

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR

### EXECUTIVE ORDER NUMBER 11-63

(Creation of Commission on Review of Taxpayer Funded Hospital Districts)

**WHEREAS**, according to the *Official List of Special Districts* maintained by the Florida Department of Community Affairs, there are 27 active independent health-care, health-facility, and hospital districts and 36 active dependent health care, health facility and hospital districts in the State of Florida; and

**WHEREAS**, of the active health-care, health-facility, and hospital districts in Florida, 24 are independent hospital districts and six are dependent hospital districts; and

**WHEREAS**, many health care, health facility and hospital districts, some originating as early as the 1930s, have been granted the authority to levy taxes for the purpose of making health care services available to low-income and under-served populations, as well as to provide direct health care services to populations served within the district service areas; and

**WHEREAS**, some health-care, health-facility, and hospital districts fulfill their mission by levying taxes and acquiring services from community-based providers, while other health care, health facility and hospital districts levy taxes and utilize these revenues for the purpose of subsidizing government-operated hospitals; and

**WHEREAS**, many tax-supported and non-tax supported government-operated hospitals operate competitively with non-government-operated hospitals while utilizing the benefit of taxes, enhanced Medicaid reimbursement and subsidies for losses, and in some counties, have acquired the assets of competing entities; and

**WHEREAS**, upon reviewing the distribution of public dollars provided for covering the cost of uncompensated care, I find that there is little correlation between the amount of uncompensated admissions and uncompensated Emergency Room visits in the aggregate by hospital systems grouped by affiliation, and the amount of dollars provided by the Medicaid Low Income Pool program for those services provided to the poor; and

**WHEREAS**, there is significant variation in Medicaid rates paid to hospitals for nearly identical services within markets, with such rate differences being driven primarily by variations in cost at the facility level irrespective of demonstrable justification for the difference in outcomes, with some hospitals demonstrating significantly higher cost notwithstanding a lower severity of illness of patients than comparison hospitals; and

**WHEREAS**, it is the intent of this administration to develop a more rational approach to compensating hospitals with a higher degree of predictability and fairness, and which does not incentivize inefficiency, higher cost, or irrational business practices; and

**WHEREAS**, the purpose of utilizing tax revenue to provide local health care services may be achieved without the taxing authority acting in the dual-capacity of operating hospitals while also using the tax revenue to subsidize such assets, and in fact, many special taxing authorities throughout Florida provide access to trauma, physician, and hospital services without the taxing authority operating any hospitals whatsoever; and

**WHEREAS**, many taxing authorities in Florida and in other states have divested hospital assets to independent entities through sale or lease, and such hospitals have thrived as private entities while continuing to serve the poor at consistent levels and returning millions of dollars to the taxpayers through tax contributions, principal on the value of the hospitals, and reduced taxes; and

**WHEREAS**, as a result of the foregoing, it is appropriate and necessary to review the contribution made to access for the poor by hospitals that receive no direct local tax subsidy, and the opportunity to ensure the taxpayer's resources are optimized in the community,

**NOW, THEREFORE, I, RICK SCOTT**, Governor of the State of Florida, by the powers vested in me by the Constitution and laws of the State of Florida, do hereby issue the following Executive Order, effective immediately:

**Section 1.**

The Commission on Review of Taxpayer Funded Hospital Districts ("Commission") is hereby created to assess and make recommendations on the role of hospital districts, whether it is in the public's best interest to have government entities operating hospitals, and what is the most effective model for enhancing health-care access for the poor. The Commission will:

- A. Determine, based on objective data, whether costs in government-operated hospitals are higher or lower in comparison to similar non-government-operated hospitals offering similar services, and whether, assuming there is such a cost difference, it results in higher or lower Medicaid, Low Income Pool or other reimbursement, compared to other hospitals that provide care to the poor, and whether spending would be reduced or increased if the hospitals were operated at the same levels of efficiency.
- B. Determine if there are better or worse outcomes on national measures of quality, such as the CMS Core Measures, in government-operated hospitals compared to non-government-operated hospitals.
- C. Determine if models exist in Florida and other states where local taxing authorities have created innovative programs and access for the poor without operating hospitals and instead have created programs where the funds follow the patient to the hospital or outpatient service closest to their community.
- D. Gather data and the various methods of providing access to the poor from each hospital district in Florida to determine the most cost-effective method for providing outpatient and inpatient hospital services to the broadest population possible and recommend the best models to the Governor and Legislature.
- E. Determine if the existing governing-body model of the various government-operated

hospitals optimizes the best governance practices, ensures proper oversight with accountability for the actions of board members, has had any violations of charter or governance rules by board members, has complied with the government-in-the-sunshine laws, and has consistently acted in the best interest of the primary shareholder – the taxpayer.

