October 16, 2014

Good afternoon, Assistant Attorney General Hawes and Mr. Hansted (Office of Health Care Access).

My name is Mike Fadel. I am the Director of Strategic Campaigns for the Massachusetts Nurses Association (MNA). I am here today as a representative of the MNA and its 23,000 members, including nearly 1,000 nurses who work at St. Vincent Hospital and Metrowest Medical Center, hospitals owned by Tenet Healthcare in Massachusetts.

Tenet Healthcare, a for-profit healthcare corporation – whose holdings include 79 acute care hospitals and 193 outpatient centers – and its subsidiary Vanguard Health Systems (VHS) commenced an aggressive acquisition strategy in Connecticut two years ago with VHS's intent to acquire Greater Waterbury Health Network (GWHN). Since that time, Tenet has petitioned your offices to acquire several more hospital systems in Connecticut, including the one we are here to discuss today: Saint Mary's Health System.

Here in Connecticut, you have the opportunity to consider what Tenet/Vanguard's acquisition of Saint Mary's will mean for the corporation's market influence in the state and the region, and for Saint Mary's Hospital's continued provision of high-quality and comprehensive services to hundreds of thousands of people in the several communities it serves. I will offer just a few examples of how Tenet and Vanguard's historical approach to healthcare in Massachusetts and elsewhere has impacted patients and communities, and how this affiliation may affect the quality, accessibility, and cost-effectiveness of healthcare delivery in Connecticut:

Unsafe Staffing

At St. Vincent Hospital in Worcester, Massachusetts, the MNA has a collective bargaining agreement with the hospital that contains language requiring staffing standards that offer both a manageable workload for nurses and access to safer care for patients. Significantly, the patient safety and staffing protections were won only after a nearly two-month nurses' strike with the Tenet. However, staffing levels at both campuses of MetroWest Medical Center (where there has not been a strike yet) remain among the lowest in the Boston metro west area. The differences between these two operations suggest that, absent the threat of a strike, the corporation will not act on its own to ensure safe nurse staffing levels. In statements on the Tenet acquisition of Saint Mary's, the hospital has only said that "in the short term . . . all employees will be offered employment," but made no long-term promises to provide safe staffing levels.[1] It is quite possible that once the initial phase of state oversight has passed and the pressures of consolidation and cost-savings from Tenet fall on both Waterbury facilities, Saint Mary's and Waterbury Hospital will be asked to cut costs by cutting staff. But Connecticut patients deserve hospitals that are committed to providing quality care, and safe staffing is central to that mission.

Service Cuts

In 2012, the MNA was forced to intervene in Vanguard-owned Saint Vincent Hospital's attempt to eliminate fifteen beds from its Worcester site. The plan was to maintain few geriatric-psychiatric beds in Worcester and move some beds forty miles out of town to Athol Memorial, a rural hospital. The Vanguard operation made this decision despite year after year of annual surpluses in the tens of millions and, more importantly, a critical and growing need for mental health services in Worcester. Without the intervention of the MNA nurses on behalf of that community, a patient with mental illness needing

[1] "Frequently Asked Questions About Saint Mary's Hospital Plans to Join Tenet Hospital Network," SMHS website

inpatient care would be forced to go nearly an hour from home for care, if a bed was even available at all.

In Connecticut, Tenet has not pledged to maintain existing services at either Saint Mary's or Waterbury Hospital, saying only that, "over time, and for efficiency purposes, duplicative services" may be moved.[2] And Tenet has shown that, left to its own devices, it will relocate services without cause. Again, Connecticut patients and communities must be afforded the healthcare services they need by a hospital system that does not need to be pressured to provide them.

Cost and Competition

In recent years, both state and federal agencies have begun to take a closer look at healthcare mergers, as unfettered growth in healthcare costs has had significant impacts on patients and communities. The Federal Trade Commission (FTC) has successfully challenged healthcare mergers in four states as violations of the Clayton Antitrust Act of 1914, which prohibits activities that diminish competition. In Massachusetts, the FTC waged a five-year probe of a nonprofit healthcare organization's anticompetitive behavior. And the Massachusetts Attorney General, Healthcare Policy Commission, and federal judges have also reviewed – and often intervened – in the planned expansion of large providers due to concerns over anticompetitive behavior and increasing healthcare costs for patients.

Allowing Tenet to acquire Saint Mary's along with Waterbury Hospital, two facilities that your Department of Public Health has called "intense competitors," will effectively eliminate the need for these hospitals to compete with one another to provide quality care at reasonable costs.[3] This deal will mean that insurers will negotiate, not with a single hospital or local healthcare organization, but with the large corporate entity that is Tenet Healthcare. Insurers will be pressured to provide higher and higher rates to the practices and facilities owned by or contracting with Tenet hospitals and insurance companies will pass those costs on to patients. Tenet's operation of both Waterbury hospitals will also mean that residents in this community will not only be paying more for their healthcare, but will have fewer options as the corporation makes strategic decisions about service provision that may not be in the best interests of patients.

