES X NO

SUBJECT: Determination whether the best interests of Lee County residents are best served by converting to a nonprofit entity.

REQUESTOR & TITLE: Mary McGillicuddy, Chief Legal Officer & General Counsel

PREVIOUS BOARD ACTION ON THIS ITEM (IF ANY)

(justification and/or background for recommendations – internal groups which support the recommendation)

At its meeting on August 31, 2023, the Lee Memorial Health System Board of Directors (the "Board") authorized an evaluation of the benefits to the residents of Lee County of converting Lee Health to a Florida not-for-profit corporation, in accordance with Chapter 2000-439, Laws of Florida, as amended by Chapter 2023-326, Laws of Florida (the "Amendment to the Special Act").

SPECIFIC PROPOSED MOTION:

Motion to adopt the proposed Resolution finding that based upon the Board's evaluation of the benefits to the residents of Lee County of Conversion, including the Board's review and consideration of the information set forth in the proposed Resolution, the Board determines that the best interests of Lee County residents are not best served by Conversion, and Lee Memorial Health System shall continue to exist as an independent special district as provided for in the Amendment to the Special Act.

FINANCIAL IMPLICATIONS Budgeted Account Non-Budgeted X
(Annual Project Budget and Total Project Budget)

STAFFING & OPERATIONAL IMPLICATIONS

(including FTEs, facility needs, etc.)
None.

PURPOSE/REASON FOR RECOMMENDATION

No later than June 20, 2024, the Board must determine, by majority vote, whether the interests of Lee County residents are best served by converting to a nonprofit entity.

SUMMARY

As set forth in the Amendment to the Special Act, no later than June 20, 2024, which date is 120 days after the date on which the Board received the final Kaufman Hall Report, the Board must determine, by majority vote, whether the interests of Lee County residents are best served by converting to a nonprofit entity. If the Board determines at this stage of the process that conversion is not in the best interests of Lee County residents, the conversion evaluation will end, and Lee Health will continue to exist as an independent special district.

LEE MEMORIAL HEALTH SYSTEM BOARD OF DIRECTORS

RESOLUTION:

Conversion Evaluation – Discernment Phase Determination

The Board of Directors (“Board”) of Lee Memorial Health System (“Lee Health”), at a public meeting held on June 13, 2024, adopts the following resolution concerning the Board’s determination as to whether the interests of Lee County residents are best served by converting to a nonprofit entity:

WHEREAS, Lee Health is an independent special healthcare district operating in Lee County, Florida, pursuant to special act of the Florida Legislature, Chapter 2000-439, Laws of Florida, as amended (the “Special Act”);

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WHEREAS, the health care industry has changed significantly since Lee Health assumed operation of Lee Memorial Hospital in 1968;

WHEREAS, even as the health care industry and the Lee County community evolve, the Board embraces its ongoing fiduciary duties of loyalty, care, and obedience to Lee Health and its mission as it endeavors to protect and strengthen the organization;

WHEREAS, pursuant to the passage of Chapter 2023-326, Laws of Florida (the “Amendment to the Special Act”), the Florida Legislature has recognized that continued operation of the Health System as a governmental entity may not be an effective or beneficial governmental function;

WHEREAS, the Amendment to the Special Act authorizes Lee Health to conduct an evaluation of the benefits to the residents of Lee County of converting Lee Health to a community-focused, non-governmental Florida nonprofit corporation (“Conversion”);

WHEREAS, on August 31, 2023, the Board authorized an evaluation of the benefits to the residents of Lee County of Conversion, consistent with the Amendment to the Special Act and its fiduciary duties to Lee Health and its mission;

WHEREAS, at the Board’s direction, Kaufman, Hall & Associates, LLC (“Kaufman Hall”), an independent entity with at least five years of experience conducting comparable evaluations of hospital organizations similar in size and function to the Health System, conducted an evaluation of Conversion according to applicable industry best practices;

NEGATIVE

WHEREAS, Lee Health engaged several third-party legal counsels and advisory firms, and Lee Health management provided factual information, to assist the Board and Kaufman Hall in the evaluation of Conversion;

WHEREAS, on February 21, 2024, Kaufman Hall delivered its Conversion evaluation report (the “Report”) to the Board, which states: “[t]o the extent the Lee Health Board and management believe the system can realize the value of prospective strategic opportunities and increase its competitive position at a level that surpasses the near-term net cost increase outlined herein, and more effectively delivery on its mission – to be a trusted partner, empowering healthier lives through care and compassion – we recommend that Lee Health continue with the conversion process”;

WHEREAS, management has advised the Board that conversion will enable Lee Health to realize strategic opportunities and enhance its competitive position;

WHEREAS, the Amendment to the Special Act requires that the Board, no later than 120 days after receipt of the final Report, must determine, by majority vote, whether the interests of Lee County residents are best served by Conversion;

WHEREAS, if the Board determines that the interests of Lee County residents are best served by Conversion, Lee Health shall negotiate and draft a proposed agreement with the Lee County Board of County Commissioners before Conversion may occur;

WHEREAS, throughout the Conversion evaluation process, the Board has sought input and feedback from the community and other interested stakeholders, both internal and external to Lee Health, including through numerous team member town halls, community town halls in each of the five Board member districts, two public hearings, and ongoing updates to the media and on the Lee Health website, among others;

WHEREAS, the Board has conducted no fewer than ten publicly-noticed Board workshops, special meetings, and/or regular meetings at which the Board has sought feedback and received advice from legal counsel, both internal and external to Lee Health, third-party consultants, and Lee Health leadership regarding the potential Conversion;

WHEREAS, the Lee Health leadership team, comprising sixty senior leaders, has reviewed and made presentations to the Board regarding the potential impacts of Conversion, including a recommendation that Conversion is a strategic move towards securing the Health System’s future, its safety-net mission, and maximizing its impact on the communities it serves;

WHEREAS, as detailed in their presentations to the Board, Lee Health’s President/Chief Executive Officer and Chief Financial Officer have advised the Board that conversion is in the best financial interest of Lee Health and promotes the delivery of healthcare services to the residents of Lee County, including but not limited to, safety net services;

WHEREAS, through these and other actions, the Board has conducted a diligent review process consistent with its fiduciary duties of loyalty, care, and obedience to Lee Health and its mission;

NEGATIVE

NOW, THEREFORE, BE IT RESOLVED THAT:

Based upon the Board's evaluation of the benefits to the residents of Lee County of Conversion, including the Board's review and consideration of the foregoing, the Board determines that the best interests of Lee County residents are not best served by Conversion. Lee Memorial Health System shall continue to exist as an independent special district as provided for in the Amendment to the Special Act.

THIS RESOLUTION has been adopted by the Board effective June 13, 2024.

Board Chair

Adjourn

Date of Next Meeting
June 27, 2024 at 1:00 PM

Board of Directors Meeting
Location:

Gulf Coast Medical Center Board Room
13685 Doctor's Way
Fort Myers, FL 33912

Teleconference: Dial-In # 1 415 655 0002
Access Code 2303 571 3124