Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

HEARING DATE: July 30, 2020 at 10 a.m. before Judge Stern

STATE OF RHODE ISLAND PROVIDENCE, S.C.		SUPERIOR COURT
IN RE: CHARTERCARE COMMUNITY BOARD, ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND, and ROGER WILLIAMS HOSPITAL.	: : : :	P.C. 2019-11756

MEMORANDUM OF LAW OF ADLER POLLOCK & SHEEHAN P.C. AND PROSPECT MEDICAL HOLDINGS, INC. (AND ITS AFFILIATED ENTITIES) IN SUPPORT OF OBJECTION TO MOTION FOR INJUNCTIVE RELIEF

Adler Pollock & Sheehan P.C. ("AP&S") and Prospect Medical Holdings, Inc. ("PMH") (and its affiliated entities)[1] submit this Memorandum of Law in support of their Objection to the Liquidating Receiver and Plan Receiver's Motion for Injunctive Relief Against Adler Pollock & Sheehan P.C. (the "Motion").

AP&S currently represents Chamber Inc., Ivy Holdings Inc. ("Ivy"), Ivy Intermediate Holding Inc., Prospect Medical Holdings, Inc. ("PMH"), Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC ("PCC"), Prospect CharterCARE SJHSRI, LLC, and Prospect CharterCARE RWMC, LLC, Prospect Blackstone Valley Surgicare, LLC ("BVS") and Prospect CharterCARE Home Health and Hospice, LLC ("Prospect CharterCARE Home Health") (collectively, the "Applicants") seeking approval of the buy-out of private equity investors and minority shareholders (the "2019 Transaction") pursuant to the Agreement and Plan of Merger by and among Chamber Inc., Chamber Merger Sub, Inc., Ivy Holdings, Inc., Green Equity Investors V, L.P. and Green Equity Investors Side V, L.P. dated

[1] Prospect Medical Holdings, Inc.'s affiliated entities include Chamber Inc., Ivy Holdings Inc., Ivy Intermediate Holding Inc., Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC, Prospect CharterCARE SJHSRI, LLC, Prospect CharterCARE RWMC, LLC, Prospect Blackstone Valley Surgicare, LLC, and Prospect CharterCARE Home Health and Hospice, LLC.

October 2, 2019 (the "2019 Agreement"). The Transaction affects a change at the top of the ownership structure five entities removed from the Rhode Island licensed hospitals and surgicenter and six entities removed from the Rhode Island licensed home nursing care provider. Specifically, pursuant to the terms of the 2019 Transaction, the private equity investors (Green Equity Investors Side V, L.P. and Green Equity Investors V, L.P.) and the minority shareholders in Ivy will be bought out and the ownership interest of the original co-founders of PMH – Samuel Lee and David Topper, through his family trust – will be increased from approximately 40% to 100%. *See* **Exhibit 1** (pre-transaction organizational chart); **Exhibit 2** (post-transaction organizational chart).

Through the Motion, the Liquidating Receiver of CharterCARE Community Board, Roger Williams Hospital, and St. Joseph Health Services of Rhode Island (the "Oldco Receiver") and the Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan Receiver") (collectively, the "Receivers") seek to enjoin AP&S, on the basis of a purported conflict of interest, from continuing to represent the Applicants in connection with (1) the Change in Effective Control ("CEC") and Hospital Conversions Act ("HCA") review by the Rhode Island Department of Health ("RIDOH") and (2) the HCA review by the Office of Attorney General (the "AG") (collectively, the "2019 Regulatory Review").[2] *See* **Exhibits 3** (CEC Application without exhibits) **and 4** (HCA Application without exhibits).

[2] The licensed entities in the CEC review include the two hospitals, Prospect CharterCARE SJHSRI, LLC, and Prospect CharterCARE RWMC, LLC; the surgicenter, BVS; and the home nursing care provider, Prospect CharterCARE Home Health.

The transacting parties in the HCA review include Chamber Inc., Ivy, Ivy Intermediate Holding Inc., PMH, Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC ("PCC"), Prospect CharterCARE SJHSRI, LLC, and Prospect CharterCARE RWMC, LLC, BVS, and Prospect CharterCARE Home Health.

Subsequent to the filing of the Motion, on July 21, 2020, the Applicants, represented by Patricia K. Rocha, Esq. and her AP&S colleagues, appeared before the Health Services Council ("HSC") for a public meeting on the CEC application. Attorney Max Wistow, representing the Plan Receiver and on behalf of the Oldco Receiver, attended the meeting and spoke during the public comment period. Attached as **Exhibits 5 and 6** are the PowerPoint presented to the HSC by Ms. Rocha on behalf of the Applicants and the transcript of the July 21, 2020 HSC meeting, respectively. As set forth therein, review of the presentation shows that the 2019 Regulatory Review is neither the same nor substantially related to AP&S' representation of its former clients and involves no privileged information from the prior representation. The PowerPoint presentation and transcript confirm that AP&S has not asserted and will not assert any position that is contrary to any position that AP&S took on behalf of the Oldco Entities in connection with the CEC and HCA review of the September 24, 2013 Asset Purchase Agreement ("2013 APA") transferring ownership of the two licensed not-for-profit hospitals, SJHSRI and RWH, as well as other licensed not-for-profit medical facilities to for-profit PCC (the 2013 CEC and HCA applications will be referred to herein as the "2013 Applications"). (As noted below, AP&S never represented the Plan.)

Simply stated and demonstrated below, the Receivers have not satisfied their heavy burden of proving a conflict of interest. In fact, the Receivers' Motion lacks any merit in fact or law; therefore, this Court must deny the Motion.

INTRODUCTION

The Receivers' attempt to disqualify AP&S from representing the Applicants in connection with the 2019 Regulatory Review on the basis of a purported conflict of interest is devoid of merit and at best is a litigation tactic designed to obtain an improper advantage in the

pending Superior Court case *CharterCARE Community Board v. Lee*, PC-2019-3654 (the "*Lee* Litigation") and the pending Federal Court case, *Stephen DelSesto, as Receiver and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan, et al. v. Prospect CharterCARE, LLC, et al.*, C.A. No. 18-328-WES ("The Pension Litigation"), in which AP&S does *not* represent any party.

In their April 9, 2020 objection to the Applicants' CEC application, in which the Receivers first raised the alleged conflict of interest issue, the Receivers confirm that they asserted the objection and purported conflict of interest as a litigation strategy due to their purported (but unsupported) concern that PMH and other defendants in that litigation might not have sufficient assets to satisfy a judgment if the CEC application were granted. *See* **Exhibit 7** at 16-18, 24. Tellingly, the Receivers have taken no steps in the *Lee* Litigation to achieve any such objective, evidencing that the Receivers' believe that they could not satisfy the high burden of proof for any such relief. The Receivers, instead, seek to disqualify AP&S from representing the Applicants. AP&S has represented the Applicants for over a year in connection with the 2019 Regulatory Review. Notwithstanding the Applicants' enormous investment of time and resources with AP&S as their counsel, or perhaps because of it, the Receivers delayed for at least *three months* before filing the Motion and only eleven days before the public meeting on the CEC application. Further confirming their use of this Motion as a litigation tactic, the Receivers *never* contacted AP&S regarding the purported conflict of interest after the representation was made public by RIDOH on March 10, 2020 until Ms. Rocha contacted the Oldco Receiver upon receipt of their April objection to the CEC application, which made reference to a purported conflict.

The Receivers' Motion is a transparent litigation tactic, but even more importantly, it is also legally and factually baseless. As set forth herein, AP&S has not "switched sides" in a same or substantially similar matter as claimed by the Receivers at the July 21, 2020 public meeting.

First, AP&S never represented the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan") and the Plan Receiver does *not* allege to the contrary. Therefore, AP&S cannot, as a matter of law, have a conflict of interest as to the Plan and the Motion should be denied as to the Plan. Furthermore, the Plan Receiver has no standing to challenge AP&S' continuing representation of the Applicants on the basis of any alleged conflict of interest as to CharterCARE Community Board ("CCCB"), Roger Williams Hospital ("RWH"), and/or St. Joseph Health Services of Rhode Island ("SJHSRI") (collectively, the "Oldco Entities") because the Plan Receiver is *not* the receiver of any of the Oldco Entities. Therefore, the Court should deny the Plan Receiver's requested relief.

Second, the Receivers cannot satisfy their burden of proving that AP&S' representation of the Applicants is the same or substantially related to its prior representation of the Oldco Entities including the 2013 Applications or that the Applicants are "materially adverse" to the Oldco Entities with respect to the 2019 Regulatory Review as required by Rule 1.9 of the Rhode Island Rules of Professional Conduct ("Rule 1.9").

Specifically, the 2013 Applications and the 2019 Regulatory Review are not substantially similar.[3] The Receivers have not satisfied, and cannot satisfy, their burden of proving that the "relationship between the issues" concerning the 2013 Applications and the 2019 Regulatory

[3] The Receivers do not allege, and could not allege, that the 2013 Applications and the 2019 Regulatory Review constitute the "same" matter.

Review is "patently clear"; indeed, it is thoroughly opaque.[4] The issues are neither "identical" nor "essentially the same."[5] These matters are entirely different: The 2013 Applications involved representation before RIDOH and the AG for CEC and HCA approval for the transaction set forth in the September 24, 2013 Asset Purchase Agreement transferring ownership of the two licensed not-for-profit hospitals, SJHSRI and RWH, as well as other licensed not-for-profit medical facilities to for-profit PCC (the "2013 APA"). In contrast, the 2019 Regulatory Review involves a buy-out of private equity investors and minority shareholders at the top of the corporate chain with PMH's original co-founders, Sam Lee and David Topper (through his family trust) increasing their ownership interest from 40% to 100% in the ultimate parent.

The 2019 Transaction will not affect the Oldco Entities. None of the Oldco Entities is a party to the 2019 Agreement and none of the Oldco Entities has any rights or obligations under the terms of the 2019 Agreement. They are not parties to the pending CEC application and/or HCA application reviews and none of the Oldco Entities have any rights or obligations thereunder. The Receivers, instead, have tried to insert themselves into the proceedings, but could do so only as "members of the public."[6] At the July 21, 2020 HSC meeting, Mr. Wistow

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4 *See Brito v. Capone*, 819 A.2d 663, 665 (R.I 2003).

5 *See id.*

6 The Open Meetings Act, R.I. Gen. Laws § 42-46-1 *et seq.*, does not require that administrative agencies provide for input by the public. *See* R.I. Gen. Laws § 42-46-6(d) (stating that "[n]othing contained in this chapter requires any public body to hold an open-forum session to entertain or respond to any topic nor does it prohibit any public body from limiting comment on any topic at such an open-forum session"). Here, the HSC provides an opportunity for members of the public to provide written and oral comment on pending applications. *See* R.I. Gen. Laws § 23-17-14.4 (providing only that the licensing agency notify and afford the public an opportunity to comment on the application). The Applicants are not required to respond to public comments and members of the public may not present witnesses during the meeting before the HSC. The public's role is limited to giving comment.

claimed that there was a conflict because an organizational chart, pages 3 and 4 of the PowerPoint presentation, shows that PCC, the parent of the licensed Rhode Island healthcare facilities, is owned 85% by Prospect East Holdings, Inc. and 15% by CCCB. As the Court is aware, in the *Lee* Litigation, CCCB alleges that its ownership interest is more than 15%. The issue of CCCB's ownership interest in PCC, however, cannot create a disqualifying conflict of interest because that issue is not before the HSC, nor could it be. Whether the HSC (and RIDOH)[7] and the AG approve or deny the respective CEC and HCA applications is their decision and will have *no impact* on the ownership structure of PCC. *See* **Exhibits 1 and 2**. Consummation of the 2019 Transaction will not impact the ownership interest by CCCB: CCCB will retain its minority interest in PCC and Prospect East Holdings, Inc. will remain the majority owner. The dispute between the parties regarding CCCB's ownership interest in PCC will be decided by this Court in the *Lee* Litigation.

Furthermore, the Receivers have not satisfied, and cannot satisfy, their burden of proving that AP&S had access to privileged information of the Oldco Entities that is relevant to the 2019 Regulatory Review or that would inure to the disadvantage of the Oldco Entities with respect to the 2019 Regulatory Review. AP&S obtained no confidential information from the Oldco Entities in connection with the 2013 Applications, or otherwise, that is included in or relevant to the 2019 Regulatory Review. Review of the PowerPoint presentation and transcript shows that no privileged information of the Oldco Entities was introduced at the HSC meeting. Nor would such information have any relevance to the CEC and HCA reviews.

[7] The HSC is an advisory body to the Director of RIDOH. The Director may accept, reject, or modify the HSC recommendation.

Third, the Receivers have not satisfied their burden of proof as to their requested injunctive relief. As set forth above, the Receivers have failed to demonstrate the requisite likelihood of success on the merits and any of the other required elements for injunctive relief, including, but not limited to, irreparable harm.

Finally, the Receivers' unjustifiable and tactical delay in filing this Motion severely and unfairly prejudices the Applicants. The Receivers first raised their unwarranted claim of conflict of interest on April 9, 2020 in their objection to the CEC application. AP&S responded to that claim by contacting the Receivers. Nonetheless, the Receivers waited until *three months later*, and 11 days before the public meeting on the CEC application, before filing their Motion. The Applicants have spent over a year working with AP&S on the 2019 Regulatory Review and have paid substantial fees for such representation. To require substitute counsel at this juncture, which certainly appears driven by the Receivers' litigation strategy in other matters, would be unduly and unfairly prejudicial to the Applicants.

BACKGROUND

I. AP&S' Prior Representation Of The Oldco Entities

AP&S formerly represented the Oldco Entities in connection with the 2013 Applications, for the purpose of obtaining the necessary regulatory approvals (from the AG and RIDOH) concerning the 2013 APA and on a number of miscellaneous matters (*i.e.*, the "General" matters). The General matters included:

- Preparation and filing of the annual report for CCCB;
- Review of CON requirements for potential equipment acquisitions; and

- Initial review of issues for the *cy pres* proceeding.[8]

AP&S did *not* serve as transaction counsel and did *not* participate in any negotiations regarding the 2013 APA. Drinker Biddle & Reath LLP (now Faegre Drinker Biddle & Reath) represented the Oldco entities in the negotiations and drafting of the transactional documents.[9]

II. AP&S' Current Representation Of The Applicants

As set forth above, AP&S currently represents the Applicants with respect to the 2019 Regulatory Review seeking approval for the 2019 Transaction. On behalf of the Applicants, AP&S filed the CEC and HCA applications with RIDOH on November 8, 2019 and the HCA application with the AG on December 13, 2019. The Applicants, through AP&S, have submitted thousands of pages of application documents and responded to myriad deficiency questions, supplemental requests, and information requests from expert consultant. On March 10, 2020, RIDOH commenced its formal review of the CEC application. RIDOH and the AG commenced their formal review of the HCA applications on April 8, 2020. On July 21, 2020, the HSC held its first public meeting on the CEC Application.[10] The AG and RIDOH has not yet scheduled the

[8] As this Court is aware, the not-for-profit hospitals that PCC acquired under the 2013 APA were beneficiaries under various charitable instruments and as PCC was a for-profit entity, a *cy pres* approval was required. With the exception of the *cy pres* proceeding, AP&S' representation of the Oldco Entities ceased in approximately November 2014 when Richard Land, Esq. assumed representation of those entities.

