

IN RE CERTIFICATE OF NEED APPLICATION BY SAINT MARY'S HEALTH SYSTEM, INC. AND TENET HEALTHCARE CORPORATION FOR TRANSFER OF ASSETS	: STATE OF CONNECTICUT : : DEPARTMENT OF PUBLIC HEALTH : OFFICE OF HEALTH CARE ACCESS : DOCKET NO. 14-31927-486 CON : : OFFICE OF ATTORNEY GENERAL : DOCKET NO. 14-486-02 : : NOVEMBER 4, 2014
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**APPLICANTS' MOTION THAT NO WEIGHT BE GIVEN TO INTERVENOR
 TESTIMONY OUTSIDE THE PARAMETERS OF OFFICE OF THE ATTORNEY
 GENERAL AND OFFICE OF HEALTH CARE ACCESS' GRANTS OF INTERVENOR
 STATUS**

Saint Mary's Health Systems, Inc. ("SMHS") and Tenet Healthcare Corporation ("Tenet") (collectively the "Applicants") hereby move that no weight be given to any written or verbal testimony presented on behalf of Massachusetts Nurses Association ("MNA") (the "Intervenor") that falls outside that which the Office of the Attorney General ("OAG") and the Office of Health Care Access ("OHCA") expressly defined as the limited scope of testimony CHCA and MNA could present in this proceeding on the joint application for a Certificate of Need ("CON Application").

I. The Express Limitation of OAG and OHCA's Grant of Intervenor Status

By notice dated October 10, 2014, the OAG issued its Ruling on a Petition filed by MNA to be designated as an intervenor. The OAG designated MNA an intervenor with limited rights. The ruling provided that because "OAG's jurisdiction in this matter is limited to the issue set forth in Conn. Gen. Stat. § 19a-496c...the [Intervenor] is not permitted to present written or

verbal testimony regarding any matter beyond the scope of the 19a-486c issues identified in § 19a-496c.”

By similar notice, dated October 8, 2014, OHCA issued its Ruling on a Petition filed by MNA to be designated as an intervenor. OHCA designated MNA as an intervenor with limited procedural rights. The ruling provided that “OHCA’s jurisdiction in this matter is limited to the guidelines and principles set forth in Connecticut General Statutes §§ 19a-639 and 19a-486.”

OHCA’s ruling also specifically stated that the Intervenor “...may present written or verbal evidence related to those guidelines and principles and as set forth below.

- (1) Whether the proposed project is consistent with any applicable policies and standards adopted in regulations by the Department of Public Health;
- (2) The relationship of the proposed project to the state-wide health care facilities and services plan;
- (3) Whether there is a clear public need for the health care facility or services proposed by the Applicants;
- (4) Whether the Applicants have satisfactorily demonstrated how the proposal will impact the financial strength of the health care system in the state or that the proposal is financially feasible for the Applicants;
- (5) Whether the Applicants have satisfactorily demonstrated how the proposal will improve quality, accessibility and cost effectiveness of health care delivery in the region;
- (6) The Applicants’ past and proposed provision of health care services to relevant patient populations and payer mix;
- (7) Whether the Applicants have satisfactorily identified the population to be served by the proposed project and satisfactorily demonstrated that the identified population has a need for the proposed services;

(8) The utilization of existing health care facilities and health care services in the service area of the Applicants; and

(9) Whether the Applicants have satisfactorily demonstrated that the proposed project shall not result in an unnecessary duplication of existing or approved health care services or facilities."

Further, both rulings provided that the Intervenor "...is *not permitted* to present written or verbal testimony regarding any matter beyond the scope of the guidelines and principles." (emphasis added)

On October 16, 2014, OAG and OHCA received into testimony the same testimony presented the day earlier in the matter entitled In re Certificate of Need Application by Joint Venture of Greater Waterbury Health Network, Inc. and Vanguard Health Systems, Inc., OHCA Docket No.: 13-31838-CON; OAG Docket No. 13-486-01.

II. No Weight Should Be Given to Testimony that Falls Outside the Permissible Scope of Testimony

In disregard of the orders of the OAG and OHCA, MNA submitted written and verbal testimony (by reference to its October 15, 2014 testimony) outside the permissible scope of testimony in that it has no bearing on the statutory criteria by which the OAG and OHCA must evaluate the merits of the CON Application that is the subject of this proceeding, much amounted to no more than speculation. Examples of testimony presented that is outside the permissible scope of testimony and has no bearing on the statutory criteria by which the OAG and OHCA must evaluate the merits of the CON Applications include:

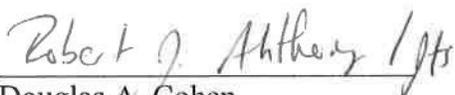
1. Speculation addressed to policy questions outside of the scope of the controlling statutes and regulations concerning private ownership of hospitals.
2. Speculation about the effects of the transaction on competition.
3. Speculation about the effects on staffing and patient safety of the threat of a strike by the nurses' union.

In light of the Intervenor's failure to follow the OAG and OHCA's orders limiting the scope of permissible testimony, any of the Intervenor's testimony that falls outside the scope of permitted testimony should be given no weight in this proceeding.

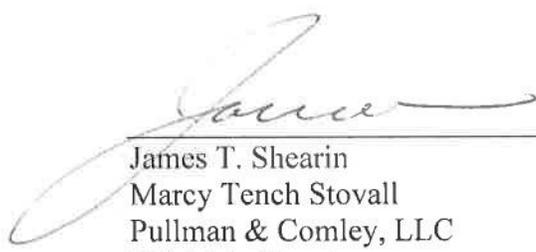
III. Conclusion

For the foregoing reasons, the Applicants respectfully request that no weight be given to any and all testimony presented by MNA that falls outside the scope of what the OAG and OHCA have expressly defined as the limited scope of testimony the Intervenor may present, that is testimony that falls outside the scope of Connecticut General Statutes §§ 19a-639, 19a-486c or 19a-486d.

RESPECTFULLY SUBMITTED,


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CERTIFICATION

This is to certify that on November 4, 2014, a copy of the foregoing was sent via email and/or first class U.S. mail to the following:

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