

## PARK HOSPITAL DISTRICT

### RESOLUTION 2020-11

#### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE PARK HOSPITAL DISTRICT TO CLOSE THE ESTES PARK HEALTH LIVING CENTER

1. **WHEREAS**, As a result of the Covid-19 pandemic in 2020, Estes Park Health (EPH) had
  - 1.1. Experienced significant, multimillion dollar financial losses in 2020;
  - 1.2. The multimillion dollar financial losses were expected to continue from 2020 into 2021, and the changes in medical care that produced the losses were likely to continue indefinitely;
  - 1.3. While Federal Government Covid-19 pandemic financial relief programs have provided some temporary financial relief, EPH initiated urgent evaluations of all services and personnel to identify and implement significant cost reduction actions to be able to continue operating through and beyond year 2021; and,
2. **WHEREAS**, The EPH Living Center (EPHLC) operation had lost money for at least the last 15 years, with increasingly significant financial losses in more recent years, and then experienced additional significant losses that were associated with the Covid-19 pandemic; and,
3. **WHEREAS**, All of the experts consulted by the EPH Board of Directors (EPH Board) and EPH Senior Leadership Team (EPH SLT) had consistently concluded that the Estes Park Health Living Center operation was not financially viable given:
  - 3.1. While EPHLC may have been the right size in 1984 when it was created, it is currently too small to be financially viable in the current competitive nursing home environment 36 years later;
  - 3.2. The number of EPHLC residents has been declining, resulting in decreasing revenue;
  - 3.3. The high percentage of EPHLC residents paid by Medicaid with Medicaid generally paying only 70% of the costs of providing services;
  - 3.4. Increasing costs associated with the increasing necessity to use contract labor to satisfy staffing requirements. This is a national and Estes Park issue that has increased nursing home costs and is projected to continue;
  - 3.5. Increasing costs associated with increased regulatory compliance requirements;
  - 3.6. Increased costs associated with actions to reduce the effects of the Covid-19 pandemic (PPE, etc.); and,
4. **WHEREAS**, At the August 31, 2020 Monthly Board meeting, the EPH Board and EPH SLT initiated a series of interactions with the Estes Park Community about alternatives for the EPHLC because:
  - 4.1. EPHLC has provided an important service for some members of the Estes Park Community;
  - 4.2. It was important for the community to understand the causes of EPHLC's increasing financial losses and the reasons for predictions of increasing financial losses in the future;
  - 4.3. It was important to be sure that all possible EPHLC alternatives were identified and thoroughly and fairly evaluated; and,
5. **WHEREAS**, On September 9, 2020, September 23, 2020, and October 7, 2020, the EPH Board and EPH SLT held open-to-the-public Tele-Townhalls to discuss the past, present, and future of the EPHLC and its alternatives. Recordings of these and all other public EPHLC meetings were placed on the EPH website: <https://eph.org/about-us/board-of-directors/meeting-information/> ; and,
6. **WHEREAS**, As of the August 31, 2020 meeting, the target for a decision on alternatives for the Living Center was mid-October 2020; and,
7. **WHEREAS**, At the 30-Sep-2020 "Deep Dive EPH and Living Center Financial Meeting," a group of community members invited the EPH Board and EPH SLT to collaborate on evaluating a third-party operating

approach for the EPHLC, with the request that a decision on the Living Center be delayed from mid-October until the third-party alternative could be evaluated; and,