[9] During the regulatory process for the 2013 Applications, Prospect Medical Holdings, Inc. and the Oldco Entities entered into a Common Interest and Joint Defense Agreement that recognized their "identical and/or common legal interest" in obtaining the regulatory approvals.

[10] At the July 21, 2020 meeting, Ms. Rocha presented to the HSC on behalf of the Applicants and the HSC heard public comment. Due to time constraints, the public comments were not completed. As a result, the public comment and presentation by the Applicant will continue at a future meeting. In addition, the Applicants are responding to supplemental questions from the AG, providing information to RIDOH's expert, and will participating in interviews (not open to the public) that will be conducted jointly by the AG and RIDOH. Finally, as set forth above, a public informational meeting will be scheduled.

requisite public informational meeting, solely for the purpose of allowing the public to comment on the HCA application. On July 3, 2020, the RIDOH and AG enlarged the statutory period of review of the HCA Application to November 5, 2020.[11]

III. The Receivers' Assertions Of A Conflict Of Interest

On April 9, 2020, the Receivers filed an objection as part of the public comment to the CEC application. Among other assertions, the Receivers claim that AP&S has a conflict of interest in representing the Applicants in connection with the 2019 Regulatory Review because AP&S "formerly represented CCCB, SJHSRI, and RWH in the negotiations and consummation of the 2014 Asset Sale . . . . These negotiations included negotiating the terms of the LLC Agreement between CCCB and Prospect East Holdings, Inc." Exhibit 7 at 16-17. However, as explained above, AP&S *never* represented the Oldco Entities in their negotiation of terms related to the 2013 APA. *See supra* section I.

In their objection to the CEC application, the Receivers admit that their purpose in asserting their objection and claiming a purported conflict of interest is to address issues that if relevant at all, could only be relevant in other litigation, not relevant to the 2019 Regulatory Review. As they state with respect to the *Lee* Litigation:

> The Prospect entities want the change in effective control applications to be approved, and CCCB, SJHSRI, and RWH all want the applications to be rejected, or, if not rejected, withdrawn, because they contend that the proposed transfer of funds from PMH to the "private equity investors" and holders of stock options *will make it more difficult if not impossible for CCCB to recover*

[11] The Receivers assert that they should have been informed of the 2019 Regulatory Review, presumably because CCCB has a 15% ownership interest in PCC. *See* Receiver's Mem. at 14. The Receivers are wrong. The Receivers cite no authority for the proposition that a minority owner in a corporate entity four times removed from Chamber Inc. (the new corporate parent), and the parent of the Rhode Island licensed health care facilities is entitled to such notice. To the extent the Receivers base their alleged entitlement to notice on the existence of a purported conflict of interest, as set forth herein, there is no such conflict of interest.

> *on its guaranty from PMH*. The proposed CECAs may also facilitate fraudulent transfers complained of in both the federal case and CCCB v. Lee.

Exhibit 7 at 17-18 (emphasis added). The Receivers made other similar assertions all of which are irrelevant to AP&S' representation of the Applicants before RIDOH and the AG:

- "[The private equity investors buyout] will make it more difficult if not impossible *for CCCB to recover on its guaranty from PMH.*" *Id.* at 17 (emphasis added).

- "Because of the guaranty by Prospect Medical Holdings of Prospect East Holdings' obligations to Prospect CharterCARE and CCCB, this transfer by Prospect Medical Holdings is a matter of grave concern to CCCB and the Plan Receiver for whom CCCB holds its interest in Prospect CharterCARE in trust." *Id.* at 22.

- "[A]ny transfer of funds out of Prospect Medical Holdings is clearly detrimental to the Prospect RWMC and Prospect SJHSRI, because it limits the assets of Prospect Medical Holdings available to fund the $50 million guaranty. *In addition, it improperly transfers assets necessary to respond to any judgment that might be obtained in the Federal Court case or CCCB v. Lee against Prospect CharterCARE, Prospect East Holdings, and/or Prospect Medical Holdings.*" *Id.* at 23 (emphasis added).

- "Under those circumstances, Prospect Medical Holdings cannot be permitted to pay (for the benefit of Ivy shareholders) millions of dollars of its 'corporate cash,' all of which instead will be used to pay the $50 million long-term capital commitment to Prospect CharterCARE, under its guaranty of that obligation of Prospect East Holdings, and *be available to pay any judgments that may be awarded in the Federal Court and CCCB v. Lee against the Prospect entities . . . .*" *Id.* at 24 (emphasis added).

The Receivers do *not* raise in their current Motion any arguments concerning any alleged adverse impact on CCCB's ability to satisfy a potential judgment in the *Lee* and Pension Litigation. Why? Because the Receivers know that it is inappropriate to use their Motion to obtain a tactical advantage in those litigation matters. Nonetheless, Mr. Wistow's comments at the July 21, 2020 HSC meeting regarding the state and federal court litigation make it clear that the Motion's purpose is to advance the Receivers' positions in the court matters.

Based on the Receivers' representation in the April objection that the alleged conflict of interest was based on AP&S' purported work negotiating the 2013 APA, Ms. Rocha informed the Receivers on May 11, 2020 that AP&S was not transaction counsel and did not represent the Oldco Entities in the "negotiations and consummation of the 2014 Asset Sale" or the negotiations of "the terms of the LLC Agreement between CCCB and Prospect East Holdings, Inc." Ms. Rocha explained to the Receivers that transaction counsel was Drinker Biddle & Reath LLP (now Faegre Drinker Biddle & Reath) and invited the Oldco Receiver to contact Keith Anderson, the lead transaction counsel. *See* **Exhibit 8**.

Without addressing the fact that AP&S was not transaction counsel as they had previously and incorrectly claimed, the Receivers sent Ms. Rocha a letter on June 11, 2020, demanding that AP&S cease representing the Applicants in connection with the 2019 Regulatory Review. Given that AP&S was not involved in the negotiations of the 2013 APA, the Receivers manufactured a new, yet still meritless, basis for the alleged conflict of interest. Without any legal or factual basis, the Receivers alleged that AP&S' former representation of the Oldco entities in connection with the 2013 Applications and PMH's representations during the 2013 review are "directly relevant both to SJHSRI and CCCB's objections to the pending CECAs and the Receivers' claims in CCCB v. Lee" and therefore constitute a conflict of interest. *See* **Exhibit 9** at 8. As set forth herein, that assertion is wrong.[12] The Receivers also failed to

[12] As explained above, the 2019 Regulatory Review involves only a change in ownership resulting from the 2019 Agreement. The issue in the *Lee* Litigation (that PMH failed to meet its commitments and therefore CCCB's ownership interest must be increased) will not be decided by the HSC (and RIDOH) or the AG in connection with the 2019 Regulatory Review. In fact, they lack jurisdiction to make such determinations. The issues raised in the *Lee* Litigation will be decided by this Court.

explain how AP&S could have a conflict of interest pertaining to the *Lee* Litigation, given that AP&S does not represent any party in that lawsuit.

On June 17, 2020, Ms. Rocha responded to the Receivers and explained that applying the requirements of Rule 1.9 clearly demonstrates that AP&S has no conflict. Undeterred, the Receivers continued to press for AP&S' withdrawal and filed their Motion on July 10, 2020. Unable to articulate a meaningful basis for their purported conflict, the Receivers again continue to manufacture varying grounds for the purported conflict. At the July 21, 2020 public meeting, the Receivers described the conflict as being based on the fact that they contend the CCCB ownership interest in PCC to be greater than 15%. As described below, none of the grounds referenced by the Receivers in any correspondence, pleading, or otherwise constitute a conflict of interest under Rule 1.9. The July 21, 2020 HSC meeting likewise demonstrated that the former representation of the Oldco Entities is not the same or substantially related to the HSC review, no privileged information of the Oldco Entities is relevant, or was used by AP&S in representing the Applicants before the HSC and the Motion must be denied.

ARGUMENT

I. Standard Under Rule 1.9

"[M]otions to disqualify are generally disfavored because they separate a client from a chosen attorney, inevitably cause delay, and are often made only for tactical reasons." *Fregeau v. Deo*, No. C.A. PC 03-4179, 2005 WL 1837011, at *3 (R.I. Super. Ct. Aug. 2, 2005). A motion for disqualification "should be used with caution, . . . for it can be misused as a technique of harassment." *Id.* (internal citations omitted). Thus, "[a] party seeking disqualification of an opposing party's counsel bears a 'heavy burden of proving facts required for disqualification.'" *Quinn v. Yip*, No. KC-2015-0272, 2018 WL 3613145, at *3 (R.I. Super. Ct. July 20, 2018)

(quoting *Haffenreffer v. Coleman*, No. 06-299T, 2007 WL 2972575, at *2 (D.R.I. 2007)); *see also Fregeau*, 2005 WL 1837011, at *3; *Jacobs v. E. Wire Prods. Co.*, No. Civ. A. PB-03-1402, 2003 WL 21297120, at *2 (R.I. Super. Ct. May 7, 2003). "Even if in some indefinite way it might 'look bad,' courts have held that the appearance of impropriety alone is simply too slender a reed on which to rest a disqualification order except in the rarest of cases." *Olivier v. Town of Cumberland*, 540 A.2d 23, 27 (R.I. 1988) (internal citations omitted).

Rule 1.9 of the Rhode Island Rules of Professional Conduct ("Rule 1.9") governs an attorney's duties to former clients. Under Rule 1.9, "[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the *same or a substantially related matter* in which that person's interests are *materially adverse* to the interests of the former client unless the former client gives informed consent, confirmed in writing." R.I. R. Prof. Conduct 1.9(a) (emphasis added). Thus, absent informed consent in writing, an attorney must withdraw from representing a current client if (1) the attorney represented the former client and currently represents the current client in "the same or substantially related matters" *and* (2) the former client's "interests are materially adverse to the interests of" the current client. *Id.* As demonstrated below, the 2013 Applications and the 2019 Regulatory Review do not constitute "substantially related matter[s]," and the Oldco Entities' interests as to the 2019 Regulatory Review are not "materially adverse to the interests of" the Transacting Parties.

II. AP&S Never Represented The Plan, So No Conflict Could Exist

As discussed above, AP&S *never* represented the Plan and the Plan Receiver does *not* allege to the contrary. A conflict of interest cannot exist under Rule 1.9 in the absence of a former client. As the Plan is not a former client of AP&S, no conflict of interest could exist. Therefore, the Court should deny the Motion as to the Plan.

Furthermore, the Plan Receiver has no standing to seek to disqualify AP&S from representing the Transacting Parties on the basis of a purported conflict of interest as to the Oldco Entities. The Plan Receiver is not the receiver for any of the Oldco Entities, so the Plan Receiver has no standing to seek AP&S' disqualification on the basis of an alleged conflict as to the Oldco Entities. Therefore, the Court should deny the Plan Receiver's requested relief.

III. The 2019 Regulatory Review Does Not Constitute A "Substantially Related Matter"

The Receivers cannot meet their heavy burden in showing that the 2019 Regulatory Review and the 2013 Regulatory Review are "the same or substantially related." The Comments to Rule 1.9 state that matters are "substantially related" if:

> (1) they involve the same transaction or legal dispute; *or*
>
> (2) there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter.

R.I. R. Prof. Conduct 1.9, cmt. 3.[13] As articulated by the Rhode Island Supreme Court, "the test for determining whether matters are substantially related has been 'honed in its practical application to grant disqualification only upon a showing that the relationship between the issues in the prior and present cases is "patently clear" or when the issues are "identical" or "essentially the same."'" *Brito v. Capone*, 819 A.2d 663, 665 (R.I. 2003) (internal citations omitted); *see*

[13] The Comments provide that an attorney's general knowledge of a former organizational client's policies and practices "ordinarily will not preclude a subsequent representation" of a current client in adverse proceedings, unless the attorney has "knowledge of specific facts gained in a prior representation that are relevant to the matter in question." R.I. R. Prof. Conduct 1.9, cmt. 3. Likewise, information that a former client has disclosed to the public or to adverse parties, as well as information rendered obsolete by the passage of time, typically will not be disqualifying. *Id.*

also Quinn, 2018 WL 3613145, at *4 (same); *Fregeau*, 2005 WL 1837011, at *2 (same); *Jacobs*, 2003 WL 21297120, at *2 (same).

In determining whether matters are "substantially related," Rhode Island courts also consider whether counsel received any privileged information in the prior representation that would inure to the former client's disadvantage in counsel's representation of the current client. *See Brito*, 819 A.2d at 664-65. The moving party has the burden of proof as to both issues. *Fregeau*, 2005 WL 1837011, at *4. Satisfying this standard is a "heavy burden." *See Jacobs*, 2003 WL 21297120, at *1-2. In *Brito*, for example, counsel represented a number of individuals with respect to forming a limited liability company. *Brito*, 819 A.2d at 665. Thereafter, counsel represented some of those individuals against the others to recover amounts due and owing under a promissory note. *Id.* at 664-65. The court denied a motion to disqualify counsel because (1) the two matters were not substantially related and (2) "defendants have not shown that any information counsel received during the formation of the corporation would inure to [their] disadvantage." *Id.* at 665-66; *see also Fregeau*, 2005 WL 1837011, at *4 (identifying as a factor whether counsel had access to "privileged information in the course of [counsel's] prior representation of" the former client "that is relevant to [counsel's] defense of [ ] claims in this case" and that "would inure to [the former client's] disadvantage in litigating [ ] claims in this case").

Thus, two issues are determinative: (1) whether the "relationship between the issues" in the 2013 Applications and the 2019 Regulatory Review is "patently clear" or whether the issues in those two matters are "identical" or "essentially the same";[14] and (2) whether AP&S had

[14] *See Brito*, 819 A.2d at 665 (internal citations omitted).

access to privileged information in the course of its prior representation of the Oldco Entities that is "relevant" to the 2019 Regulatory Review and that "would inure to [the Oldco Entities'] disadvantage" in connection with the 2019 Regulatory Review.[15] As evidenced by the PowerPoint presentation and transcript, here the answer as to both of these issues is an unequivocal "no."

