

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

St. Joseph Health Services of Rhode Island, Inc.,

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:

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vs.

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C.A. No. 2017-3856

:

St. Josephs Health Services of Rhode Island

:

Retirement Plan, as amended

:

:

**RESPONSE TO RECEIVER’S MOTION TO LIFT CONFIDENTIALITY AS TO**  
**DOCUMENT FILED UNDER SEAL**

The Office of the Attorney General (“Attorney General”) hereby submits the following Response to the Receiver’s Motion to Lift Confidentiality as to the Document Filed Under Seal (“Motion”), specifically AG Confidential Document bate-stamped AGE14-135384 to AGE14-135425 (“Document”).<sup>1</sup> See Motion, Footnote 4.

Under the State of Rhode Island’s Hospital Conversions Act (“HCA”), R.I. Gen. Laws § 23-17.14-1 et seq., the General Assembly specifically entrusted the Attorney General with the sole “power to decide whether any information required by this chapter of an applicant is confidential and/or proprietary.” R.I. Gen. Laws § 23-17.14-32(a). This determination:

“shall be made prior to any public notice of an initial application or any public review of any information and shall be binding on the attorney general, the department of health, and all experts or consultants engaged by the attorney general or the department of health.” Id.

This confidentiality ensures completeness and candor in the submitted application materials, affording a full and objective assessment of the application. Once a confidentiality determination

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<sup>1</sup> Such Document was designated “Confidential” pursuant to the Confidentiality Order entered by this Honorable Court on December 14, 2017.

has been made, the Attorney General does not revisit, reconsider, or reverse unless the document later loses its confidential status, at which point the Attorney General may deem the documents public or those documents may become public pursuant to a court order. The Attorney General further notes that many healthcare documents carry with them an attendant confidential nature pursuant to federal law. See Health Insurance Portability and Accountability Act, Pub. L. 104 -191 (with implementing regulations at 45 C.F.R. 160, 164). The Attorney General is mindful that the “comprehensive privacy and disclosure regulations” relating to healthcare privacy pervade the field. Murphy v. Dulay, 768 F.3d 1360, 1368 (11th Cir. 2014).

Notwithstanding, the Attorney General is cognizant of the truly extraordinary circumstances presented by the instant case. Indeed, the Attorney General concurs with the importance of unearthing the misrepresentations to the Attorney General as alleged by the Receiver in his Motion. For purposes of completeness on this issue, see Exhibit A.<sup>2</sup>

Accordingly, the Attorney General asks the Court to make a determination as to whether the Document – in whole or in part – may be disclosed, but underscores that altering the confidential status of submitted documents under the HCA is not done in the ordinary course.<sup>3</sup> The Attorney General’s Response by no means diminishes his confidentiality determinations, vel non, in future applications under the HCA, nor his ongoing duty of confidentiality with respect to past determinations.

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<sup>2</sup> Exhibit A is a March 6, 2014 letter (not designed “AG Confidential”) from legal counsel of the United Nurses and Allied Professionals Association to Michael Dexter, Chief of Office of Health Systems Development at the Rhode Island Department of Health which supports the proposed conversion and discusses the funding of the pension. See Exhibit A, p. 2. The Attorney General’s Decision in the Chartercare/Prospect Matter is dated May 16, 2014.

<sup>3</sup> Certain portions of the Document may already be public record. For example, the Document’s pages bate-stamped as AGE 14-135415 to AGE 14-135417, while designated AG Confidential, appear to be public documents from the Secretary of State’s website.

Respectfully submitted,

STATE OF RHODE ISLAND  
BY ITS ATTORNEY,

PETER F. KILMARTIN  
ATTORNEY GENERAL

/s/ Sean Lyness  
Sean Lyness #9481  
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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on this 31st day of August 2018, I electronically filed and served this document through the electronic filing system to all on record. The document electronically filed is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Karen M. Ragosta



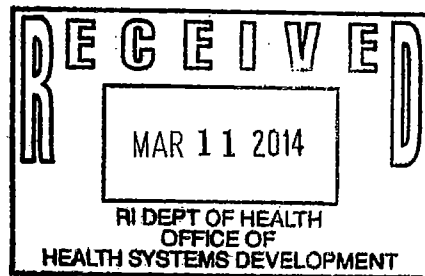
**United Nurses &  
Allied Professionals**