8. **WHEREAS**, While the financial realities of the EPHLC had not changed, the EPH Board and EPH SLT decided that, to ensure that all possible alternatives were identified and thoroughly evaluated, and for the Estes Park Community to be confident that all possible alternatives were being identified and thoroughly evaluated, that the EPH Board and EPH SLT would accept the invitation to collaborate with certain conditions; and,
9. **WHEREAS**, At the first meeting EPHLC Alternatives Evaluation Taskforce on 13-October, the “Proposal to Collaborate” stated:
  - 9.1. A need to proceed with a sense of urgency because of the challenging financial realities EPH and the EPHLC were experiencing;
  - 9.2. Proposed forming a Taskforce “To accomplish timely progress on addressing this important issue;”
  - 9.3. And agreed: “If substantial progress is made by the Task Force, and there are no significant changes in EPHLC census (census remains at 20 residents or above), the EPH Board of Directors would defer a decision of the status of EPHLC until December 31, 2020;” and,
10. **WHEREAS**, In the second Taskforce meeting on November 11, 2020, because it seemed likely that a Skilled Nursing Facility like EPHLC in the Estes Valley would always have financial losses, the possibility was discussed of holding a referendum in early February 2021 to assess Estes Valley property owners’ willingness to subsidize EPHLC’s financial losses through a property tax and/or sales tax; and,
11. **WHEREAS**, In the third Taskforce meeting on November 18, 2020, the following issues were discussed:
  - 11.1. Because of the ongoing EPHLC financial losses, the EPH Board and Senior Leadership Team did not support continuing to operate EPHLC within EPH;
  - 11.2. While the EPH Board and EPH SLT agreed to evaluate the possibility of a third party operating an Estes Valley Skilled Nursing Facility, supporting the third-party option would require a comprehensive business plan for the operation with expectations of long-term success;
  - 11.3. With regard to the possible early February 2021 referendum to assess Estes Valley property owners’ willingness to subsidize EPHLC’s financial losses through a property tax and/or sales tax, the EPH Board did not support using EPH funds to fund a referendum assessing community support for property tax and/or sales tax to subsidize the third party Skilled Nursing Facility alternative;
  - 11.4. The community members of the Taskforce were also unwilling to fund with their money a possible early February 2021 referendum to assess Estes Valley property owners’ willingness to subsidize the third party Skilled Nursing Facility alternative;
  - 11.5. Some members of the Taskforce announced that Sam Radke had been hired to provide an independent assessment of EPH and EPHLC finances with his report to be delivered by 5:00 pm December 7, 2020; and,
12. **WHEREAS**, At the fourth Taskforce meeting on November 25, 2020, community members of the Taskforce asked whether the EPH Board and EPH SLT would be agreeable to enter negotiations with a third party for use of the space currently occupied by EPHLC; and,
13. **WHEREAS**, In the fifth Taskforce meeting on December 2, 2020, as a part of willingness to enter negotiations with a third party for use of the space currently occupied by EPHLC, the EPH Board and EPH SLT reiterated the need for a comprehensive Skilled Nursing Facility business plan with high likelihood of success. An additional requirement was that all costs of maintaining or modifying the space, and all costs of operating the Skilled Nursing Facility would be the responsibility of the third party; and,
14. **WHEREAS**, In the sixth Taskforce meeting on December 9, 2020, the EPH Board and EPH SLT asked for information on:
  - 14.1. Was there an evaluation project plan with tasks, timing, and resourcing. No plan was provided; and,