A. The Relationship Between the Issues Is Not "Patently Clear," "Identical," or "Essentially the Same"

The "relationship between the issues" in the 2013 Applications and the 2019 Regulatory Review is not "patently clear," and the issues are not "identical" or "essentially the same"; indeed, they are entirely different. The 2013 Applications involved a transfer of ownership of not-for-profit hospitals and medical facilities to a for-profit entity (PCC). In contrast, the 2019 Regulatory Review involves a buy-out of private equity investors and minority shareholders at the top of the corporate structure. These distinct, unrelated matter do not approach the "patently clear" standard. The issues concerning whether a for-profit entity should be permitted to acquire hospitals and other medical facilities from not-for-profit entities are unrelated to the issues presented by a change in ownership at the top of an ownership structure.

Nonetheless, and without any legal or factual basis, the Receivers allege that AP&S' former representation of the Oldco entities is "directly relevant both to SJHSRI and CCCB's objections to the pending CECAs and the receivers' claims in [the *Lee* Litigation]" and therefore gives rise to a conflict of interest. *See* **Exhibit 9** at 8. The ownership change at issue in the 2019 Regulatory Review has no connection to the prior transfers of hospitals and medical facilities that were the subject matter of the 2013 Applications or the claims in the Lee Litigation.

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[15] *See Fregeau*, 2005 WL 1837011, at *4; *see also Brito*, 819 A.2d at 664-65.

Moreover, AP&S has no conflict of interest pertaining to the *Lee* Litigation, because AP&S does not represent any party in that litigation.

The Receivers' assertion that a conflict of interest exists based on its allegations that PMH allegedly failed to make some of the capital contributions associated with the 2013 APA and that CCCB owns more than 15% of PCC is meritless. *See* Receivers' Mem. at 3, 8, 11. As an initial matter, CCCB's ownership in PCC—an entity in the corporate chain whose ownership will not be impacted by the 2019 Agreement—is *not* subject to review by the HSC (and the Department) and *will not* be impacted by either approval or denial of the CEC and HCA Applications. That issue (raised by the Oldco Receiver in the *Lee* Litigation) will be decided by this Court. *See id.* at 3, 11. It will *not* be decided as part of the 2019 Regulatory Review, nor does it have any relevance therein.

Furthermore, the Receivers' insertion of their allegations regarding capital contribution and ownership percentages of PCC in the unrelated 2019 Regulatory Review does not render the 2013 APA between Oldco and the Prospect Entities to be the same or substantially related to the review of the 2019 Agreement (resulting in the buyout of the private equity investors and minority shareholders). The 2019 Regulatory Review—involving only an ownership change at the top of the corporate structure—will not affect either of the Oldco hospital entities (RWH and SJHSRI), will not affect PCC, and will not affect CCCB's ownership interest in PCC. PCC will continue to own the two licensed not-for-profit hospitals—Our Lady of Fatima and Roger Williams Medical Center—BVS, and Prospect CharterCARE Home Health. CCCB will continue to own a minority interest in PCC.[16] The amount of that interest will be decided by this

[16] The Receivers assert that CCCB is entitled to more than a 15% ownership interest in PCC. *See* Receivers' Mem. at 22. However, the 2019 Regulatory Review will not alter CCCB's existing 15% ownership interest in PCC. Therefore, the Receivers' efforts in the *Lee* Litigation

Court. The absence of any effect on the Oldco Entities is consistent with none of them being a party to the 2019 Transaction and none of them being an applicant in connection with the 2019 Regulatory Review. Thus, none of the Oldco Entities has any rights or obligations under the 2019 Agreement or with respect to the 2019 Regulatory Review.

Even if the 2019 Regulatory Review could somehow be deemed to affect the Oldco Entities, there still would not be a conflict of interest under Rule 1.9. A 2012 Supreme Court Ethics Advisory Panel opinion confirms that matters are not the same or substantially related under Rule 1.9 even if the latter matter could adversely affect a property interest of a former client.[17] There, an attorney represented a mother in her Chapter 7 bankruptcy case, in which the mother received a discharge of her debts and then the case was closed. Supreme Court Ethics Advisory Panel Opinion No. 2012-01. The attorney subsequently represented the mother's son in preparing a Chapter 7 bankruptcy petition for him. *Id.* During the course of that preparation, the attorney learned that the son had transferred certain real estate to his mother, which transfer would be at risk of being voided during the son's bankruptcy case. *Id.* If the Chapter 7 trustee for the son's bankruptcy case was successful in voiding the transfer, the mother would lose that property, which she was using as her home. *Id.* The Panel opined that the attorney did not have a conflict of interest because the mother's bankruptcy case and the son's bankruptcy case were not the same or substantially related, even though the son's bankruptcy case could affect a

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to obtain a greater ownership interest will not be affected by the 2019 Regulatory Review. Given that the 2019 Regulatory Review will neither increase nor decrease CCCB's ownership interest in PCC, the 2013 Applications and the 2019 Regulatory Review are not "substantially related."

[17] Supreme Court Ethics Advisory Panel Opinion No. 2012-01 (Jan. 12, 2012), *available at* https://www.courts.ri.gov/AttorneyResources/ethicsadvisorypanel/Opinions/2012-01.pdf#search=1%2E9.

property interest of the attorney's former client (the mother). *Id.* The panel stated that the two bankruptcy cases were not the same or substantially related because the "subject of the son's bankruptcy matter are his debts and assets vis-à-vis his creditors," while the "subject of the Mother's bankruptcy matter were her debts and assets vis-à-vis her creditors." *Id.*

This Advisory Panel opinion also demonstrates that even if the type of the current and former matters is the same (e.g., both matters are bankruptcy cases), a conflict does not exist unless the subject of the two matters is the same. *See* Supreme Court Ethics Advisory Panel Opinion No. 2012-01. Thus, two bankruptcy matters would not be the same or substantially similar if their respective subjects are different. *Id.* Accordingly, even though the 2013 Applications and the 2019 Regulatory Review are both RIDOH and AG regulatory matters concerning change in ownership, their respective subjects are entirely different, so the two matters are not the same or substantially similar. See R.I. R. Prof. Conduct 1.9, cmt. 2 ("[A] lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a factually distinct problem of that type even though the subsequent representation involves a position adverse to the prior client."); *Quinn*, 2018 WL 3613145, at *5 ("[T]he Rhode Island Supreme Court Ethics Advisory Panel has compared the subject matter of the prior and current representation to determine whether they were substantially related under Rule 1.9.") (citing R.I. Ethics Op. 2001-08).

Here, even if the 2019 Regulatory Review could somehow affect property interests of the Oldco entities, that still would provide no basis to disqualify AP&S as counsel for the Applicants because the *subject* of the 2013 Application and the subject of the 2019 Regulatory Review are entirely different and not substantially related.

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

B. AP&S Does Not Have Access to Any Privileged Information of the Oldco Entities that is Relevant to the 2019 Regulatory Review

AP&S does not have access to privileged information of the Oldco Entities that is relevant to the 2019 Regulatory Review or that would inure to the disadvantage of the Oldco Entities with respect to the 2019 Regulatory Review. AP&S obtained no confidential information from the Oldco Entities in connection with the 2013 Applications, or otherwise, that is included in, or relevant to, the 2019 Regulatory Review. Indeed, given the lack of any relationship between the 2013 Applications and the 2019 Regulatory Review, and the lack of relationship between the Oldco Entities and the 2019 Transaction, no such confidential information could exist. Consistent therewith, the Receivers do *not* allege that AP&S obtained confidential information from the Oldco Entities that is included in, or relevant to, the 2019 Regulatory Review. Moreover, the July 21, 2020 presentations by the Applicants and Mr. Wistow confirm that no such information was disclosed. The Receivers assert only that the 2013 Applications and the 2019 Regulatory Review are "substantially related," so AP&S is presumed to have obtained such confidential information. *See* Receivers' Mem. at 20 n.22, 26-28. As demonstrated above, the 2013 Applications and the 2019 Regulatory Review are *not* "substantially related," so no such presumption arises.

C. The Receivers' Case Law Is Unavailing

None of the cases the Receivers cite supports disqualification of AP&S in connection with the 2019 Regulatory Review. The cited cases, instead, are entirely inapposite and, if anything, serve to show that there is no conflict of interest here. For example, in *Brito v. Capone*, the Rhode Island Supreme Court affirmed the denial of a motion to disqualify the plaintiff's attorney in a suit to recover the amount owed on a promissory note, even though the plaintiff's attorney had previously represented both the plaintiff and a defendant in forming a

limited liability company. *Brito*, 819 A.2d at 664-65. In so holding, the Rhode Island Supreme Court found that there was "no evidence in the record that the attorney's former representation of [a defendant] and current representation of plaintiff were substantially related. . . . In addition, defendants have not shown that any information counsel received during the formation of the corporation would inure to the disadvantage of [the defendant]." *Id.* at 665. Similarly, AP&S's current representation of the Applicants is not substantially related to AP&S's former representation of the Oldco Entities and AP&S received no information during the former representation that would inure to the disadvantage of the Oldco Entities in connection with the 2019 Regulatory Review. The PowerPoint presentation and transcript confirm the absence of any privileged information of the Oldco Entities that would be used during the 2019 Regulatory Review.

In *Quinn v. Yip*,, this Court disqualified a law firm from representing a plaintiff in a matter in which the plaintiff sought to challenge the structure and formation of a corporate entity that the firm had previously created. *Quinn*, 2018 WL 3613145, at *6-7 (Stern, J.) ("PS&H represented the Movants in structuring and forming the Tai-O Entities, and PS&H is now representing Plaintiff – a party materially adverse to the Movants – who questions the very structure and formation of the Tai-O Entities the law firm created approximately thirteen years ago."). The decision in *Quinn* is inapposite because AP&S did *not* serve as transaction counsel, did *not* participate in any negotiations regarding the 2013 APA, is not representing any party in the *Lee* Litigation, and is *not* challenging the structure of any client entity it formed. Moreover, the structure and formation of the Oldco Entities is not before the HSC (or RIDOH) and the AG and remains the same whether the CEC and HCA applications are approved or denied.

The remainder of the cases the Receivers cite are from other jurisdictions and either support AP&S' position or are distinguishable from the facts in this case. *See Befekadu v. Addis Int'l Money Transfer, LLC*, 772 S.E.2d 785, 788 (Ga. App. Ct. 2015) (reversing disqualification of an attorney because the lower court erroneously held that an attorney was prohibited from representing a current client in a suit against a former client); *see also Grosser-Samuels v. Jacquelin Designs Enters., Inc.*, 448 F. Supp. 2d 772, 780-84 (N.D. Tex. 2006) (in a concurrent conflict of interest case, holding that a firm was disqualified from representing the plaintiff in a lawsuit against the defendant when the firm dropped the defendant as a client after initiating the lawsuit). In *MMR/Wallace Power & Indus., Inc. v. Thames Assocs.*, 764 F. Supp. 712, 717-28 (D. Conn. 1991), the court disqualified counsel not for a conflict of interest, but because the defendant's counsel had hired a former employee of the plaintiff and a non-attorney member of the plaintiff's litigation team as a trial consultant for the case, and in doing so, likely obtained confidential information about the plaintiff's litigation strategy.

Several cases cited by the Receivers involved disqualifications of law firms based on hiring former government employees, in which the former employees had worked on the opposite side of matters that the disqualified firms were handling for clients.[18] In another of the

[18] *See Paul E. Iacono Structural Eng'r, Inc. v. Humphrey*, 722 F.2d 435, 436-37 (9th Cir. 1983) (in unfair labor practice case, defendants' law firm was disqualified after it hired a former government attorney who had been assigned to investigate plaintiffs' unfair labor practice charges and took witness statements from plaintiff's employees); *Carreno v. City of Newark*, 834 F. Supp. 2d 217, 225-32 (D.N.J. 2011) (former city attorney who had previously represented police officer in excessive force suit and had represented city in 26 civil rights settlements that were subject of a critical ACLU petition was disqualified from representing client in civil excessive force suit against the same police officer, because the current client's complaint involved the police officer's previous excessive force issues and the ACLU petition); *Prod. Credit Ass'n of Mankato v. Buckentin*, 410 N.W.2d 820, 824-85 (Minn. 1987) (disqualifying attorney from representing client in suit against government agency for which the attorney had previously worked because the client alleged that the agency negligently failed to supervise

Receivers' cases, a firm whose partners had an interest in one of the entities to a transaction was disqualified from representing that entity in a suit challenging the transaction, in which it was alleged that the firm favored its own interests over those of other participants whom the firm had previously represented in connection with the transaction.[19]

Finally, a few cases cited by the Receivers involved instances in which a firm was disqualified after confidential information learned through the former representation would almost certainly be used to the former client's detriment in connection with the current representation—a situation that, as previously discussed, is inapplicable here.[20]

IV. As To The 2019 Regulatory Review, The Applicants' Interests Are Not Materially Adverse To The Oldco Entities' Interests

AP&S' representation of the Applicants is not materially adverse to the Oldco Entities. Rhode Island state and federal courts have not defined what constitutes a representation that is "materially adverse" to a former client. However, the Comments to Rule 1.9 state that "[t]he

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another agency and formulated illegal interest rates, and the attorney was responsible for both supervision of the other agency and formulation of interest rates while employed by the agency).

[19] *See Forest Park Assocs. Ltd. P'ship v. Kraus*, 572 N.Y.S.2d 317, 317-18 (App. Div. 1991) (law firm that represented three related entities in connection with conversion to cooperative ownership of apartment complex and whose partners held ownership interest in one of those entities could not represent entity in which it had an ownership interest in dispute regarding the priority to be accorded to competing financial obligations of the entities, when the firm allegedly executed agreements protecting the firm's interests over those of other entities).

[20] *See Maritrans GP Inc. v. Pepper, Hamilton & Scheetz*, 602 A.2d 1277, 1280-81, 1286-87 (Pa. 1992) (enjoining a law firm from representing a former client's competitors given the high likelihood that information garnered from the former representation – including the former client's labor costs, analysis of each of its competitor's strengths and weaknesses, and strategy for dealing with competitors – would be used to aid the current clients in negotiating labor costs with a union to win business away from the former client); *Otaka, Inc. v. Klein*, 791 P.2d 713, 719 (Haw. 1990) (disqualifying an attorney from representing a client in a suit against a former client regarding the cancellation of a hotel management contract, when the attorney had participated in strategy meetings with the former client regarding its hotel management philosophy, which may be material to the current client's claims).

underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a changing of sides in the matter in question." R.I. R. Prof. Conduct 1.9, cmt. 2; *see also State ex rel. Verizon W. Virginia, Inc. v. Matish*, 740 S.E.2d 84, 94 (W. Va. 2013) ("Thus, to constitute 'materially adverse' interests under Rule 1.9(a), the interests of an attorney's former and current clients must be so diametrically opposed as to require the attorney to adopt adversarial or opposite positions in the two representations.") (internal citations omitted).

