

**CONTESTED CASES
December 2015**

**Centennial Medical Center
CN1407-032A
Docket No. 25.00-130740J**

Saint Thomas Midtown Hospital and Saint Thomas West Hospital contest the approval of part(s) of CN1407-032A, namely pertaining to the development of a Joint Replacement Center of Excellence and increase in the hospital's licensed bed complement. The hospital's acute care complement would increase from 657 to 686 licensed beds. The estimated project cost is \$96,192,007, approximately \$85 million of which pertains to matters contested in this case.

Mediation was attempted September 2-3, 2015.

The contested case was held December 7 - 10, 2015.

The deadline for proposed findings of fact and conclusions of law is February 15, 2016.

Warren L. Gooch, Esq. of Kramer Rayson, LLP represents Saint Thomas Midtown Hospital and Saint Thomas West Hospital

Jerry W. Taylor, Esq. of Burr & Forman, LLP represents Centennial Medical Center

**East Tennessee Radiation Therapy Services
CN1108-030AD
Docket No. 25.00-115208J**

Covenant Health has appealed the *Approval* of a CON for the acquisition of a Linear Accelerator; the initiation of outpatient radiation therapy services; and the establishment of an ambulatory surgical treatment center limited to radiation therapy services in Knox County.

The contested case was heard January 14 – 18 and 24 – 25, 2013. The Administrative Judge entered an Initial Order *Denying* the CON application on 5/30/13. After receipt of written arguments from ETRTS and Covenant Health and oral arguments at the HSDA's November 2013 meeting, the HSDA issued a Final Order *Approving* the CON application.

Covenant Health appealed the Final Order to the Davidson County Chancery Court, which overturned the HSDA's Final Order Approving the CON application. The Davidson County Chancery Court has stayed the effect of its Order, pending resolution of ETRTS' appeal; this means ETRTS may continue operation pending resolution. Oral arguments were held before the Tennessee Court of Appeals on October 13, 2015.

W. Brantley Phillips, Jr., Esq. and Russell S. Baldwin, Esq. of Bass, Berry & Sims represent East Tennessee Radiation Therapy Services

Dan H. Elrod, Esq., Brian Jackson, Esq., and Travis B. Swearingen, Esq. of Butler Snow represent Covenant Health

Gateway Medical Center Satellite Emergency Department at Sango
CN1507-027A
Docket No: TBD

Northcrest Medical Center has appealed the *Approval* of this application for the establishment of a freestanding emergency department in Montgomery County.

Brian Jackson, Esq. and Travis Swearingen, Esq. of Butler Snow represent Northcrest Medical Center

Jerry W. Taylor, Esq. of Burr & Forman, LLP represents Gateway Medical Center Satellite Emergency Department at Sango

Northcrest Medical Center
CN1507-028D
Docket No: TBD

Northcrest Medical Center has appealed the *Denial* of its application for the establishment of a freestanding emergency department in Montgomery County.

Brian Jackson, Esq. and Travis Swearingen, Esq. of Butler Snow represent Northcrest Medical Center

Jerry W. Taylor, Esq. of Burr & Forman, LLP represents Gateway Medical Center Satellite Emergency Department at Sango

SBH-Kingsport, LLC
CN1312-050D
Docket No.: 25.00-126908J

SBH-Kingsport, LLC has appealed the *Denial* of its application for the establishment of a 72 bed free standing mental health hospital and initiation of inpatient psychiatric and substance abuse services. The proposed mental health hospital would consist of 28 inpatient beds for psychiatric care for children ages 5-17, 18 inpatient beds for adult psychiatric care for adults ages 18-64, 16 inpatient beds for geropsychiatric care for ages 55+, and 10 adult chemical dependency beds. The proposed project would accept voluntary and/or involuntary admissions.

The contested case was held July 27-31, 2015. Proposed Findings of Fact and Conclusions of Law will be filed in October, with an Initial Order expected by year's end.