- 14.2. Whether results of the Sam Radke assessment of EPH Living Center financials was available. The Sam Radke report was due December 7 and was not available; and,
  - 14.3. What funding approaches were being considered for the third-party Skilled Nursing Facility. There was no information on this topic; and,
15. **WHEREAS**, In the seventh Taskforce meeting on December 16, 2020, the following issues were raised:
    - 15.1. Was there an evaluation project plan with tasks, timing, and resourcing. No plan was provided; and,
    - 15.2. Was the Sam Radke assessment of EPH Living Center financials available? The Sam Radke report was due December 7 and was not available; and,
    - 15.3. What third-party organizations were being considered? No information was provided; and,
    - 15.4. Was there a comprehensive business plan for the third-party operating alternative? There was none; and,
    - 15.5. Was EPH required to lease the EPHLC space at Fair Market Value?, followed by an initial review of Peggy Lynch’s assessment of Fair Market Value; and,
    - 15.6. What were the constraints on EPH transferring any of its property tax proceeds to the third-party operating alternative for the EPHLC?
  16. **WHEREAS**, In the eighth Taskforce meeting on December 23, 2020, the following issues were discussed:
    - 16.1. Fair Market Value assessment by Pinnacle Healthcare Consulting; and,
    - 16.2. Fair Market Value assessment by Peggy Lynch, a local Realtor; and,
    - 16.3. Discuss Hall Render legal opinion that EPH must charge Fair Market Value for any space leased and could not transfer EPH property tax proceeds to a third-party operating an alternative Skilled Nursing Facility; and,
    - 16.4. From 1968 at EPH creation to the present, historic property tax ballot language found so far does not specifically mention EPHLC.; and,
    - 16.5. Was there an evaluation project plan with tasks, timing, and resourcing. No plan was provided; and,
    - 16.6. Was the Sam Radke assessment of EPH Living Center financials available? The Sam Radke report was due December 7 and was not available; and,
    - 16.7. What third-party organizations were being considered? No information was provided; and,
    - 16.8. Was there a comprehensive business plan for the third-party operating alternative? There was none; and,
  17. **WHEREAS**, In the ninth Taskforce meeting on January 13, 2021, a comprehensive business plan with a high likelihood of success for a Skilled Nursing Facility run by an independent third-party was not produced. The financial ‘Pro Forma’ discussed at the meeting did not indicate a high likelihood of financial success. The number of residents in EPHLC had fallen to 16, an unsustainable level. Furthermore, on December 30, 2020, we had provided community Taskforce members with a list of core business questions that required clear answers for us to believe the third-party operating alternative was viable. Discussing the answers to these questions was the primary focus of the ninth Taskforce meeting, and we received no clear answers or no answers to the core business questions.

The following are specific concerns about the proposed third-party operating alternative:

17.1. Organization and Management

- 17.1.1. It was announced that Gerald Mayo, a local Realtor, was in the process of establishing “Prospect Park Living Center, Inc.” (PPLC, Inc), a new nonprofit that had not yet achieved IRS nonprofit status. PPLC, Inc was to play an undefined role in the third-party operating scenario. It was not clear, but it seemed possible that the intent was for Gerald Mayo and PPLC, Inc. to be in-charge of the third-party operation. Gerald Mayo had recruited Dr. Guy P Van der Werf, a UCHealth physician, and Mark Igel, a local business owner, to be PPLC, Inc. Board members; and,
- 17.1.2. Hanlon, Bush Investments, LLC (HBI), a for-profit company that runs Rehabilitation and Nursing Center of the Rockies, a 96-bed nursing facility in Fort Collins, was introduced as an organization with an undefined role in the third-party operating alternative. HBI was represented at the meeting by Tony Hanlon; and,

17.1.3. Among other unanswered core business questions were: Who would manage the skilled nursing center? PPLC, Inc. or HBI?, Who would have the Colorado State license to operate the facility?, Who would be held liable for operations and have professional liability insurance?, Who would be the Medical Director?, Who would coordinate with the State regulators?, Who would assume financial risk for the operation and what were their financial assets?, Who would provide startup capital and what were their financial assets?, Who would finance the projected significant operational financial losses and what were their financial assets?, Who would lease the space?, Who would be responsible for maintaining the physical plant?, Who would staff the facility?, Who were the people in the organization structure and service provider positions and what were their qualifications and experience?; and,

## 17.2. Financial Projections

17.2.1. Based on actual Estes Park Health Living Center experience, the financial “Pro Forma” significantly overestimated revenues and significantly underestimated expenses; and,

### 17.2.2. Overestimated Revenues:

17.2.2.1. The two key determinants of revenues and resulting financial viability are 1) the number of residents and 2) the percent of residents that are Medicaid since Medicaid pays only 70% of the cost of care. The current number of EPHLC residents on January 13, 2021 was 16, 12 of whom were Medicaid. At the “modeled low census” of 17 residents, the projected “Pro Forma” loss is \$1.4 million. At the “modeled high census” of 35, the projected “Pro Forma” profit is \$37,000. In discussion, there was no documented basis for where the increase in census would come from (Estes Park? Front Range?), how much time would be required to reach census targets, the projected financial loss that would occur, and how the financial loss would be covered. The per-day reimbursement rates used in the “Pro Forma” were higher than EPHLC experience and claims that the per-day rates could be easily raised were not credible, so the per-day reimbursement rates were another source of revenue overestimation; and,

