



THA
Texas Hospital Association

Senior Management Team



**THA Executive Committee
Zoom Meeting
Friday, May 5, 2023
8:30–9:30 a.m.**



**THA EXECUTIVE COMMITTEE
Zoom Meeting**

**Friday, May 5, 2023
8:30-9:30 a.m.**

AGENDA

MISSION: Serving Texas hospitals as the trusted source and unified voice to influence excellence in health care for all Texans.

VISION: Leading change to support all Texas hospitals to deliver accessible, affordable, high-quality health care.

PRESIDING OFFICER: Erin Asprec

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8:30 a.m.	I. CALL TO ORDER	
	A. Call to Order and Certification of Quorum (Erin Asprec)	
	II. CONFLICT OF INTEREST (Steve Wohleb)	4
	III. OLD BUSINESS (Erin Asprec)	
	A. Approval of February 13, 2023 THA Executive Committee Minutes	5
	B. Approval of March 6, 2023 THA Executive Policy Committee Minutes	8
	C. Approval of March 22, 2023 THA Executive Policy Committee Minutes	10
	D. Approval of April 14, 2023 THA Executive Policy Committee Minutes	12
8:45 a.m.	IV. RECOMMENDATIONS/REPORTS ON ASSOCIATION BUSINESS	
	A. Recommendations of the THA Nominating Committee (Erol Akdamar)	Action 14
	B. Update on Potential Litigation Related to HHSC Rulemaking (Steve Wohleb)	
	1. Review of Law Firm Proposals for Authorization of Law Firm Engagement	Action

9:00 a.m. **V. EXECUTIVE SESSION** (Erin Asprec)

9:30 a.m. **VI. ADJOURN**

CONFLICT OF INTEREST

Conflict of Interest Declaration and Management Process for Board Meetings

THA's Code of Conduct and Compliance Program describes generally THA's process for identifying and managing conflicts of interest. With regard to board meetings, at the appropriate time on the agenda of each meeting of the governing body of a THA Family of Companies entity, members of the governing body must declare any known conflict of interest or a potential conflict of interest with regard to any item on the agenda.

If a Board member indicates that he/she has a conflict of interest with respect to an agenda item, the conflict will need to be managed. The Board member must identify what agenda item is implicated and the nature of the conflict, and a management plan must be discussed and made at that time. If it is determined, after discussion, that no conflict of interest exists, no management plan is required. If it is determined that a Board member has a conflict of interest on any agenda item, when the agenda item comes up, that member must not vote or use his or her personal influence on the matter and should not be counted in determining the quorum during the discussion. This restriction on participation does not prevent a Board member from briefly stating his or her position on the matter or from answering pertinent questions from other Board members or staff. Depending on the nature of the issue, however, the Board member may be asked to recuse himself or herself from the discussion entirely. The management plan should address these issues if applicable.

If no Board member indicates that he/she has a conflict of interest with respect to an agenda item, the Chair may proceed with the remainder of the agenda. If a conflict with an agenda item is identified at any point during the meeting, the issue must be immediately raised with the Chair prior to any discussion on the item, and the process described above related to the management of the conflict should be followed.

Minutes of the meeting related to the declaration and management of conflicts of interest must accurately reflect that the process above was followed.

Board members are reminded that they must also declare any known conflicts of interest on the annual disclosure statement, and as potential conflicts of interest arise during the year.

Questions about these processes or any individual's obligations related to conflicts of interest should be directed to THA's Chief Compliance Officer, Steve Wohleb, at swohleb@tha.org.

**MINUTES
THA EXECUTIVE COMMITTEE
February 13, 2023**

The Texas Hospital Association Executive Committee met on Monday, February 13, 2023, in Room 400-402 at the Hilton Austin Hotel. The following were in attendance:

OFFICERS

Erin Asprec, Chair
Brad Holland, Chair-Elect
Erol Akdamar, Immediate Past Chair (via Zoom)
John Hawkins, THA President/CEO

STAFF

Ignacio Zamarron
Mitzi Ressmann
Steve Wohleb
Fernando Martinez
Carrie Williams
Jennifer Banda
Cesar Lopez
Sharon Beasley

MEMBERS

Sam Bagchi, M.D.
Jacob Cintron
Cris Daskevich
Jim Kendrick
Kirk King
Peter McCanna
Jayne Pope, RN

CALL TO ORDER

Chair Erin Asprec called the meeting to order at 11:33 a.m., welcomed everyone and certified a quorum.