AP&S' representation of the Applicants in the 2019 Regulatory Review does not affect any rights or obligations with respect to the 2013 Applications. Likewise, whether the HCA and CEC applications are approved or denied, CCCB's ownership interest in PCC remains the same. Changing ownership at the top of the ownership structure, per the 2019 Agreement, will not alter the Oldco Entities' rights or obligations concerning the 2013 Applications. Furthermore, as confirmed by the presentations at the July 21, 2020 HSC meeting, during the 2019 Regulatory Review, AP&S has not asserted, and will not assert, any position that is contrary to any position that AP&S took on behalf of the Oldco Entities in connection with the 2013 Applications. Indeed, given that the subject matter of the 2013 Applications is entirely different from the subject matter of the 2019 Regulatory Review, the positions that AP&S is advocating on behalf of the Applicants in the 2019 Regulatory Review are entirely unrelated to any position that AP&S took on behalf of the Oldco Entities in connection with the 2013 Applications. Therefore, AP&S is not "switching sides."[21] In fact, here, there are no "sides" between the Applicants and

[21] As noted above, the issue of the amount of PMH's capital contributions and CCCB's ownership interest in PCC is pending before and will be adjudicated by, the Superior Court in the *Lee* Litigation. *See* Receivers' Mem. at 3, 11. The *Lee* Litigation issue will not be decided as part of the 2019 Regulatory Review, so it cannot create adversity, or otherwise give rise to a conflict, with respect to the 2019 Regulatory Review.

the Oldco Entities to switch. The Applicants are required to seek approval only from RIDOH and the AG.

Furthermore, even though the Receivers assert that granting the CEC Applications could make it harder for CCCB to recover damages in the event it prevails in the *Lee* Litigation, the Receivers have submitted no evidence to support that allegation. But more important, any such alleged economic injury, even if it were to exist, would not create a conflict of interest. *See* Supreme Court Ethics Advisory Panel Opinion No. 2012-01 (attorney did not have conflict of interest because cases of former client and current client were not substantially related, even though current client's case could adversely affect property interest of former client); *see als*o Simon's NY Rules of Prof. Conduct § 1.9:7 (quoting N.Y. ethics opinion that "competing economic interests . . . do not create a 'materially adverse' interest within the meaning of Rule 1.9(a)") (quoting N.Y. State 1103 (2016)).[22]

For all of these reasons, the Receivers have not satisfied, and cannot satisfy, their heavy burden of proving that the interests of the Applicants in the 2019 Regulatory Review are materially adverse to the interests of the Oldco Entities.[23]

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[22] *Accord* Simon's NY Rules of Prof. Conduct § 1.9:6 (discussing N.Y. ethics opinion (N.Y. State 989 (2013)) that attorney could represent client in seeking tax-exempt status even though it would compete directly with former client); Simon's NY Rules of Prof. Conduct § 1.9:7 (discussing N.Y. ethics opinion (N.Y. State 1103 (2016)) that law firm could represent former client's economic competitor in litigation even though former client would benefit if competitor lost).

[23] The Receivers also assert that at the public meeting on the CEC application and in the *Lee* Litigation, the Receivers will call AP&S attorneys as witnesses, which allegedly constitutes another basis for disqualification. *See* Receivers' Mem. at 24-25. The Receivers' position is without merit. *First,* members of the public who choose to provide comment at the RIDOH public meeting on the CEC application do not have any right to call witnesses. The governing regulations provide no right for the public to call witnesses. *See* 216-RICR-40-10-4 (RIDOH regulations under the Licensing of Health-Care Facilities Act, R.I. Gen. Laws § 23-17-1 *et seq.*); *see also* 216-RICR-40-10-23 (RIDOH regulations concerning hospital conversions); 110-RICR-

V. The Receivers Have Not Satisfied Their Burden As To Injunctive Relief

The Receivers have not satisfied their burden of proof as to their requested preliminary injunction. *First*, the Receivers have not demonstrated, and cannot demonstrate, a reasonable likelihood of success on the merits. *See Gianfrancesco v. A.R. Bilodeau, Inc.*, 112 A.3d 703, 708 (R.I. 2015). As demonstrated above, AP&S does not have a conflict of interest in representing the Applicants in connection with the 2019 Regulatory Review because (1) AP&S never represented the Plan; (2) the 2019 Regulatory Review and the 2013 Applications are not "substantially similar"; and (3) with respect to the 2019 Regulatory Review, the interests of the Oldco Entities are not adverse to the interests of the Applicants.

Second, the Receivers have not demonstrated, and cannot demonstrate, a threat of immediate irreparable harm. *See id.* As demonstrated above, (1) the 2019 Regulatory Review will not affect either of the Oldco hospital entities (RWH and SJHSRI), will not affect PCC, and will not affect CCCB's ownership interest in PCC; (2) even if the 2019 Regulatory Review could somehow affect property interests of the Oldco entities, that would provide no basis to disqualify AP&S as counsel for the Applicants because the 2013 Applications and the 2019 Regulatory Review are not substantially related; and (3) AP&S' representation of the Applicants in the 2019

30-00-3 (AG regulations concerning hospital conversions). Rather, the public are only permitted to make comment regarding CEC applications and participate in the public informational meeting regarding the HCA application. *See* R.I. Gen. Laws § 23-17-14.4; R.I. Gen. Laws § 23-17.14-7. *Second*, as a general rule, counsel may be required to testify only where "(1) no other means exist to obtain the information than to depose opposing counsel; (2) the information sought is relevant and nonprivileged; and (3) the information is crucial to the preparation of the case." *Cranston Police Retirees Action Comm. v. City of Cranston*, No. KC-2013-1059, 2015 WL 4384621, at *2 (R.I. Super. July 14, 2015) (internal quotations omitted); *Woodland Manor III Assocs., L.P., v. Keeny*, No. 89-2447, 2001 WL 35828798 (R.I. Super. Aug 2001) (same). The Receivers have made no showing that AP&S attorneys possess any facts or information pertinent to the 2019 Regulatory Review or to the *Lee* Litigation that cannot be obtained through "other means."

Regulatory Review is not adverse to the interests of the Oldco Entities in the 2019 Regulatory Review and does not affect any rights or obligations with respect to the 2013 Applications.

The Receivers' reliance on *Calise v. Brady Sullivan Harris Mills, LLC*, C.A. Nos. 18-99WES, 18-100WES, 2019 WL 1397245 (D.R.I. Mar. 28, 2019) (Report and Recommendation), *adopted by* Text Order(D.R.I. Aug. 28, 2019) (Smith, J.) (attached hereto as **Exhibit 10**) is both puzzling and misplaced. That case is factually and legally dissimilar to this case because it involved the plaintiffs' counsel having improperly obtained attorney-client privileged information and work product of an opposing party through unethical means, for which the court, *inter alia*, disqualified the plaintiffs' counsel, enjoined them from using any of the confidential information they obtained, and enjoined them from sharing any of the confidential information with successor counsel.

In *Calise*, the plaintiff tenants had disputes with the landlord, defendant Brady Sullivan Harris Mills, LLC ("Brady Sullivan"). Before the litigation was filed, an employee of Brady Sullivan, Christina Rahn ("Rahn"), had "surreptitiously printed, copied to thumb drives or CDs and/or emailed to her home email account substantial quantities of Brady Sullivan's privileged attorney-client communications and attorney work-product." Report and Recommendation at 19-20 (¶ 9). The stolen documents and information included "bulls-eye attorney-client communications between Brady Sullivan and its counsel regarding matters directly pertaining to the Cases and related matters." *Id.* at 4.

After the lawsuit was filed, Rahn "abruptly resigned." *Id.* at 16 (¶ 1). "Upon resigning, [Rahn] immediately engaged [the plaintiffs' counsel] to represent [her] in connection with matters pertaining to Brady Sullivan." *Id.* at 17 (¶ 4). The plaintiffs' counsel met with Rahn (now their client), who "understood that [the plaintiffs' counsel] . . . "had requested that she

provide them with all of the documents that she had surreptitiously taken during her employment with Brady Sullivan" and therefore "provided the documents to [the plaintiffs' counsel] over a period of serval days in email and hard copy and on thumb drives." *Id.* at 20-21 (¶¶ 10-11). Included in those documents were "many documents that were obviously Brady Sullivan's privileged attorney-client communications and attorney work product directly related to the matters in issue in the Cases." *Id.* at 21 (¶ 11). The plaintiffs' counsel "read at least some of Brady Sullivan's privileged attorney-client information contained in the documents provided by Rahn." *Id.* at 21 (¶ 12). The plaintiffs' counsel obtained this information via "a method of obtaining evidence that was in disregard for, and in violation of, the legal rights of Brady Sullivan, amounting to an unwarranted intrusion into Brady Sullivan's privileged relationships" and in violation of the Rhode Island Rules of Professional Conduct. *Id.* at 22 (¶ 15).

Given the improper conduct of the plaintiffs' counsel, and given that the plaintiffs' counsel did not object to Brady Sullivan's requested injunctive relief (*id.* at 3), the court, *inter alia*, disqualified the plaintiffs' counsel, enjoined them from using any of the confidential information they obtained, and enjoined them from sharing any of the confidential information with successor counsel. *See id.* at 25. The egregious facts in *Calise* are thoroughly dissimilar to the facts of this case, so that decision provides no basis to find a threat of immediate irreparable harm in this case. Indeed, the Receivers' reliance on such a manifestly inapposite decision highlights the lack of merit in their Motion.

Third, AP&S has been representing the Applicants in connection with the 2019 Regulatory Review for over a year. During the course of that representation, AP&S has prepared thousands of pages of regulatory filings, has had numerous communications and meetings with RIDOH and the AG, and has responded to myriad deficiency questions, supplemental requests,

and information requests from expert consultants. In addition, there is substantial work remaining, including: an additional meeting(s) before the HSC, communications with the RIDOH consulting expert, attendance at the joint RIDOH/AG public informational meeting, joint interviews under the HCA (not open to the public), and responding to the AG's supplemental questions and issues from its consulting experts. Notwithstanding the Applicants' enormous investment of time and resources, or perhaps because of it, the Receivers delayed filing their Motion for three months, and until eleven days before the public meeting on the Applicants' CEC application. Furthermore, the Receivers filed their objection to the CEC application (and by extension, filed this Motion) as a tactic to obtain an advantage in the *Lee* Litigation. The Court should not reward such litigation tactics. Thus, the balancing of the equities favors the Applicants. *See Gianfrancesco*, 112 A.3d at 708.

Fourth, the status quo is that AP&S has been representing the Applicants in connection with the 2019 Regulatory Review for over a year. The Receivers' last minute filing of the Motion provides no basis to deprive the Applicants of their enormous investment of time and resources in their CEC application.

VI. Because The Receivers Waited Three Months To File Their Motion On The Eve Of The Meeting On The CEC Application, The Applicants Are Unduly And Unfairly Prejudiced

This Court should deny the Motion based on the extreme prejudice that would inure to the Applicants due to their extensive work with AP&S and the Receivers' intentional failure to act for three months and until days before the first public meeting. The Applicants and AP&S have invested significant time and resources in connection with the 2019 Regulatory Review, replacing AP&S with other counsel now would cause severe prejudice. The Receivers first raised their unwarranted claim of conflict of interest on April 9, 2020 in their objection to the

CEC application after the representation became public on March 10, 2020. Nonetheless, the Receivers waited until *three months later*, and a mere 11 days before the public meeting on the CEC application, before filing their Motion. By delaying their filing, the Receivers have severely and unfairly prejudiced the Applicants because any successor counsel would have a herculean task to prepare for upcoming meetings and review by RIDOH and the AG.

The Rhode Island Supreme Court has not yet decided whether untimeliness alone provides a sufficient basis to deny a motion to disqualify counsel, but some courts have held that it does. *See Redd v. Shell Oil Company*, 518 F.2d 311, 315-16 (10th Cir. 1975) (unjustified delay in filing motion to disqualify is, by itself, sufficient grounds to deny motion); *Coffeyville Res. Ref. & Mktg. v. Liberty Surplus Ins. Corp.*, 261 F.R.D. 586, 589 (D. Kan. 2009) ("[A]n unjustified delay in filing a motion to disqualify alone is sufficient grounds for denying the request."). Indeed, "'[a] litigant may not delay filing a motion to disqualify in order to use the motion later as a tool to deprive his opponent of counsel of his choice after substantial preparation of the case has been completed.'" *Coffeyville*, 261 F.R.D. at 589 (quoting *Monarch Normandy Square Partners v. Normandy Square Assocs. Ltd. P'ship*, No. 88-1338-C, 1989 WL 86963 at *3 (D. Kan. July 26, 1989)).

The untimeliness of a motion to disqualify certainly is a factor that this Court considers when adjudicating such a motion. In *Quinn v. Yip*, this Court considered the issue of the timeliness of a motion to disqualify, but concluded that the motion was not untimely because trial had not been scheduled. *Quinn*, 2018 WL 3613145, at *3. In contrast, here, the motion was filed three months after the Receivers raised the issue of a purported conflict of interest and after AP&S has spent innumerable hours on behalf of its client in the CEC and HCA processes. *See Valencia v. Ripley*, 128 A.D.3d 711, 713 (N.Y. App. Div. 2015) (defendant was aware of

potential conflict for at least eight months before bringing disqualification motion, so movant had waived any objection to plaintiff's choice of counsel) (cited in *Quinn*, 2018 WL 3613145, at *4); *see also Trust Corp. of Mont. v. Piper Aircraft Corp.*, 701 F.2d 85, 87 (9th Cir. 1983) (applying federal law to conclude "[i]t is well settled that a former client who is entitled to object to an attorney representing an opposing party on the ground of conflict of interest but who knowingly refrains from asserting it promptly is deemed to have waived that right.").

The Receivers have unjustifiably delayed the filing of their Motion, which severely, irreparably, and unfairly prejudices the Applicants. Accordingly, the Court should deny the Motion.

CONCLUSION

For all the above-referenced reasons, the Receivers cannot satisfy their "heavy burden" of proving that AP&S has a conflict of interest in representing the Applicants in connection with the 2019 Regulatory Review, so the Court must deny the Receivers' Motion in its entirety.

Respectfully submitted,

ADLER POLLOCK & SHEEHAN P.C.,
PROSPECT MEDICAL HOLDINGS, INC. AND ITS AFFILIATED ENTITIES[24]

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July 27, 2020

[24] Prospect Medical Holdings, Inc.'s affiliated entities include Chamber Inc., Ivy Holdings Inc., Ivy Intermediate Holding Inc., Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC, Prospect CharterCARE SJHSRI, LLC, Prospect CharterCARE RWMC, LLC, Prospect Blackstone Valley Surgicare, LLC, and Prospect CharterCARE Home Health and Hospice, LLC.