William H. West, Esq. of Baker Donelson represents SBH-Kingsport, LLC
Brian Jackson, Esq. and Travis Swearingen, Esq. of Butler Snow represent Woodridge Psychiatric Hospital

**Southern Hills Surgery Center
CN1411-047A
Docket No.: 25.00-131649J**

Saint Thomas Campus Surgicare, LP, Baptist Surgery Center, LP, Baptist Plaza Surgicare, LP, Franklin Endoscopy Center, LLC, and Physicians Pavilion, LP have appealed the Approval of Southern Hills Surgery Center's application for the relocation and replacement of an ASTC.

The contested case has been set for May 16-20, 2016.

Byron R. Trauger, Esq., Paul W. Ambrosius, Esq. and Justin Adams, Esq. of Trauger & Tuke represent the petitioners
Jerry W. Taylor, Esq. of Burr & Forman, LLP represents Southern Hills Surgery Center

**HCA Health Services of Tennessee, Inc.
d/b/a TriStar Southern Hills Medical Center
Emergency Department at I-65
CN1412-050D
Docket No.: 25.00-130740J**

TriStar Southern Hills Medical Center has appealed the *Denial* of its application for the establishment of a freestanding emergency department.

The contested case has been set for June 27 - July 2, 11-15, 2016.

Jerry W. Taylor, Esq. of Burr & Forman, LLP represents TriStar Southern Hills Medical Center
Brian Jackson, Esq. and Travis Swearingen, Esq. of Butler Snow represent Vanderbilt University Medical Center
William H. West, Esq. of Baker Donelson represents Williamson Medical Center

**Tri-Cities Holdings, LLC d/b/a Trex Treatment Center
CON #1303-005D
Docket No.: 25.00-122076J**

Tri-Cities Holdings, LLC d/b/a Trex Treatment Center has appealed the *Denial* of its application for the establishment of a nonresidential substitution-based treatment center for opiate addiction in Johnson City.*

A hearing date had not been set in the contested case due to Petitioner's urging, over HSDA counsel's opposition; in March 2014, HSDA counsel's Motion to Set was granted over Petitioner's objection, and a hearing date had been set for 7/29/2014 through 8/1/2014. The ALJ revoked James A. Dunlap, Jr.'s special permission to appear in this TN proceeding due to conduct not detailed here, and Petitioner appealed said revocation to the Davidson County Chancery Court. Jim Higgins, Esq. became counsel of record.

The trial has been continued several times, pending resolution of Tri-Cities Holdings, LLC and James A. Dunlap, Jr.'s appeal of the revocation of James A. Dunlap, Jr.'s special permission to appear in this TN proceeding. The Davidson County Chancery Court issued an Order upholding the revocation on December 12, 2014, which Tri-Cities Holdings, LLC and James A. Dunlap, Jr. have appealed to the Tennessee Court of Appeals. Oral arguments were heard on September 18, 2015.

* Tri-Cities Holdings, LLC d/b/a Trex Treatment Center has also filed an action in Federal Court against the Health Services and Development Agency, alleging the denial of its application constitutes violations of the Americans with Disabilities Act and the Rehabilitation Act. Johnson City is a co-defendant. In April 2014, the Federal Court dismissed the RA claim and stayed the hearing of the ADA claim(s) until the administrative appeal is resolved. TCH has appealed that decision. Petitioner has filed an appeal with the 6th Circuit.

*Tri-Cities Holdings, LLC d/b/a Trex Treatment Center has also filed an action in Federal Court against the Tennessee Department of Mental Health and Substance Abuse Services, alleging the statutorily mandated report detailing how its application fails to satisfy Tennessee law constitutes violations of the Americans with Disabilities Act and the Rehabilitation Act.

*Tri-Cities Holdings, LLC d/b/a Trex Treatment Center has also filed an action in Federal Court against the Tennessee Secretary of State, Administrative Procedures Division, and the previous ALJ, alleging violations of the Americans with Disabilities Act and the Rehabilitation Act.