CONFLICT OF INTEREST

Steve Wohleb, THA's Chief Compliance Officer, referred to the Conflict of Interest statement, included in the meeting materials and asked if any executive committee member had a conflict with any item on today's meeting agenda. No conflicts of interest were declared by executive committee members.

MINUTES FOR APPROVAL

Upon motion duly made and seconded, the following minutes were unanimously approved:

- November 11, 2022 THA Executive Committee

RECOMMENDATIONS/REPORTS ON ASSOCIATION BUSINESS

Recommendations of the THA Nominating Committee

Erol Akdamar, chair of the THA Nominating Committee, presented the recommendations of the committee. Upon motion duly made and seconded, the following recommendations were unanimously approved:

RECOMMENDATION: That the THA Executive Committee approve the following recommendations to the THA Board of Trustees for approval to fill vacancies:

THA Board of Trustees Secretary

- Kirk King, FACHE, Executive Vice President/Hospital Channel COO, Texas Health Resources, Arlington (term expires Dec. 31, 2023)

THA Board of Trustees

- Charles (Chuck) A. Stark, Regional VP – Acute Care Division, South Texas Health System, Edinburg (term expires Dec. 31, 2023)

THA Retirement Plan Master Trust Board

- Adam Apolinar, RN, CEO/Administrator, Uvalde Memorial Hospital (term expires Dec. 31, 2023)

THA Projected FY 2022 Financial Report

Jim Kendrick, Chair of the THA Finance Committee, reported THA achieved all four consolidated strategic financial goals for 2022. THA's overall financial condition remains strong with 12 months of operating/long-term reserves and 10 months in operating reserves. The THA Family of Companies has no significant long-term debt. In 2022, THA was required by accounting standards to convert its office lease agreement to a "right of use" obligation. This conversion had no impact to THA's operations or its annual strategic financial goals.

For the 2022 year, THA and its subsidiaries' net performance result, which excludes unrealized losses in the investment portfolios, was an increase in net assets of \$1,733M outperforming budget by \$1,408M. The largest single component generating the favorable variance to budget was the savings in employee compensation costs. The \$1,151M in total compensation cost savings represent 81% of total consolidated budget savings. THA proper experienced a high vacancy rate due to retirements, new positions, and turnover. The fill-time for these vacancies was long in duration. By year-end, however, all positions were filled. THA's net consolidated results for book purposes, however, was a loss of \$2,051M inclusive of \$3.5M unrealized losses in the investment portfolios. In addition to its portion of the compensation cost savings of \$1M, other significant savings related to rent abatement (due to water and power outage events requiring building closure), travel costs, and system provider fees.

As of the reporting date, THA has collected 89% of the 2023 membership year billing compared to 94% at this same time last year. THA renewed 99.8% of its membership in the last membership year.

COPD Policy Recommendations/Updates

Jennifer Banda presented four policy position recommendations approved at the January 20, 2023 meeting by the Council on Policy Development. Upon motion duly made and seconded the following recommendations were unanimously approved.

RECOMMENDATION: Approve opposition to legislation that prohibits hospitals from establishing and enforcing policies requiring vaccination of their

credentialed medical staff and employees consistent with applicable law, regulation, or recommendations.

RECOMMENDATION: Approve opposition to legislation that would prohibit all-or-nothing, anti-steering, anti-tiering, gag and most favored nation clauses.

RECOMMENDATION: Approve opposition to legislation that would restrict physician non-compete clauses.

RECOMMENDATION: Approve opposition to legislation that would cap prompt payment by the uninsured at a provider’s lowest contracted rate.

Price Transparency Proposed Rules

Steve Wohleb presented information on the price transparency proposed rules regarding compliance requirements and possible punitive actions toward hospitals not in compliance. Upon motion duly made and seconded the following recommendation was unanimously approved:

RECOMMENDATION: Allow the THA Legal Department to issue an RFP to outside counsel to manage litigation, if necessary.

ADJOURNMENT

There being no further business, the THA Executive Committee adjourned to executive session.