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2020:

☑ I electronically served this document through the electronic filing system on the following parties:

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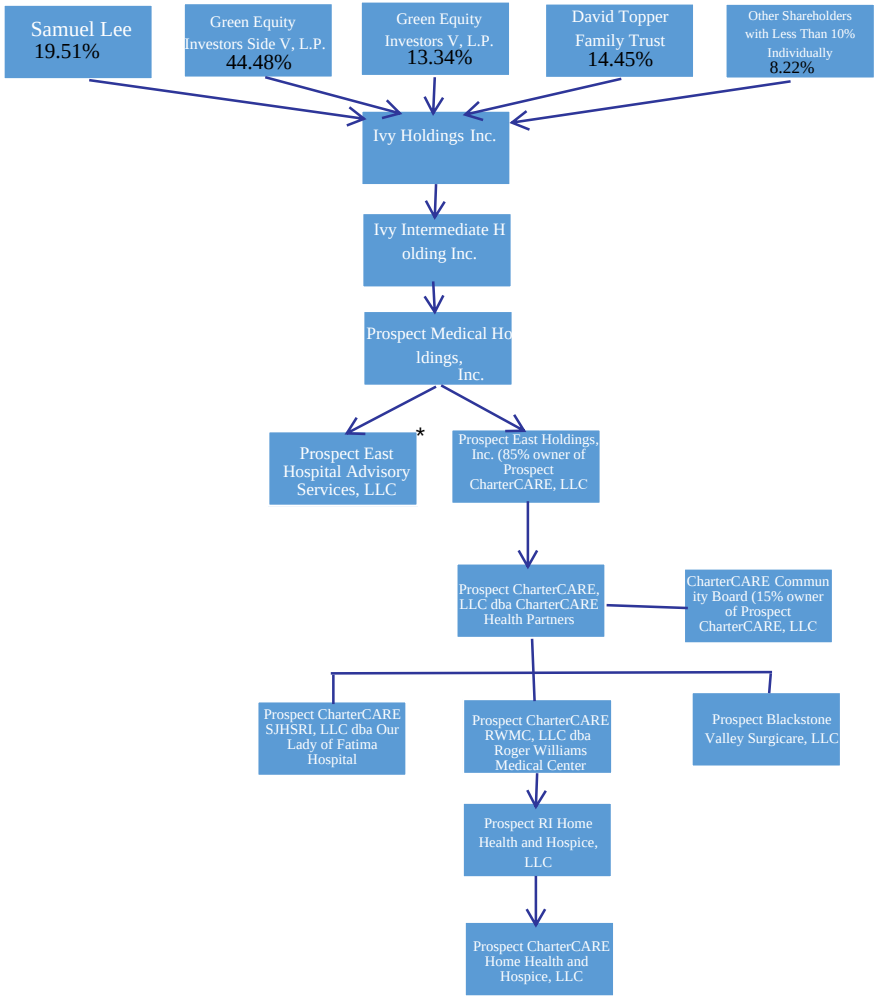
Exhibit 1

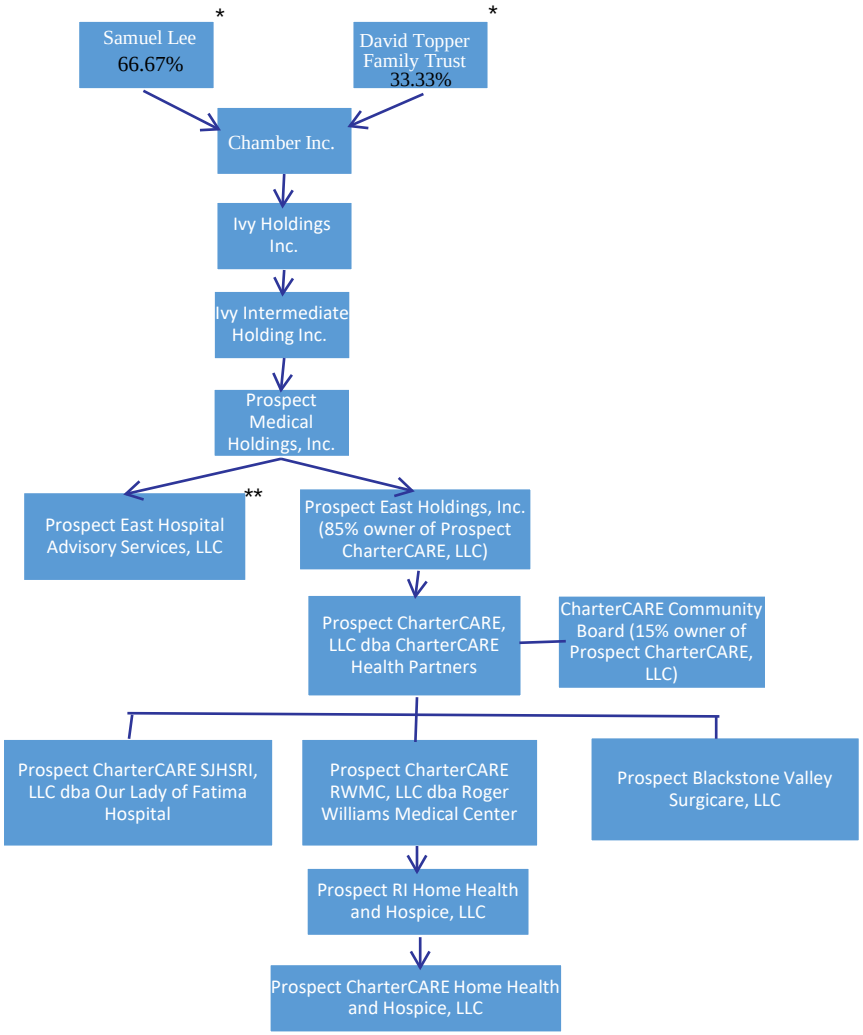
Organizational Chart
Pre-Transaction Structure



*Prospect East Hospital Advisory Services, LLC serves as manager to Prospect CharterCARE, LLC

Exhibit 2

Organizational Structure
Post Transaction Structure



*Post transaction change involves ownership of Ivy Holdings, Inc., which will be solely owned by Chamber Inc., owned by Samuel Lee and David Topper through his Family Trust, with ownership interest of 66.67% and 33.33%, respectively.

**Prospect East Hospital Advisory Services, LLC serves as manager to Prospect CharterCARE, LLC

Exhibit 3

Change in Effective Control Application

Version 01.2019

Applicant	Name of Licensee: **Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center** Name(s) of Parent Entity(ies): **Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facility:	**Roger Williams Medical Center**
Date of Submission	Submitted November 8, 2019; Resubmitted February 19, 2020; Resubmitted May 14, 2020

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

11/8/19
signed and dated by the President or Chief Executive Officer

11/8/19
signed and dated by Notary Public

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Attestation Submission: April 28, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

signed and dated by the President or Chief Executive Officer

Prospect CharterCARE, LLC

SHEILA M. CAPOBIANCO NOTARY PUBLIC STATE OF RHODE ISLAND

Sheila M. Capobianco 4/30/2020

signed and dated by Notary Public

My commission expires: 8/17/2022

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

lp Sam Lee 4/28/2020

signed and dated by the President or Chief Executive Officer

Chamber Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020

signed and dated by the President or Chief Executive Officer

Ivy Holdings Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

lp Sam Lee 4/28/2020

signed and dated by the President or Chief Executive Officer

Ivy Intermediate Holdings Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020
signed and dated by the President or Chief Executive Officer

Prospect Medical Holdings,Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020
_____
signed and dated by the President or Chief Executive Officer

Prospect East Holdings, Inc.

_____
signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020
_____
signed and dated by the President or Chief Executive Officer

Prospect East Hospital Advisory Services, LLC

_____
signed and dated by Notary Public

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Table of Contents:

1. Please provide an executive summary describing the nature and scope of the proposal. Additionally, please include the following: (1) identification of all parties, (2) description of the applicant and it's licensure track record, (3) the type of transaction proposed including description of the transaction and relevant costs, (4) summary of all transfer documents, (5) summary of the organizational structure of the applicant and its affiliates, and (6) whether the facility will be accredited.

Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center ("RWMC") is a licensed acute care hospital (license number HOSP00133) located in Providence, Rhode Island. RWMC provides a wide array of high quality and cost-effective services to its patients, including emergency department services, ambulatory care services, and inpatient and outpatient services including cancer care, elder care and gastroenterology. RWMC maintains a strong licensure track record of providing high quality services to its patients. RWMC is an academic medical center affiliated with Boston University School of Medicine and is accredited by the Joint Commission.

This application seeks approval for a change in ownership of RWMC's ultimate parent (five companies removed from RWMC) in order to effectuate a buy-out of the private equity investors as described more fully below. The proposed change in ownership of the ultimate parent company will have no impact on the day to day services provided by RWMC. Prospect CharterCARE, LLC ("PCC") wholly owns RWMC, as well as Prospect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital, a licensed acute care hospital, and Prospect Blackstone Valley Surgicare, LLC a licensed freestanding ambulatory surgery center. In addition, RWMC wholly owns Prospect RI Home Health and Hospice, LLC ("PRIHHH"), a home healthcare provider, which wholly owns Prospect CharterCARE Home Health and Hospice, LLC "PCCHHH") a licensed home nursing care provider. PCC is owned 85% by Prospect East Holdings, Inc., ("PEH") and 15% by CharterCARE Community Board ("CCCB"). PEH and Prospect East Hospital Advisory Services, LLC ("PEHAS") are wholly owned by Prospect Medical Holdings, Inc. ("PMH"). PMH is wholly owned by Ivy Intermediate Holding Inc., which is wholly owned by Ivy Holdings Inc. ("IH"). IH is currently owned by a combination of private equity investment partnership (the "Corporate Passive Investor"), Sam Lee, the CEO of PMH, and David Topper, the President of PMH, through his Family Trust. Other management own a small minority of shares. A copy of the pre-transaction organizational chart is attached at **Tab 15**.

The proposed transaction involves a change to IH *only* – a holding company five times removed from the Hospitals. Specifically, the change involves two individual shareholders – Lee and Topper (through his Family Trust) – becoming the sole shareholders of a newly formed entity, Chamber Inc., which will become the parent of IH. A copy of the post-Transaction organizational chart is attached at **Tab 15**. (The capital costs of the transaction are eleven million nine hundred forty thousand nine-hundred ninety-two dollars ($11,940,992.00)). After the transaction, the Corporate Passive Investor and the other minority management shareholders will no longer retain any ownership in IH. The transaction funds will not come from or affect any of the Prospect CharterCARE entities; instead, the transaction funds consist entirely of available PMH corporate cash. A copy of the Merger Agreement is attached at **Tab 14**.

Following the Transaction, all existing entities described above will remain as surviving corporations. There will be no change whatsoever to any of the existing entities that will in any way impact the operations or governance of the licensed facilities including RWMC. Specifically, PMH will continue to own PEH and PEHAS, PEH will continue to own PCC, and PCC will continue to own and operate RWMC.

The Transaction will have no impact on RWMC. In particular, it will not impact the services provided, the populations served, the payor mix, the governance, the tax ID numbers, the provider numbers, staffing, strategic plans, financial condition, professional, clerical, administrative, or medical staff, policies and procedures (including charity care), or the assets, liabilities, and obligations. Following the Transaction, RWMC will continue to provide high quality and cost efficient care to members of the Rhode Island community.

2. Name and address of the applicant:

Name:	**Prospect CharterCARE RWMC, LLC**	
	d/b/a Roger Williams Medical Center	Telephone: **(401) 456-2000**
Address:	**825 Chalkstone, Avenue, Providence, RI**	Zip Code: **02908**

3. Name and address of facility (if different from applicant):

Name:	**N/A**	Telephone:
Address:		Zip Code:

4. Information of the President or Chief Executive Officer of the applicant:

Name:	**Jeffrey H. Liebman**	Telephone: **(401) 456-2084**
Address:	**825 Chalkstone Avenue, Providence, RI**	Zip Code: **02908**
E-Mail:	**Jeffrey.liebman@chartercare.org**	Fax: **(401) 456-2029**

5. Information for the person to contact regarding this proposal:

Name:	**Patricia Rocha, Adler Pollock & Sheehan**	Telephone: **(401) 274-7200**
Address:	**One Citizens Plaza, 8th Floor, Providence, RI**	Zip Code: **02903**
E-Mail:	**procha@apslaw.com**	Fax: **(401) 751-0604**

6. A. **EXISTING ENTITY:**

License category: **Hospital**			
Name of Facility: **Roger Williams Medical Center**			License #: **HOS00133**
Address:	**825 Chalkstone, Avenue, Providence, RI**		Telephone: **(401) 456-2000**
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**X** Limited Liability Co.
Tax Status: **X** For Profit	___ Non-Profit		

B. **PROPOSED ENTITY:**

License category: **Hospital**		
Name of Facility: **Roger Williams Medical Center**		License #:
Address:	**825 Chalkstone, Avenue, Providence, RI**	Telephone: **(401) 456-2000**

Type of Ownership: ___ Individual ___ Partnership ___ Corporation **_X_** Limited Liability Co.	
Tax Status: **_X_** For Profit ___ Non-Profit	

7. Does this proposal involve a nursing facility? Yes __ No **_X__**

- If response to Question 7 is 'Yes', please complete Appendix C.

8. Will the facility be operated under management agreement with any party? Yes**_X__** No **_**
See Tab 8.

- If response to Question 8 is "Yes", please provide copies of that agreement.

9. Will the proposal involve the facility/ies providing healthcare services under contract with an outside party? Yes___ No **_X**

- If response to Question 9 is "Yes", please identify and describe those services to be contracted out.

10. Estimate the date (month and year) for the proposed transfer of ownership, if approved:

December 20, 2019

11. Please provide a concise description of the services currently offered by the licensed entity and identify any services that will be added, terminated, expanded, or reduced and state the reasons therefore:

RWMC is an acute care and research hospital. It is affiliated with the Boston University School of Medicine. RWMC is licensed for 220 beds. The services currently offered include:
- **Medical/Surgical Services and Intensive/Coronary Care Unit**
- **Inpatient and Outpatient Rehabilitation Services**
- **Ambulatory Care Services**
- **Emergency Services**
- **Inpatient and Outpatient Psychiatric/Mental Health/Addiction Medicine [CONFIRM]**
- **Laboratory/Pathology**
- **Inpatient and Outpatients Cancer Services**
- **Wound Care/Hyperbaric Services**
- **Dermatology**

No services will be added, terminated, expanded or reduced as a result of the Transaction.

12. Please identify the long-term plans of the applicant with respect to the health care programs and health care services to be provided at the facility:

RWMC will continue to provide quality, cost-effective services to members of the Rhode Island community.

13. Does the entity seeking licensure plan to participate in Medicare or Medicaid (Titles XVIII or XIX of the Social Security Act)?

MEDICARE: Yes **X** No___ MEDICAID: Yes **X** No___

- If response to Question 13 for either Medicare and/or Medicaid is 'No', please explain.

14. Please provide all appropriate signed legal transfer documents (i.e. purchase and sale agreement, affiliation agreement); **NOTE**: these documents must cause both parties to be legally bound.