Linda McDonald, RN  
President

Via U.S. Mail

March 6, 2014

Michael K. Dexter  
Chief, Office of Health Systems Development  
Rhode Island Department of Health  
Cannon Building  
Three Capitol Hill  
Providence, RI 02908



Re: Change in Effective Control Application of Prospect CharterCARE SJHSRI, LLC, Prospect CharterCARE RWMC, LLC, Prospect CharterCARE Elmhurst, LLC, Prospect CharterCARE Health Partners, Prospect East Holdings, Inc. and Prospect Medical Holdings, Inc.

Dear Mr. Dexter:

The United Nurses & Allied Professionals [UNAP] respectfully submit the instant letter in full support of the above referenced application.<sup>1</sup>

Well before the filing of the instant application, Prospect reached out to representatives of the UNAP to discuss their vision and the proposed joint venture. They did so because they wanted to forge a partnership with the UNAP while doing so simultaneously with CharterCARE Health Partners (CCHP).

When we met with Prospect, we informed them that we were cautiously optimistic about the proposed joint venture, but also expressed concern about a broad range of issues important to the hundreds of registered nurses we represent at Our Lady of Fatima Hospital (Fatima). In particular, we raised concerns about the impact the proposed joint venture might have on job security, retirement security, medical and dental insurance coverage, wage rates, working conditions, seniority and the like. We explained that if these issues were not appropriately addressed in the joint venture, Prospect would not be able to recruit and retain a skilled and experienced compliment of nurses so essential to the delivery of quality patient care.

In response, Prospect agreed to engage the UNAP in a negotiation over all of these critical issues. In so doing, Prospect agreed to recognize the UNAP as the collective bargaining agent of the nurses, and agreed to assume nearly all of the terms and conditions of employment set forth in the

<sup>1</sup> The UNAP is a health care union representing approximately 6,000-7,000 health care professionals working at many of our State's acute care facilities (among them, Westerly Hospital, Kent County Hospital, Rhode Island Hospital, Memorial Hospital, Landmark Medical Center, Our Lady of Fatima Hospital, Zambarano Hospital, and the Rehabilitation Hospital of RI).


collective bargaining agreement (CBA) then in effect.<sup>2</sup> Beyond that, however, Prospect agreed to the terms of a successor agreement, the term of which runs from August 1, 2014 through July 31, 2015.

The successor agreement, which was overwhelmingly approved by the nurses at Fatima, will provide them with stability and security over the next few years. With respect to job security, the agreement provides the Fatima nurses with, among other things, job opportunities at Roger Williams Medical Center that they did not previously have. In addition, their seniority and other core benefits will be fully recognized and portable should they move to Roger Williams as a result of any system integration.<sup>3</sup> With respect to retirement security, CCHP has agreed to put \$14 million into the defined benefit pension plan which will bring the fund balance up to appropriate levels. And while the nurses did agree to a freeze of the defined benefit pension plan, that plan will be replaced with a competitive defined contribution retirement plan.<sup>4</sup> With respect to medical and dental insurance benefits, Prospect agreed to maintain those benefits at current levels for the life of the successor agreement. Prospect also agreed to increase pay so that the rates of pay for the nurses at Fatima will remain competitive.

At the heart of every health care system are its physicians, nurses, technologists, technicians and other health care professionals. They deliver the care. Without them, the system fails.

The partnership that has been successfully forged between Prospect and the UNAP will ensure that Prospect will continue to be able to retain and recruit skilled and experienced nurses. That, in turn, will go a long way in ensuring the success of the proposed joint venture. As such, the UNAP fully supports the pending application.

Respectfully submitted by:



Christopher Callaci  
General Counsel  
375 Branch Avenue  
Providence, RI 02904  
[401] 831-3647

<sup>2</sup> That agreement has a term that runs from August 1, 2011 through July 31, 2014.

<sup>3</sup> The Fatima nurses will continue to retain all job security protections afforded them under the CBA should they remain at the Fatima facility.

<sup>4</sup> Under the freeze, the Fatima nurses will keep the benefits already accrued but will not accrue benefits beyond the closing date of the joint venture.