Kirk King
Secretary

Erin Asprec
Chair of the Board

**MINUTES
THA EXECUTIVE POLICY COMMITTEE
March 6, 2023**

The Texas Hospital Association Executive Policy Committee comprised of the THA Executive Committee and COPD Chair and Vice Chair met via Zoom on Monday, March 6, 2023. The following members were in attendance:

OFFICERS

Erin Asprec, Chair
Brad Holland, Chair-Elect
Kirk King, Secretary
John Hawkins, THA CEO/President

STAFF

Jennifer Banda
Cameron Krier Massey
Anna Stelter
Sharon Beasley

MEMBERS

Sam Bagchi, M.D.
Jacob Cintron
Cris Daskevich
Jim Kendrick
Manny Vela
Terry Scoggin, COPD Vice Chair

CALL TO ORDER

Chair Erin Asprec called the meeting to order at 11:01 a.m. and certified a quorum.

DISCUSSION OF CMS INFORMATIONAL BULLETIN ON PROVIDER TAX POLICY

John Hawkins updated the Committee on the CMS Informational Bulletin received on February 17, 2023 concerning health care-related taxes and hold harmless arrangements involving the redistribution of Medicaid payments and advised members that THA has reached out to other states that have similar arrangements to Texas. Cameron Krier Massey reported that THA's efforts are focused on briefing staff of the House Committee on Energy and Commerce and the House Committee on Ways and Means on this issue. Jennifer Banda noted that there is not a lot of familiarity with the CMS bulletin and next steps include updating the Texas delegation so that they can be responsive. AHA also is engaged on this issue from a national perspective.

MEDICAID UPDATE

Anna Stelter provided a Medicaid update with emphasis on the following:

- Inpatient add-ons and outpatient rates are level funded in the 2024-2025 base budget.
- Cost-based rural hospital reimbursement rates have a \$31M funding shortfall.
- There is a planned change to outpatient reimbursement rates with a transition to enhanced ambulatory payment groupers (EAPG). THA has asked HHSC to delay this change to give time for financial modeling and a longer implementation runway. THA's Policy Committee on Hospital Reimbursement is very engaged on this issue.
- Other supplemental payment changes have a longer runway for implementation:
 - Transition CHIRP to pay-for-performance – 2/3 of pool would move to pay for performance and 1/3 will continue to be paid as a rate increase per claim. THA will have monthly meetings with HHSC to monitor implementation.

There are rule changes forthcoming to Medicaid DSH that will include an allocation methodology change proposed by HHSC in a pre-session report considering percent paid compared to cost instead of low-income days. There will be a comment period and a preview meeting scheduled to review modeling.

CMS 1115 Waiver Proposal

THA has commented on the Inpatient Prospective Payment System rules in 2022 and 2023 and is working to kill the proposal. The rules would remove Medicaid UC days from the Medicare DSH calculation. A strategy is being developed to oppose this during the comment period. THA is working with King & Spalding and may present an opportunity to THA members to litigate this issue.

UPDATE ON KEY LEGISLATION

State Budget (HB1 and SB 1)

John Hawkins reported that both bills contain funding for issues supported by THA, including health care workforce and behavioral health.

Expanded Health Care Coverage

Jennifer Banda reported on THA's efforts to support bills concerning expanded coverage, most notably, HB 12 that would extend Medicaid coverage for new mothers to 12 months postpartum. THA continues to advocate for a state waiver to extend Medicaid behavioral health coverage beyond 15 days, also known as the IMD exclusion waiver.

Other Legislation

Jennifer Banda highlighted other legislation requiring THA's advocacy efforts including workplace violence, hospital investigations, and physician non-compete agreements. Updated information on these and other priority issues can be found on THA's website.

ADJOURNMENT

There being no further business, the THA Executive Policy Committee adjourned at 11:30 a.m.

Kirk King
Secretary

Erin Asprec
Chair of the Board

MINUTES
THA EXECUTIVE POLICY COMMITTEE
March 22, 2023

The Texas Hospital Association Executive Policy Committee comprised of the THA Executive Committee and COPD Chair and Vice Chair met via Zoom on Wednesday, March 22, 2023. The following were in attendance:

OFFICERS

Erin Asprec, Chair
Brad Holland, Chair-Elect
Erol Akdamar, Immediate Past Chair
Kirk King, Secretary
John Hawkins, THA President/CEO

MEMBERS

Sam Bagchi, M.D.
Cris Daskevich
Jim Kendrick
Peter McCanna
Terry Scoggin, COPD Vice Chair

STAFF

Jennifer Banda
Carrie Kroll
Sara Gonzalez
Cameron Duncan
Steve Wohleb
Cesar Lopez
Heather De La Garza
Anna Stelter
Erika Ramirez
Matt Turner
Jennifer O'Neil
Sharon Beasley

CALL TO ORDER

Chair Erin Asprec called the meeting to order at 1:30 p.m. and certified a quorum.