See Tab 14. Please note, in Section 4.03(e) of the Agreement and Plan of Merger, the names of current or former employees owning Shares of Company Stock have been redacted because such information constitutes personal financial information.

15. Please provide organization charts of both agencies (existing entity and the applicant) for prior to transfer and post transfer, identifying all "parent" legal entities with direct or indirect ownership in or control, all "sister" legal entities also owned or controlled by the parent(s), and all "subsidiary" legal entities.

See Tab 15.

16. If the proposed owner, operator or director owned, operated or directed a health care facility (both within and outside Rhode Island) within the past three years, please demonstrate the record of that person(s) with respect to access of traditionally underserved populations to its health care facilities.

Historically, CharterCARE Health Partners had, for decades, provided significant levels of care for underserved, indigent, and low income patients in Rhode Island. These efforts have continued and, in fact, expanded under the 2014 joint venture with PMH.

PMH has invested significant funds since the 2014 joint venture to expand the primary care base, including in underserved areas of Rhode Island and has recruited three Spanish speaking primary care providers to assist with care to underserved areas.

Finally, RWMC participates in Medicare and Medicaid, which, to a great extent, serve underserved populations. In addition, RWMC has a charity care policy and will continue to serve traditionally underserved populations – see Tab 18.

17. Please identify the proposed immediate and long-term plans of the applicant to ensure adequate and appropriate access to the program and health care services to be provided by the health care facility/ies to traditionally underserved populations.

RWMC will continue to provide access to its services to traditionally underserved populations as set forth in response to question 16.

18. Please provide a copy of charity care policies and procedures and charity care application form.

See Tab 18.

19. After the proposed change in effective control, will the facility/ies provide medically necessary services to patients without discrimination, including the patients' ability to pay for services? Yes **X** No___.

- If response to Question 23 is 'No', please explain.

20. Please identify and describe all instances **involving the applicant and/or its affiliates** and the status or disposition of each of the following within the past 3 years:

A. Citations, enforcement actions, violations, charges, investigations, or similar types of actions involving the applicant and/or its affiliates (including but not limited to actions brought forward by any governmental agency, accrediting agency, or similar type of an agency.); **Other than day to day regulatory surveys, which are duly responded to, the Rhode Island licensed facilities are in good standing. With respect to the Rhode Island licensed facilities, please see the following:**

1. **6/1/18 Rhode Island State and Federal Licensing Survey Charter Care Home Health Services. Findings for two elements – Review of Medications and Home Health Aid services. A plan of correction was submitted on June 28, 2018. The plan was accepted.**

2. **2/2/2019 State of Rhode Island Fire Marshal. One violation concerning the fire alarm panel switch and one concerning smoke detectors. Plan of correction was submitted and accepted. Plan of correction has been fully implemented.**

3. **7/22/19 to 8/14/2019 Roger Williams Hospital – FDA on site unexpected 503 A (patient specific manufacture) visit for the outpatient oncology unit. Issued an FDA 483 citation for 7 observations. A plan of correction was submitted 9/5/19. No further follow-up from the FDA.**

4. **8/19 CMS Immediate Jeopardy and term track for Patient Rights conditional level findings at OLF (ED crisis unit). The Immediate Jeopardy was abated that day. A plan of correction was submitted and accepted for the conditional level findings. CMS validation survey was successfully completed and deemed status was reinstated.**

5. **January 2, 2020 Roger Williams CMS survey with one condition-level finding with a termination track for Surgical Services. The plan of correction was submitted on 2/7/20. Awaiting CMS acceptance of the plan and follow-up validation survey. Term Track Date April 17, 2020.**

There have been no enforcement actions, violations, charges, investigations or similar types of actions within the past 3 years, other than as discussed above.

B. Civil proceedings (whether pending or which have resulted in a disposition or settlement) in any court of law, in which the applicant and/or its affiliates and/or any officers, directors, trustees,

members, managing or general partners, or other senior management of the applicant and/or its affiliates has been a party to;
See Tab 20B

C. Convictions and/or placement on probation for any criminal offences by any state, local or federal government of any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates;
None

21. Please identify any planned actions of the applicant to reduce, limit, or contain health care costs and improve the efficiency with which health care services are delivered to the citizens of this state.

RWMC will continue its existing operations, which reduce, limit, and contain health care costs and improve the efficiency with which health care services are delivered to Rhode Island citizens. The Transaction will not affect its current wide array of high quality and cost efficient services.

22. Please provide a copy of the Quality Assurance Policies (for the services) and a detailed explanation of how quality assurance for patient services will be implemented at the facility/ies by the applicant.

See Tab 22

23. Please provide a detailed description about the amount and source of the equity and debt commitment for this transaction. (**NOTE**: If debt is contemplated as part of the financing, please complete Appendix E). Additionally, please demonstrate the following:

A. The immediate and long-term financial feasibility of the proposed financing plan;

Not applicable – there is no financing plan for this Transaction.

B. The relative availability of funds for capital and operating needs; and

The Transaction does not impact RWMC's capital and operating needs. RWMC generates sufficient revenues to cover its expenses. In the event any additional revenues are required, PCC has sufficient cash to fund any additional operating needs.

C. The applicant's financial capability.

The Transaction does not impact RWMC's capital and operating needs. RWMC will continue to generate sufficient revenues to cover its expenses. In the event any additional funds are required, PMH has sufficient cash to fund any additional operating needs, and PCC has access to sufficient cash to fund any additional operating needs. In fact, in July of 2019, Medical Properties Trust invested $1.55 billion in PMH. That investment has not only strengthened PMH financially, but also provided it with a significant and experienced potential source of funding for improvements to its facilities.

24. Please provide legally binding evidence of site control (e.g., deed, lease, option, etc.) sufficient to enable the applicant to have use and possession of the subject property, if applicable.
See Tab 24

25. If the facility is not-for-profit and/or affiliated with a not-for-profit, please provide written approval from the Rhode Island Department of Attorney General of the proposal. **N/A**

26. Please provide each of the following documents applicable to the applicant's legal status:

·Certificate and Articles of Incorporation and By-Laws (for corporations)
·Certificate of Partnership and Partnership Agreement (for partnerships)
·Certificate of Organization and Operating Agreement (for limited liability corporations)

- If any of the above documents are proposed to be revised or modified in any way as a result of the implementation of the proposed change in effective control, please provide the present documents and the proposed documents and **clearly identify** the revisions and modifications.

See Tab 26 for the Articles of Organization and Operating Agreement for RWMC, as well as the following entities:
Chamber Inc.: Certificate of Incorporation and By-Laws
Chamber Merger Sub, Inc. ("CMSI"): Certificate of Incorporation and By-Laws
Ivy Holdings Inc.: Certificate of Incorporation and Stockholders Agreement
Ivy Intermediate Holding Inc.: Certificate of Incorporation and By-Laws
Prospect Medical Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Hospital Advisory Services, LLC: Certificate of Formation, Operating Agreement and By-Laws
Prospect CharterCARE, LLC: Articles of Incorporation and Limited Liability Company Agreement

27. If the applicant and/or one of its parent companies (or ultimate parent) is a publicly traded corporation, please provide copies of its most recent SEC 10K filing. **Not Applicable.**

28. Please provide audited financial statements (which should include an income statement, balance sheet and cash flow statement) for the last three years for the applicant, and/or its ultimate parent, and for the existing facility.

See Tab 28 for audited financial statements for PMH, PCC for years 2016 - 2018 and RWMC for years 2017 and 2018. There are no audited statements for RWMC for 2016. There are no audited financial statements for CI, CMSI, IH, IIH, PEH or PEHAS for the last three years, as there has been no financial activity in those entities.

29. All applicants must complete Appendix A, D, F and G.

APPENDIX A

All applicants must complete this Appendix.

1. Please indicate the financing mix for the capital cost of this proposal. **NOTE**: the Health Services Council's policy requires a minimum 20 percent equity investment in CEC projects.

Source	Amount	Percent	Interest Rate	Terms (Yrs.)
Equity*	$11,940,992.00	100%		
Debt**	**N/A**	**N/A**	%	
Lease	**N/A**	**N/A**	%	
TOTAL	**$**11,940,992.00	**100%**		

* Equity means non-debt funds contributed towards the capital cost related to a change in owner or change in operator of a healthcare facility which funds are free and clear of any repayment or liens against the assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

** If debt financing is indicated, please complete Appendix E.

2. Please identify the total number of FTEs (full time equivalents) and the associated payroll expense (with fringe benefits) for the facility.

	Past Three Fiscal Years						Budgeted Current Year	
	FY: 2016		FY: 2017		FY: 2018		FY: 2019	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director[1]	0.96	$594,319	-	-	-	-	-	-
Physicians	97.04	$13,082,830	97.10	$13,822,235	96.74	$13,851,338	93.41	$13,540,477
Administrator	8.58	$1,222,774	13.73	$2,093,732	13.92	$2,182,392	12.19	$1,829,833
Director of Nursing[2]	-	-	-	-	-	-	-	-
RNs	221.24	$21,298,187	223.76	$21,713,790	227.21	$22,603,988	217.88	$21,454,856
LPNs	4.34	$307,680	3.96	$286,444	2.67	$195,589	0.96	$70,137
Nursing Aides	72.96	$3,161,073	74.99	$3,225,708	83.93	$3,738,062	90.34	$3,951,949
PTs	18.44	$1,711,520	21.58	$1,986,464	15.69	$1,456,752	4.42	$397,789
OTs	4.98	$431,563	7.90	$679,631	7.21	$645,439	4.45	$367,666
Speech Therapists	1.34	$155,664	1.80	$204,592	1.65	$188,547	1.84	$176,136
Clerical	138.11	$6,791,282	151.05	$8,070,341	143.6	$7,874,125	127.78	$6,968,568
Housekeeping	18.64	$750,636	20.77	$855,551	36.26	$1,397,044	36.66	$1,386,217
Other (_____)	267.07	$19,680,576	272.65	$20,614,942	279.47	$21,986,557	272.78	$21,018,587
Other (CCHP Corporate)	142.38	$14,575,954	90.79	$9,254,971	89.51	$9,031,626	72.50	$7,668,448
Totals	996.08	$83,764,058	980.08	$82,808,401	997.86	$85,151,459	935.21	$78,830,663

[1] The Medical Director position for years 2017 – 2022 is reflected within the physician FTEs.
[2] The Chief Nursing Officer (the Director of Nursing) position for years 2016 – 2022 is reflected within the administrator FTEs.

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

	Projected First Three Fiscal Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	--	--	--	--	--	--
Physicians	93.41	$13,811,286	93.41	$14,087,512	93.41	$14,369,262
Administrator	12.19	$1,866,429	12.19	$1,903,758	12.19	$1,941,833
Director of Nursing	-	-	-	-	-	-
RNs	217.88	$21,883,953	217.88	$22,321,632	217.88	$22,768,065
LPNs	0.96	$71,540	.96	$72,971	0.96	$74,430
Nursing Aides	90.34	$4,030,988	90.34	$4,111,608	90.34	$4,193,840
PTs	4.42	$405,744	4.42	$413,859	4.42	$422,137
OTs	4.45	$375,019	4.45	$382,519	4.45	$390,170
Speech Therapists	1.84	$179,659	1.84	$183,252	1.84	$186,917
Clerical	127.78	$7,107,939	127.78	$7,250,098	130.36	$7,395,100
Housekeeping	36.66	$1,413,942	36.66	$1,442,221	36.66	$1,471,065
Other	272.78	$21,438,959	272.78	$21,867,738	270.20	$23,305,093
Other (CCHP Corporate)	72.50	$7,821,817	72.50	$7,978,254	72.50	$8,137,819
Totals	935.21	$80,407,275	935.21	$82,015,422	935.21	$83,655,731

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

3. Please complete the following table for the facility. Round all amounts to the nearest dollar.

	Past Three Fiscal Years			Budgeted Current Fiscal Year	Projected Three Fiscal Years (if approved)		
	FY:2016	**FY:2017**	**FY:2018**	**FY:2019**	**FY: 2020**	**FY: 2021**	**FY: 2022**
REVENUES							
Net Patient Revenue	$175,942,008	$175,797,118	$178,353,331	$179,723,444	$183,317,913	$186,984,271	$190,723,956
Other: (_____)	$4,153,037	$3,506,460	$3,376,787	$3,494,921	$3,564,819	$3,636,116	$3,708,838
Total Revenue	$180,095,045	$179,303,578	$ 181,730,118	$183,218,365	$186,882,732	$190,620,387	$194,432,794
EXPENSES							
Payroll w/Fringes	$83,764,058	$82,808,401	$85,151,459	$78,830,663	$80,407,275	$82,015,422	$83,655,731
Bad Debt	$7,733,101	$6,155,266	$5,977,885	$6,961,879	$7,101,116	$7,243,139	$7,388,001
Supplies	$21,689,103	$21,527,162	$22,440,662	$21,176,880	$21,600,417	$22,032,426	$22,473,074
Office Expenses	$1,096,677	$1,422,965	$1,467,738	$1,383,737	$1,411,412	$1,439,640	$1,468,433
Utilities	$2,027,110	$1,780,530	$2,399,902	$2,585,941	$2,637,660	$2,690,413	$2,744,222
Insurance	$3,226,523	$2,229,036	$1,868,435	$1,820,573	$1,856,984	$1,894,124	$1,932,007
Interest	$27,739	$108,467	$44,829	$138,677	$141,451	$144,280	$147,165
Depreciation/Amortization	$5,467,064	$5,828,174	$6,693,936	$7,289,380	$7,435,168	$7,583,871	$7,735,549
Leasehold Expenses	$812,183	$976,784	$1,252,724	$858,023	$875,183	$892,687	$910,541
Other: (Pharmaceuticals)	$15,728,435	$17,013,774	$17,447,941	$18,108,415	$18,470,584	$18,839,995	$19,216,795
Other: (Professional Fees)	$3,636,582	$4,049,295	$5,381,329	$8,029,823	$8,190,419	$8,354,228	$8,521,312
Other: (Purchased Services)	$12,954,781	$13,249,269	$12,700,583	$14,724,092	$15,018,573	$15,318,945	$15,625,324
Other: (Prop Tax & Other)	$10,772,219	$13,629,525	$12,147,544	$12,635,979	$12,888,699	$13,146,473	$13,409,402
Other: (Management Fees)	$3,559,123	$3,585,516	$3,720,750	$3,789,288	$3,865,073	$3,942,375	$4,021,222
Other: (Grant Exp)	$2,424,198	$2,231,385	$2,503,430	$2,626,184	$2,678,708	$2,732,282	$2,786,927
Other: (Other Exp)	$4,988,068	$3,877,454	$5,380,884	$432,537	$441,187	$450,011	$459,011
Total Expenses	$179,906,964	$180,473,003	$186,580,031	$181,392,071	$185,019,907	$188,720,311	$192,494,716
OPERATING PROFIT/LOSS	$188,081	($1,169,425)	($4,849,913)	$1,826,294	$1,862,825	$1,900,076	$1,938,078

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

4. Please provide Net Patient Revenues (dollar value and percentage) for the existing facility by completing the table below for the requested years.