- F. Determine if taxpayer-funded hospital districts are using employment models for physicians wherein the physicians are being paid outside the norm for similar non-employed, non-tax-subsidized physicians in the geographic area, and whether other forms of compensation, such as medical directorships, are being used, and subsidized by taxpayers, for the purpose of competing with private physicians, and not-for-profit and other community hospitals which enjoy no such tax-subsidy.
- G. Determine the best mechanism for transition of government-operated hospitals to more appropriate governance models based on the experience of the many public and government-operated hospitals that have implemented such conversions. Determine, if appropriate to convert government-operated hospitals to different governance models, what the process should be for such conversion, provided that any such process should optimize the return for the taxpayers on the value of the assets and should be transparent to the public.

## **Section 2.**

- A. I hereby appoint Dominic Calabro as the Chair of the Commission.
- B. The initial membership of the Commission shall be composed of the following:
  - i. Dominic Calabro;
  - ii. J. Scott McCleneghen;
  - iii. Jacob C. Jackson;
  - iv. Marshall Kelley;
  - v. Dwight Chennette;
  - vi. Brad Dinkins;
  - vii. Randall McElheney; and
  - viii. R. Paul Duncan.
- C. At the discretion of, and by appointment of, the Senate President, a member of the Florida Senate may serve as an additional member of the Commission. This member shall serve at the pleasure of the Senate President.

- D. At the discretion of, and by appointment of, the Speaker of the House of Representatives, a member of the Florida House of Representatives may serve as an additional member of the Commission. This member shall serve at the pleasure of the Speaker of the House.
- E. With the exception of the members appointed by the Florida Legislature, who shall serve at the pleasure of the applicable presiding officer, each member shall serve at the pleasure of the Governor and the Governor may fill any vacancy that occurs.

**Section 3.**

The Commission shall meet upon the call of the Chair. The Commission shall act by a vote of the majority of its voting members present, either in person or via communication technology whereby every member may hear every other member. No member may grant a proxy for his or her vote to any other member or member designee, except with the prior approval of the Chair.

**Section 4.**

The Commission shall submit a report setting forth its findings and recommendations, including any recommendations for legislative action, to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2012.

**Section 5.**

Commission members shall receive no compensation, but shall be entitled to per diem and travel expenses while attending meetings of the Commission to the extent allowed by Section 112.061, Florida Statutes. Per diem and travel expenses shall be paid in accordance with Chapter 112, Florida Statutes, to the extent that funding is available.

**Section 6.**

The Chair may designate an Executive Director of the Commission, who shall be administratively housed at the Agency for Health Care Administration. The Agency for Health Care Administration shall provide further staff and administrative support to the Commission. All agencies within the authority of the Executive Office of the Governor are directed, and all other agencies and educational institutions are requested, to render full assistance and cooperation to the Commission to further the purposes of this Executive Order. To the extent information requested by the Commission is determined by a health-care, health-facility or hospital district to be confidential, the Commission shall request assistance from the appropriate state agency with authority to conduct a review of the information requested, and such information shall, if determined to be protected by statutes, be reviewed by the agency with such investigatory powers as may be necessary to review such information. The agency may provide information in the aggregate, to the extent necessary withholding identifying information, in order to be responsive to this Executive Order.

**Section 7.**

The Commission shall continue in existence only until its objectives are achieved, but not later than March 1, 2012, unless extended by further Executive Order.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 23rd day of March, 2011.



*[Handwritten Signature]*  
GOVERNOR

ATTEST:

*[Handwritten Signature]*  
SECRETARY OF STATE

FILED  
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TALLAHASSEE, FLORIDA