In addition to the possibility of rising costs, Connecticut residents must also be concerned about how long such a highly-leveraged corporation will be able to meet the needs of their communities. Tenet has had difficulties meeting existing financial obligations, as in Michigan, where its new Vanguard subsidiary failed to fulfill capital commitments to Detroit Medical Center by tens of millions of dollars, repeatedly delayed building projects, and refused to comply with requests for information. And Tenet is spending hundreds of millions on acquisitions and capital expenditures all over the United States.

Tenet/Vanguard cannot reasonably expect the Office of the Attorney General or the Office of Health Care Access to believe that the acquisition of hospital after hospital, and the millions of dollars it pledges to each in capital commitments are cost-neutral, have no bearing on the healthcare organization's bottom line, and will not impact Tenet's capital decisions in other states. Tenet's acquisition of GWHN and Saint Mary's may, in fact, impair its ability to invest in the Massachusetts hospitals it already owns. And new ventures put financial promises to Connecticut patients and communities on even more unsteady ground. In addition to being financially overextended as a result of ongoing acquisitions, Tenet also has a history of fraud that has further impacted its financial health and the hospitals it operates.

[2] Ibid.

[3] Office of Health Care Access (OHCA). *The Health of Connecticut's Hospitals*. January 16, 2001

History of Fraud
In 2013, Moody's Investors Service placed the ratings of Tenet under review for downgrade, including the company's B1 Corporate Family Rating and B1-PD Probability of Default Rating. The rating action was precipitated by the announcement that Tenet had signed a definitive agreement to acquire Vanguard for a transaction value of $4.3 billion, including the assumption of about $2.5 billion of Vanguard debt. The Tenet-Vanguard affiliation has resulted in increased leverage and the assumption of a considerable obligation for future capital spending. Additionally, Tenet's history of Medicare fraud has repeatedly cost the company hundreds of millions of dollars and impacted hospitals in several states.

In 2003, Tenet Healthcare paid a $54 million fine to settle allegations that two doctors working at Redding Medical Center in a Redding, California, hospital performed unnecessary cardiac procedures. The payment settled claims that the hospital billed Medicare, Medicaid and the military's Tricare program for unnecessary procedures between 1997 and 2002.[4] In follow-up settlements related to the case, Tenet sold Redding Medical Center and paid millions to the California Department of Insurance and two whistleblowers involved in the case, and hundreds of millions to the patients impacted by unnecessary surgeries.[5]

In 2006, Tenet Healthcare agreed to pay the U.S. government more than $900 million (the largest payout to date) for allegedly overbilling Medicare by manipulating the program's payment rules and paying kickbacks to physicians who referred patients to its facilities. As a result, Tenet was forced sell 11 of its hospitals to cover the costs. The following year, Tenet paid another $10 million to settle an SEC investigation of Medicare billing and fraudulent accounting practices.[6]

In 2012, Tenet agreed to pay over $42.75 million to settle another round of Medicare fraud allegations. Between 2005 and 2007, Tenet billed Medicare for treating patients at inpatient rehabilitation facilities when these patient stays did not meet the standards to qualify for inpatient care, in violation of the False Claims Act.[7] Last summer, it was revealed that a former healthcare CFO filed a whistleblower charge in 2009 alleging that Tenet Healthcare paid kickbacks to clinics that directed undocumented pregnant women to give birth in its hospitals, and then filed fraudulent Medicaid claims on those patients. The lawsuit had been sealed by the Department of Justice pending the completion of its own investigation.[8] And in year after year and state after state, hospitals owned by Tenet and the communities they serve have shouldered the weight of corporate deal-making.

In closing, I ask the Office of the Attorney General and the Office of Health Care Access to consider whether Tenet/Vanguard's history of cutting services, financing legal settlements through the sale of its hospitals, and resisting efforts to provide patients with safe nurse staffing will benefit Connecticut patients and communities who need high-quality healthcare services. I also ask that you consider how

[4] Dorsey Griffith, Sam Stanton and Denny Walsh. "Tenet to pay in heart cases; The $54 million deal avoids some civil, criminal actions in the Redding probe," *Sacramento Bee.* August 7, 2003.
[5] Sam Stanton and Denny Walsh. "Redding doctors won't be charged; But millions in civil penalties will be levied in medical fraud case," *Sacramento Bee.* November 16, 2005; Julie Appleby. "Tenet accused of $1 billion Medicare fraud," *USA Today*. March 3, 2005.
[6] Bob Moos. "Tenet to pay to end SEC probe Dallas-based hospital operator was accused of Medicare scheme," *The Dallas Morning News.* April 3, 2007.
[7] Jim Landers. "Tenet settling overbill case," *The Dallas Morning News*. April 11, 2012; Jeffrey Young. "Tenet Healthcare 'Proud' To Settle Medicare Fraud Charges For $43 Million," *The Huffington Post.* April 11, 2012
[8] Kate Brumback. "Whistleblower suit: Hospitals defrauded Medicaid," *USA Today.* August 1, 2013

allowing Tenet to gain a larger foothold in the Connecticut healthcare market will invite federal scrutiny and impact healthcare costs, quality, and access for consumers.

Thank you for your time.

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