	Past Three Fiscal Years (Actual)						Budgeted Current Year	
	FY:2016		FY:2017		FY:2018		FY:2019	
PAYOR SOURCE:	$	%	$	%	$	%	$	%
Blue Cross	$32,522,964	18.49%	$31,135,314	17.71%	$31,009,202	17.38%	$31,179,793	17.34%
Commercial	$8,035,211	4.57%	$15,706,877	8.93%	$9,909,304	5.55%	$11,788,251	6.56%
HMO's	$10,719,760	6.09%	$9,977,613	5.68%	$10,037,072	5.63%	$10,710,624	5.96%
Medicaid	$34,472,864	19.59%	$35,382,629	20.13%	$35,377,354	19.84%	$38,710,163	21.54%
Medicare	$82,560,965	46.93%	$78,090,014	44.42%	$85,237,949	47.79%	$79,140,623	44.04%
Other	$1,312,955	0.75%	$1,113,086	0.63%	$1,048,175	0.59%	$1,009,578	0.56%
Self Pay	$6,317,289	3.58%	$4,391,585	2.50%	$5,734,275	3.22%	$7,184,412	4.00%
TOTAL Net Patient Revenue	$175,942,008	100.00%	$175,797,118	100.00%	$178,353,331	100.00%	$179,723,444	100.00%
Charity Care*	$1,282,675	0.73%	$1,688,418	0.96%	$1,491,059	0.84%	$639,482	0.36%

	Projected First Three Operating Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PAYOR SOURCE:	$	%	$	%	$	%
Blue Cross	$31,803,389	17.35%	$32,439,457	17.35%	$33,088,246	17.35%
Commercial	$12,024,016	6.56%	$12,264,496	6.56%	$12,509,786	6.56%
HMO's	$10,924,836	5.96%	$11,143,333	5.96%	$11,366,200	5.96%
Medicaid	$39,484,366	21.54%	$40,274,054	21.54%	$41,079,535	21.54%
Medicare	$80,723,435	44.03%	$82,337,904	44.03%	$83,984,662	44.03%
Other	$1,029,770	0.56%	$1,050,365	0.56%	$1,071,372	0.56%
Self Pay	$7,328,100	4.00%	$7,474,662	4.00%	$7,624,155	4.00%
TOTAL Net Patient Revenue	$183,317,912	100.00%	$186,984,271	100.00%	$190,723,956	100.00%
Charity Care*	$652,272	0.36%	$665,317	0.36%	$678,623	0.36%

*Charity Care does not include bad debt and is based on costs (not charges). For Home Nursing Care Providers, the statewide community standard shall be one percent (1%) of net patient revenue earned on an annual basis.

NOTE: TOTAL Net Patient Revenues should equal Net Patient Revenues identified in Appendix A, Table 3.

(TO BE COMPLETED BY THE APROPRIATE STATE AGENCY)

Appendix B

Rhode Island Department of Health
Center for Health Systems Policy and Regulation

Compliance Report

(Name of Applicant) Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center has applied for licensure as a healthcare facility in Rhode Island. As part of the regulatory requirements to determine the character, competence and other quality related information of the applicant, the Center for Health Systems Policy and Regulation is requesting the following information regarding the health care facilities operated by or affiliated with the applicant, as listed on the attached sheet.

Please answer the following questions.

1. Are the agencies/facilities currently licensed and in substantial compliance with all applicable codes, rules and regulations? Yes__ No__

If the answer to #1 is "NO", please identify the facility(ies) and briefly explain the licensure status.

2. Has there been any enforcement actions against these agencies/facilities in the past three (3) years? Yes__ No__

If the answer to #2 is "YES", please identify the facility(ies) and include any information relevant to those enforcement actions (reason for action, stipulation, fine, etc.). In addition, please furnish a brief description of the outcome of the most recent survey, including any deficiencies cited. Additional pages may be attached, if needed.

Reviewer's Name: _____ Title: _____
Department: _____ State: _____
Telephone_____ E-mail _____
Reviewer's Signature: _____ Date: _____

If you have any questions, please contact Paula Pullano at (401) 222-2788 or e-mail, Paula.Pullano@health.ri.gov. Please return the completed form within 15 days to Paula.Pullano@health.ri.gov or to the address below:

Rhode Island Department of Health
Center for Health Systems Policy and Regulation
3 Capitol Hill, Room 410
Providence, Rhode Island 02908

Thank you.
Attachment

Appendix B (CONT.)

Applicant, please provide the following information identifying each facility to the appropriate state agency as an attachment to the letter in the table below, use additional pages if necessary. Please make sure to identify yourself in the cover letter by filling in the blank for 'Name of Applicant'.

See letters attached at Tab E.

State	Facility Name, Address and Contact Information	License Number
CA	**Southern California Hospital at Hollywood**	**930000066**
CA	**Southern California Hospital at Culver City**	**930000066**
CA	**Southern California Hospital at Van Nuys**	**930000066**
CA	**Los Angeles Community Hospital**	**93000039**
CA	**Los Angeles Community Hospital at Norwalk**	**93000039**
CA	**Foothill Regional Medical Center**	**060000178**
RI	**Our Lady of Fatima Hospital**	**HOS00132**
RI	**Blackstone Valley Surgicare**	**FAS01032**
RI	**Prospect CharterCARE Home Health Services**	**HCN02373**
NJ	**East Orange General Hospital**	**10704**
CT	**Manchester Memorial Hospital**	**GH.0000073**
CT	**Rockville General Hospital**	**GH.0000074**
CT	**Waterbury Hospital**	**GH.0000075**
CT	**Prospect Waterbury Home Health, Inc**	**9915747**
CT	**Prospect ECHN Home Health, Inc.**	**9915748**
PA	**Crozer-Chester Medical Center**	**037201**
PA	**Springfield Hospital**	**037201**
PA	**Taylor Hospital**	**037201**
PA	**Delaware County Memorial Hospital**	**041801**
PA	**Prospect Croze Home Health and Hospice**	**753705**

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Appendix D

Source of Funds

No equity – Purchase being made with available corporate cash

All applicants must complete this Appendix.

I. Please provide the total expenditures necessary to implement this proposal and allocate this amount to the sources of funds categories listed below:

TOTAL PROJECT COST: $11,940,992.00*

SOURCE OF FUNDS	AMOUNT
a. Funded depreciation	$ _____
b. Other restricted funds (specify) _____	_____
c. Unrestricted funds (specify) _____	_____
d. Owner's equity	_____
e. Sale of stock/other equity	_____
f. Unrestricted donations or gifts	_____
g. Restricted donations or gifts	_____
h. Government grant (specify) _____	_____
i. Other non-debt funds (specify) available corporate cash	11,940,992.00
j. Sub-Total Equity Funds	_____
k. Subsidized loan (e.g. FHA etc.) _____	_____
l. Tax-exempt bonds (specify) _____	_____
m. Conventional mortgage	_____
n. Lease or rental	_____
o. Other debt funds	_____
p. Sub-Total Debt Funds	_____
q. Total Source of Funds	**$**11,940,992.00

* should equal the response for line "q"

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Appendix E

Debt Financing

Not Applicable – There is no debt financing for the proposed Transaction.

All applicants proposing debt financing must complete this Appendix.

Applicants contemplating the incurrence of a financial obligation for full or partial funding of the proposal must complete and submit this appendix.

1. Please describe the proposed debt by completing the following:
   a.) type of debt contemplated _____
   b.) term (months or years) _____
   c.) principal amount borrowed _____
   d.) probable interest rate _____
   e.) points, discounts, origination fees _____
   f.) compensating balance or reserved fund _____
   g.) likely security _____
   h.) disposition of property (if a lease is revoked) _____
   i.) prepayment penalties or call features _____
   j.) front end costs (e.g. underwriting spread, feasibility study, legal and printing expense, points etc.) _____
   k.) debt service reserve fund _____

2. If this proposal involves refinancing of existing debt, please indicate the original principal, the current balance, the interest rate, the years remaining on the debt and a justification for the refinancing contemplated.

3. Please present a debt service schedule for the chosen method of financing, which clearly indicates the total amount borrowed and the total amount repaid per year. Of the amount repaid per year, the total dollars applied to principal and total dollars applied to interest must be shown.

Appendix F

Disclosure of Ownership and Control Interest

All applicants must complete this Appendix.

I. Please answer the following questions by checking either 'Yes' or 'No'. If any of the questions are answered 'Yes', please list the names and addresses of individuals or corporations.

A. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant, that have been convicted of a criminal offense related to the involvement of such persons or organizations in any of the programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

B. Will there be any directors, officers, agents, or managers of the applicant (or facility) who have ever been convicted of a criminal offense related to their involvement in such programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

C. Are there (or will there be) any individuals employed by the applicant (or facility) in a managerial, accounting, auditing, or similar capacity who were employed by the applicant's fiscal intermediary within the past 12 months (Title XVIII providers only)? Yes___ No **X**

D. Will there be any individuals (or organizations) having direct (or indirect) ownership interests, separately (or in combination), of 5 percent or more in the applicant (or facility)? (Indirect ownership interest is ownership in any entity higher in a pyramid than the applicant) Yes **X** No___ (Note, if the applicant is a subsidiary of a "parent" corporation, the response is 'Yes') See **Tab 15.**

E. Will there be any individuals (or organizations) having ownership interest (equal to at least 5 percent of the facility's assets) in a mortgage or other obligation secured by the facility? Yes___ No **X**

F. Will there be any individuals (or organizations) that have an ownership or control interest of 5 percent or more in a subcontractor in which the applicant (or facility) has a direct or indirect ownership interest of 5 percent or more. (Also, please identify those subcontractors.) Yes___ No **X**

G. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant (or facility), who have been direct (or indirect) owners or employees of a health care facility against which sanctions (of any kind) were imposed by any governmental agency? Yes___ No **X**

H. Will there be any directors, officers, agents, or managing employees of the applicant (or facility) who have been direct (or indirect) owners or employees of a health care facility against which any sanctions were imposed by any governmental agency? Yes___ No **X**

Appendix G

Ownership Information

All applicants must complete this Appendix

1. List all officers, members of the board of directors, stockholders, and trustees of the applicant and/or ultimate parent entity. For each individual, provide their home and business address, principal occupation, position with respect to the applicant and/or ultimate parent entity, and amount, if any, of the percentage of stock, share of partnership, or other equity interest that they hold.

See Tab G1

2. For each individual listed in response to Question 1 above, list all (if any) other health care facilities or entities within or outside Rhode Island in which he or she is an officer, director, trustee, shareholder, partner, or in which he or she owns any equity or otherwise controlling interest. For each individual, please identify: A) the relationship to the facility and amount of interest held, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G2

3. If any individual listed in response to Question 1 above, has any business relationship with the applicant, including but not limited to: supply company, mortgage company, or other lending institution, insurance or professional services, please identify each such individual and the nature of each relationship.

None.

4. Have any individuals listed in response to Question 1 above been convicted of any state or federal criminal violation within the past 20 years? Yes___ No **X**.

- If response to Question 4 is 'Yes', please identify each person involved, the date and nature of each offense and the legal outcome of each incident. **N/A**

5. Please list all licensed healthcare facilities (in Rhode Island or elsewhere) owned, operated or controlled by any of the entities identified in response to Question 15 of the application. For each facility, please identify: A) the entity, applicant or principal involved, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G5

6. Have any of the facilities owned, operated or managed by the applicant and/or any of the entities identified in Question 5 above during the last 5-years had bankruptcies and/or were placed in receiverships?
Yes **X** No___

- If response to Question 6 is 'Yes', please identify the facility and its current status.

On November 11, 2015, East Orange General Hospital, Inc. ("Oldco"), a New Jersey not-for-profit hospital, and its affiliates, filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code, 11 USC § et seq., in the United States Bankruptcy Court for the District of New Jersey (Case No. 15-31232 – VFP). On March 1, 2016, Prospect EOGH, Inc. d/b/a East Orange General Hospital ("Newco"), purchased the assets and assumed specific and identified liabilities of Oldco pursuant to Sections 105, 363 and 365 of the Bankruptcy Code. Prospect EOGH, Inc. is a wholly owned subsidiary of Prospect NJ, Inc., which is a wholly owned subsidiary of Prospect Medical Holdings, Inc.

Change in Effective Control Application

Version 01.2019

Applicant	Name of Licensee: **Prospect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital** Name(s) of Parent Entity(ies): **Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facility:	**Our Lady of Fatima Hospital**
Date of Submission	Submitted November 8, 2019; Resubmitted February 19, 2020; Resubmitted May 14, 2020

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

signed and dated by the President or Chief Executive Officer 11/8/19

Sheila M Capobianco 11/8/19
signed and dated by Notary Public

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

signed and dated by the President or Chief Executive Officer

Prospect CharterCARE, LLC

SHEILA M. CAPOBIANCO NOTARY PUBLIC STATE OF RHODE ISLAND

Sheila M. Capobianco 4/30/2020

signed and dated by Notary Public

My commission expires: 8/17/2022

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

lp Sam Lee 4/28/2020

signed and dated by the President or Chief Executive Officer

Chamber Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020

signed and dated by the President or Chief Executive Officer

Ivy Holdings Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

lp Sam Lee 4/28/2020

signed and dated by the President or Chief Executive Officer

Ivy Intermediate Holdings Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020
signed and dated by the President or Chief Executive Officer

Prospect Medical Holdings,Inc.

signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020
_____
signed and dated by the President or Chief Executive Officer

Prospect East Holdings, Inc.

_____
signed and dated by Notary Public

Change in Effective Control Application

Version 01.2019

For Hospital Conversion Act Review

Applicant	Name of Licensees: **Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC** Name(s) of Parent Entity(ies): **wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facilities:	**Roger Williams Medical Center** **Our Lady of Fatima Hospital**
Date of Submission	**Submitted: November 8, 2019** **Resubmitted: February 19, 2020** **Resubmitted May 14, 2020**

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

LP Sam Lee 4/28/2020
_____
signed and dated by the President or Chief Executive Officer

Prospect East Hospital Advisory Services, LLC

_____
signed and dated by Notary Public

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1. Please provide an executive summary describing the nature and scope of the proposal. Additionally, please include the following: (1) identification of all parties, (2) description of the applicant and it's licensure track record, (3) the type of transaction proposed including description of the transaction and relevant costs, (4) summary of all transfer documents, (5) summary of the organizational structure of the applicant and its affiliates, and (6) whether the facility will be accredited.