CMS INFORMATIONAL BULLETIN UPDATE

Jennifer Banda provided an update on the CMS Informational Bulletin on provider tax policy and local provider participation funds, advising members that Attorney General Ken Paxton is preparing an Administrative Procedures Act lawsuit challenging the bulletin.

LEGISLATIVE PRIORITIES UPDATE

The THA advocacy team provided an update on the following THA legislative priorities.

Hospital Budget Priorities

Jennifer Banda presented information on the state budget noting several priorities, including funding for rebuilding Texas' health care workforce; the provision of continuous 12-months of postpartum Medicaid coverage for new mothers; maintaining trauma funding; and increasing access to behavioral health care, including advocating for a state Medicaid waiver for the IMD exclusion.

Public Health/Vaccines

Carrie Kroll reported on several bills addressing COVID-19, infectious diseases, and vaccines including SB 29, which would prohibit entities from implementing or enforcing a vaccine mandate or mask requirement. THA worked to ensure hospitals are exempted but work remains to be done related to government facilities such as UTMB. In addition, Kroll noted THA's opposition to SB 299, that would require hospitals, at the request of the patient, to allow a physician who is not a member of the hospital's medical staff, to provide care or treatment to the patient at the hospital.

Behavioral Health

Sara Gonzalez reported that funds have been appropriated for contracted private beds for behavioral health patients. THA is also supporting Medicaid coverage for partial hospitalization and intensive outpatient therapy to give mental health patients access to the full continuum of behavioral health care services. Gonzalez noted that THA continues to work to pursue electronic access for Orders of Protective Custody and Emergency Detentions and seek better communication with judges for consistency across all 254 counties. THA also is working with law enforcement and the Office of Court Administration to address these issues.

SAMPLE WEEKLY HOSPITAL ADVOCACY GROUP AGENDA / ONLINE ADVOCACY MATERIALS

Jennifer Banda provided a sample HAG agenda from the weekly in-person/virtual meetings attended by hospital government relations staff and commended the difficult work being done by THA members and their staff. John Hawkins reminded members to visit THA's website for advocacy materials, including white papers, reports, and online updates.

OTHER BUSINESS

John Hawkins called attention to HB 711, by Rep. James Frank, concerning health care provider network contract provisions. THA has communicated with Rep. Frank that it would remain neutral on the bill as long as the "all-or-nothing" provision is removed. There were questions concerning tiering and steering language in the bill. Cameron Duncan explained that the inclusion of additional language to include a "fiduciary duty" for payers using the tiering and steering practices will provide some protection.

Finally, Duncan highlighted a problematic rate-capping bill, HB 633, also by Rep. Frank that would limit hospital reimbursement. THA is opposing the bill.

ADJOURNMENT

There being no further business, the THA Executive Policy Committee adjourned at 2:11 p.m.

Kirk King
Secretary

Erin Asprec
Chair of the Board

**MINUTES
THA EXECUTIVE POLICY COMMITTEE
April 14, 2023**

The Texas Hospital Association Executive Policy Committee comprised of the THA Executive Committee and COPD Chair and Vice Chair met via Zoom on Friday, April 14, 2023. The following were in attendance:

OFFICERS

Erin Asprec, Chair
Brad Holland, Chair-Elect
John Hawkins, THA President/CEO

MEMBERS

Sam Bagchi, M.D.
Jacob Cintron
Cris Daskevich
Jim Kendrick
Peter McCanna
Jayne Pope, RN
Terry Scoggin, COPD Vice Chair

STAFF

Jennifer Banda
Steve Wohleb
Heather De La Garza
Anna Stelter
Erika Ramirez
Cameron Duncan
Carrie Kroll
Carrie Williams
Cesar Lopez
Matt Turner
Jennifer O'Neil
Sharon Beasley

CALL TO ORDER

Chair Erin Asprec called the meeting to order at 10:01 a.m.