### 17.2.3. Underestimated Expenses:

17.2.3.1. At EPHLC, about 75% of total expenses are personnel-related. In the current “Pro Forma,” the number of personnel projected to serve 35 residents is smaller than the number of personnel EPHLC actually uses currently to serve 16 residents. The need for contract labor, significantly more expensive than employee labor, is a national issue as well as an EPHLC issue that has strained nursing home finances. The contract labor levels used in the “Pro Forma” are only 2/3 of EPHLC’s actual contract labor levels. Even using contract labor, EPHLC has ongoing challenges recruiting and retaining required staffing levels; and,

17.2.3.2. One impact of significantly underestimated expenses is an underestimation of the number of residents needed to “break even” financially. The “Pro Forma” estimates “break even” at 34.6 to 36.6 average daily census. The “Stroudwater” report (2020, page 21) by a national accounting firm determined that EPHLC needed an average daily census of 45 to “break even” financially, a level above the current EPHLC maximum capacity of 38 residents; and,

17.2.3.3. Even with significantly overestimated revenues and significantly underestimated expenses, the “Pro Forma” projects a \$1.4 million loss in the first year. The “Pro Forma” does not provide an estimate of how long this significant loss will continue or from where the financing will come to cover the loss; and,

17.2.3.4. The claim that the financial viability of the third-party operating alternative depends upon the base lease amount is not supported by the “Pro Forma.” The “Pro Forma’s” projected base lease of \$158,330 is about 11% of the total projected first year loss of \$1.4 million, and this is likely an underestimated loss given the significantly overestimated revenues and significantly underestimated expenses in the “Pro Forma;” and,

17.2.3.5. Among other challenges for the third-party operating alternative, Tony Hanlon from HBI stated that the nursing home could not survive financially unless EPH sent all of their post-acute Medicare patients, swing bed, to the nursing home. EPH is facing ongoing significant

financial challenges and will continue to operate swing bed care for patients and will not send post-acute Medicare patients to the third-party nursing home; and,

18. **WHEREAS**, The Estes Park Health Board of Directors and Senior Leadership Team have been working with the Estes Park Health Living Center Alternatives Evaluation Taskforce since mid-October 2020 in an attempt to find a viable approach to keeping the Living Center in operation through an independent third-party operating alternative. To date:
- 18.1. A comprehensive business plan with a high likelihood of success for a Skilled Nursing Facility run by an independent third-party has not been provided; and,
  - 18.2. The financial ‘Pro Forma’ discussed at the ninth Taskforce meeting did not indicate a high likelihood of financial success. Instead, it projected ongoing significant financial losses with no identification of how the losses would be paid for; and,
  - 18.3. The number of residents in EPHLC has fallen to 16, a number not sustainable; and,
  - 18.4. The Estes Park Health Board of Directors and the Senior Leadership Team asked a list of core business questions that required satisfactory answers to support the belief that the third-party operating alternative was viable. Satisfactory answers to the core business questions have not been provided;

**19. NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PARK HOSPITAL DISTRICT THAT:**

- 19.1. Estes Park Health submit on or about Tuesday, February 2, 2021, a Nursing Home Proposed Facility Closure and Resident Transfer Plan for the Estes Park Health Living Center to the State of Colorado Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division.
- 19.2. That as soon as the Nursing Home Proposed Facility Closure and Resident Transfer Plan for the Estes Park Health Living Center is approved by the Environment Health Facilities and Emergency Medical Services Division, that Estes Park Health announce a target closing the Estes Park Health Living Center 60 days later than the date of the closing and resident transfer plan announcement.
- 19.3. That Estes Park Health will then proceed with plans to close Estes Park Health Living Center.
- 19.4. The timing of these plans may be modified based on Covid-19 pandemic developments.

Dated: February 2, 2021

**BOARD OF DIRECTORS OF THE PARK HOSPITAL DISTRICT**

By: \_\_\_\_\_  
**David M Batey, Chair**

**Attest:**

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**Sandy Begley, Vice Chair**

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**Stephen Alper, Treasurer**

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**Diane Munro, Secretary**

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**Bill Pinkham, At Large**