MEDICAID – STATE OF TEXAS VS. BROOKS-LASURE LAWSUIT

John Hawkins gave a brief introduction of the Medicaid lawsuit, State of Texas vs. Brooks-LaSure and called on Steve Wohleb to provide details. Wohleb explained that on April 5, the State of Texas sued the federal government, HHS, and CMS over the Feb. 17, 2023, informational bulletin issued by CMS that contained permissibility of local financial arrangements for LPPFs. Attorney General Paxton believed the bulletin could not be left unchallenged. Grounds for challenging the bulletin include an incorrect statement of law and improper and impermissible rulemaking by CMS. The bulletin did not go through the formal rulemaking process; therefore, Attorney General Paxton is asking the court to declare the February bulletin unlawful and set it aside. Cameron Krier Massey has arranged visits with the Texas delegation during the AHA meeting to discuss the issue.

LEGISLATIVE PRIORITIES AND CHALLENGES

Jennifer Banda presented a summary of several bills moving through the legislative process. The House budget has been passed and the Senate is expected to pass their budget soon. The House and Senate conferees will then meet to negotiate a final budget. Banda noted that most hospital-related Medicaid areas have been funded. The workforce issue is a priority with Lieutenant Governor Patrick who has allocated millions for nursing education. Behavioral health is funded to include private contracted beds. There is a continued push for the IMD exclusion waiver and a push for a grant program for interoperability for EMRs in psychiatric facilities. There is a continued focus on trauma funding to ensure additional funding is appropriated if there is a shortfall in revenue collection.

Cameron Duncan provided an update on the workplace violence prevention bill, SB 240, which has passed the Senate. The bill will codify actions that hospitals are generally already taking for prevention. Duncan presented several challenging bills requiring substantial advocacy from THA's members and staff. He encouraged CEOs to continue contacting legislators to oppose HB 1692 and SB 1275, the "facility fees" bills. A couple of committee substitutes have come out and THA has testified against both, pointing out the unintended consequences. There has been some discussion of limiting the bill to a study of facility fees. This is positive movement and THA will work to ensure hospitals have a seat at the table and to frame the issue appropriately. Other challenging bills reported on by Duncan include HB 1973, the itemized bill requirement; HB 5186 and HB 633, rate capping bills; and SB 1534, the physician non-compete bill.

Carrie Kroll provided an update on legislation related to public health and vaccines and noted that there is a continued assault on public health. THA continues to work to carve hospitals out of legislation that seeks to prohibit the COVID-19 vaccine and mask mandates. THA is also monitoring bills related to gender affirming care and newborn screening.

John Hawkins concluded with comments advising the Committee that THA plans to lay out an aggressive post session advocacy and communications strategy on the negative hospital narrative being driven by the payers. Hawkins thanked committee members for the work their hospital teams are doing.

ADJOURNMENT

There being no further business, the THA Executive Policy Committee adjourned at 10:51 a.m.

Kirk King
Secretary

Erin Asprec
Chair of the Board

RECOMMENDATION TO THE THA EXECUTIVE COMMITTEE

May 5, 2023

THA Nominating Committee

The THA Nominating Committee recommends the following individual for the 2023 THA Board of Trustees to fill a vacancy.

THA Board of Trustees

- Matthew M. Stone, CEO, N. Texas & San Antonio Group, Tenet Healthcare, Dallas (term expires Dec. 31, 2023)

Due to a vacancy in the position of Chair of the Council on Policy Development and by virtue of the position on the THA Board of Trustees, the THA Nominating Committee recommends, with one abstention, the Vice Chair fill the vacancy, as noted below, and recommends the following individual fill the vacancy of Vice Chair.

Council on Policy Development

COPD Chair

- Terry Scoggin, CPA, CEO, Titus Regional Medical Center, Mount Pleasant (term expires Dec. 31, 2023)

COPD Vice Chair

- Andy Davis, President & CEO, Ascension Texas, Austin (term expires Dec. 31, 2023)

Respectfully submitted,

Chair Erol Akdamar, HCA Healthcare, Nashville
Erin S. Asprec, Memorial Hermann Health System, Houston
Sam Bagchi, M.D., CHRISTUS Health, Irving
Barclay Berdan, Texas Health Resources, Arlington
Marc L. Boom, M.D., Houston Methodist
Phyllis A. Cowling, CPA, United Regional health Care System, Wichita Falls
Brad D. Holland, Hendrick Health System, Abilene
Jayne E. Pope, RN, Hill Country Memorial Hospital, Fredericksburg
Terry Scoggin, CPA, Titus Regional Medical Center