Prospect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital ("OLF") is a licensed acute care hospital (license number HOSP00132) located in North Providence, Rhode Island. OLF provides a wide array of high quality and cost-effective services to its patients, including emergency department services, ambulatory care services, and inpatient and outpatient services including psychiatric, mental health and addiction medicine services. OLF maintains a strong licensure track record of providing high quality services to its patients.

This application seeks approval for a change in ownership of OLF's ultimate parent (five companies removed from OLF) in order to effectuate a buy-out of the private equity investors as described more fully below. The proposed change in ownership of the ultimate parent company will have no impact on the day to day services provided by OLF. Prospect CharterCARE, LLC ("PCC") wholly owns OLF, as well as Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center, a licensed acute care hospital, and Prospect Blackstone Valley Surgicare, LLC a licensed freestanding ambulatory surgery center. PCC is owned 85% by Prospect East Holdings, Inc., ("PEH") and 15% by CharterCARE Community Board ("CCCB"). PEH and Prospect East Hospital Advisory Services, LLC ("PEHAS") are wholly owned by Prospect Medical Holdings, Inc. ("PMH"). PMH is wholly owned by Ivy Intermediate Holding Inc., which is wholly owned by Ivy Holdings Inc. ("IH"). IH is currently owned by a combination of private equity investment partnership (the "Corporate Passive Investor"), Sam Lee, the CEO of PMH, and David Topper, the President of PMH, through his Family Trust. Other management own a small minority of shares. A copy of the pre-transaction organizational chart is attached at **Tab 15**.

The proposed transaction involves a change to IH *only* – a holding company five times removed from the Hospitals. Specifically, the change involves two individual owners – Lee and Topper (through his Family Trust) – becoming the sole shareholders of a newly formed entity, Chamber Inc., which will become the parent of IH. A copy of the post-Transaction organizational chart is attached at **Tab 15**. (The capital costs of the transaction are eleven million nine hundred forty thousand nine-hundred ninety-two dollars ($11,940,992.00). After the transaction, the Corporate Passive Investor and the other minority management shareholders will no longer retain any ownership in IH. The transaction funds will not come from or affect any of the Prospect CharterCARE entities; instead, the transaction funds consist entirely of available PMH corporate cash. A copy of the Merger Agreement is attached at **Tab 14.**

Following the Transaction, all existing entities described above will remain as surviving corporations. There will be no change whatsoever to any of the existing entities that will in any way impact the operations or governance of the licensed facilities including OLF. Specifically, PMH will continue to own PEH and PEHAS, PEH will continue to own PCC, and PCC will continue to own and operate OLF.

The Transaction will have no impact on OLF. In particular, it will not impact the services provided, the populations served, the payor mix, the governance, the tax ID numbers, the provider numbers, staffing, strategic plans, financial condition, professional, clerical, administrative, or medical staff, policies and procedures (including charity care), or the assets, liabilities, and obligations. Following the Transaction,

OLF will continue to provide high quality and cost efficient care to members of the Rhode Island community.

2. Name and address of the applicant:

Name:	**Prospect CharterCARE SJHSRI, LLC**	Telephone:	**(401) 456-3000**
Address:	**200 High Service Avenue, North Providence, RI**	Zip Code:	**02904**

3. Name and address of facility (if different from applicant):

Name:	**N/A**	Telephone:	
Address:		Zip Code:	

4. Information of the President or Chief Executive Officer of the applicant:

Name:	**Jeffrey H. Liebman**	Telephone:	**(401) 456-2084**
Address:	**825 Chalkstone Avenue, Providence, RI**	Zip Code:	**02908**
E-Mail:	**Jeffrey.liebman@chartercare.org**	Fax:	**(401) 456-2029**

5. Information for the person to contact regarding this proposal:

Name:	**Patricia Rocha, Adler Pollock & Sheehan**	Telephone:	**(401) 274-7200**
Address:	**One Citizens Plaza, 8th Floor, Providence, RI**	Zip Code:	**02903**
E-Mail:	**procha@apslaw.com**	Fax:	**(401) 751-0604**

6. A. **EXISTING ENTITY:**

License category: **Hospital**			
Name of Facility: **Our Lady of Fatima Hospital**		License #:	**HOS00132**
Address:	**200 High Service Area, North Providence, RI**	Telephone:	**(401) 456-3000**
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**_X_** Limited Liability Co.
Tax Status:	**_X__** For Profit ___ Non-Profit		

B. **PROPOSED ENTITY:**

License category: **Hospital**			
Name of Facility: **Our Lady of Fatima Hospital**		License #:	
Address:	**200 High Service Area, North Providence, RI**	Telephone:	**(401) 456-3000**
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**_X_** Limited Liability Co.
Tax Status:	**_X__** For Profit ___ Non-Profit		

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Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

7. Does this proposal involve a nursing facility? Yes __ No **X**

- If response to Question 7 is 'Yes', please complete Appendix C.

8. Will the facility be operated under management agreement with any party? Yes___ No _X

- If response to Question 8 is "Yes", please provide copies of that agreement.

9. Will the proposal involve the facility/ies providing healthcare services under contract with an outside party? Yes___ No **X**

- If response to Question 9 is "Yes", please identify and describe those services to be contracted out.

10. Estimate the date (month and year) for the proposed transfer of ownership, if approved:

December 20, 2019

11. Please provide a concise description of the services currently offered by the licensed entity and identify any services that will be added, terminated, expanded, or reduced and state the reasons therefore:

OLF is an acute care hospital licensed for 278 beds. The services currently offered include:
- Medical/Surgical Services and Intensive/Coronary Care Unit
- Inpatient and Outpatient Rehabilitation Services
- Ambulatory Care Services
- Emergency Services
- Inpatient and Outpatient Psychiatric/Mental Health/Addiction Medicine Services
- Diagnostic Imaging and Interventional/Radiology Services
- Wound Care/Hyperbaric Services
- Dermatology
- Health center services (GYN & pediatric clinic, adult and pediatric dentistry, immunizations, WIC)
No services will be added, terminated, expanded or reduced as a result of the Transaction.

12. Please identify the long-term plans of the applicant with respect to the health care programs and health care services to be provided at the facility:

OLF will continue to provide quality, cost-effective services to members of the Rhode Island community.

13. Does the entity seeking licensure plan to participate in Medicare or Medicaid (Titles XVIII or XIX of the Social Security Act)?

MEDICARE: Yes **X** No___ MEDICAID: Yes **X** No___

- If response to Question 13 for either Medicare and/or Medicaid is 'No', please explain.

14. Please provide all appropriate signed legal transfer documents (i.e. purchase and sale agreement, affiliation agreement); **NOTE**: these documents must cause both parties to be legally bound.

See Tab 14. Please note, in Section 4.03(e) of the Agreement and Plan of Merger, the names of current or former employees owning Share of Company Stock have been redacted because such information constitutes personal financial information.

15. Please provide organization charts of both agencies (existing entity and the applicant) for prior to transfer and post transfer, identifying all "parent" legal entities with direct or indirect ownership in or control, all "sister" legal entities also owned or controlled by the parent(s), and all "subsidiary" legal entities.

See Tab 15

16. If the proposed owner, operator or director owned, operated or directed a health care facility (both within and outside Rhode Island) within the past three years, please demonstrate the record of that person(s) with respect to access of traditionally underserved populations to its health care facilities.

Historically, CharterCARE Health Partners had, for decades, provided significant levels of care for underserved, indigent, and low income patients in Rhode Island. These efforts have continued and, in fact, expanded under the 2014 joint venture with PMH.

PMH has invested significant funds since the 2014 joint venture to expand the primary care base, including in underserved areas of Rhode Island and has recruited three Spanish speaking primary care providers to assist with care to underserved areas.

Finally, OLF participates in Medicare and Medicaid, which, to a great extent, serve underserved populations. In addition, OLF has a charity care policy and will continue to serve traditionally underserved populations – see Tab 18B.

17. Please identify the proposed immediate and long-term plans of the applicant to ensure adequate and appropriate access to the program and health care services to be provided by the health care facility/ies to traditionally underserved populations.

OLF will continue to provide access to its services to traditionally underserved populations as set forth in response to question 16.

18. Please provide a copy of charity care policies and procedures and charity care application form.

See Tab 18B

19. After the proposed change in effective control, will the facility/ies provide medically necessary services to patients without discrimination, including the patients' ability to pay for services? Yes **X** No___.

- If response to Question 23 is 'No', please explain.

20. Please identify and describe all instances **involving the applicant and/or its affiliates** and the status or disposition of each of the following within the past 3 years:

A. Citations, enforcement actions, violations, charges, investigations, or similar types of actions involving the applicant and/or its affiliates (including but not limited to actions brought forward by any governmental agency, accrediting agency, or similar type of an agency.); **Other than day to day regulatory surveys, which are duly responded to, the Rhode Island licensed facilities are in good standing. With respect to the Rhode Island licensed facilities, please see the following:**

1. **6/1/18 Rhode Island State and Federal Licensing Survey Charter Care Home Health Services. Findings for two elements – Review of Medications and Home Health Aid services. A plan of correction was submitted on June 28, 2018. The plan was accepted.**

2. **2/2/2019 State of Rhode Island Fire Marshal. One violation concerning the fire alarm panel switch and one concerning smoke detectors. Plan of correction was submitted and accepted. Plan of correction has been fully implemented.**

3. **7/22/19 to 8/14/2019 Roger Williams Hospital – FDA on site unexpected 503 A (patient specific manufacture) visit for the outpatient oncology unit. Issued an FDA 483 citation for 7 observations. A plan of correction was submitted 9/5/19. No further follow-up from the FDA.**

4. **8/19 CMS Immediate Jeopardy and term track for Patient Rights conditional level findings at OLF (ED crisis unit). The Immediate Jeopardy was abated that day. A plan of correction was submitted and accepted for the conditional level findings. CMS validation survey was successfully completed and deemed status was reinstated.**

5. **January 2, 2020 Roger Williams CMS survey with one condition-level finding with a termination track for Surgical Services. The plan of correction was submitted on 2/7/20. Awaiting CMS acceptance of the plan and follow-up validation survey. Term Track Date April 17, 2020.**

There have been no enforcement actions, violations, charges, investigations or similar types of actions within the past 3 years, other than as discussed above.

B. Civil proceedings (whether pending or which have resulted in a disposition or settlement) in any court of law, in which the applicant and/or its affiliates and/or any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates has been a party to;
See Tab 20B

C. Convictions and/or placement on probation for any criminal offences by any state, local or federal government of any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates;
None

21. Please identify any planned actions of the applicant to reduce, limit, or contain health care costs and improve the efficiency with which health care services are delivered to the citizens of this state.

OLF will continue its existing operations, which reduce, limit, and contain health care costs and improve the efficiency with which health care services are delivered to Rhode Island citizens. The Transaction will not affect its current wide array of high quality and cost efficient services.

22. Please provide a copy of the Quality Assurance Policies (for the services) and a detailed explanation of how quality assurance for patient services will be implemented at the facility/ies by the applicant.

See Tab 22B

23. Please provide a detailed description about the amount and source of the equity and debt commitment for this transaction. (**NOTE**: If debt is contemplated as part of the financing, please complete Appendix E). Additionally, please demonstrate the following:

A. The immediate and long-term financial feasibility of the proposed financing plan;

Not applicable – there is no financing plan for this Transaction.

B. The relative availability of funds for capital and operating needs; and

The Transaction does not impact OLF's capital and operating needs. OLF generates sufficient revenues to cover its expenses. In the event any additional revenues are required, PCC has sufficient cash to fund any additional operating needs.

C. The applicant's financial capability.

The Transaction does not impact OLF's capital and operating needs. OLF will continue to generate sufficient revenues to cover its expenses. In the event any additional funds are required, PMH has sufficient cash to fund any additional operating needs, and PCC has access to sufficient cash to fund any additional operating needs. In fact, in July of 2019, Medical Properties Trust invested $1.55 billion in PMH. That investment has not only strengthened PMH financially, but also provided it with a significant and experienced potential source of funding for improvements to its facilities.

24. Please provide legally binding evidence of site control (e.g., deed, lease, option, etc.) sufficient to enable the applicant to have use and possession of the subject property, if applicable.

See Tab 24B

25. If the facility is not-for-profit and/or affiliated with a not-for-profit, please provide written approval from the Rhode Island Department of Attorney General of the proposal. **N/A**

26. Please provide each of the following documents applicable to the applicant's legal status:

·Certificate and Articles of Incorporation and By-Laws (for corporations)
·Certificate of Partnership and Partnership Agreement (for partnerships)
·Certificate of Organization and Operating Agreement (for limited liability corporations)

- If any of the above documents are proposed to be revised or modified in any way as a result of the implementation of the proposed change in effective control, please provide the present documents and the proposed documents and **clearly identify** the revisions and modifications.

See Tab 26B for Articles of Organization and Operating Agreement for OLF, as well as the following entities:
Chamber Inc.: Certificate of Incorporation and By-Laws
Ivy Holdings Inc.: Certificate of Incorporation and Stockholders Agreement
Ivy Intermediate Holding Inc.: Certificate of Incorporation and By-Laws
Prospect Medical Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Hospital Advisory Services, LLC: Certificate of Formation, Operating Agreement and By-Laws
Prospect CharterCARE, LLC: Articles of Incorporation and Limited Liability Company Agreement

27. If the applicant and/or one of its parent companies (or ultimate parent) is a publicly traded corporation, please provide copies of its most recent SEC 10K filing. **Not Applicable.**

28. Please provide audited financial statements (which should include an income statement, balance sheet and cash flow statement) for the last three years for the applicant, and/or its ultimate parent, and for the existing facility.

See Tab 28B for audited financial statements for PMH, PCC and OLF for years, 2016, 2017 and 2018. There are no audited financial statements for CI, CMSI, IH, IIH, PEH or PEHAS for the last three years, as there has been no financial activity in those entities.

29. All applicants must complete Appendix A, D, F and G.

APPENDIX A

All applicants must complete this Appendix.

1. Please indicate the financing mix for the capital cost of this proposal. **NOTE**: the Health Services Council's policy requires a minimum 20 percent equity investment in CEC projects.

Source	Amount	Percent	Interest Rate	Terms (Yrs.)
Equity*	$11,940,922.00	100%		
Debt**	**N/A**	**N/A**	%	
Lease	**N/A**	**N/A**	%	
TOTAL	**$11,940,922.00**	**100%**		

* Equity means non-debt funds contributed towards the capital cost related to a change in owner or change in operator of a healthcare facility which funds are free and clear of any repayment or liens against the assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

** If debt financing is indicated, please complete Appendix E.

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Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

2. Please identify the total number of FTEs (full time equivalents) and the associated payroll expense (with fringe benefits) for the facility.

	Past Three Fiscal Years						Budgeted Current Year	
	FY: 2016		FY: 2017		FY: 2018		FY: 2019	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	2.79	$978,226	2.04	$633,928	1.63	$461,368	1.77	$482,074
Physicians	8.10	$2,910,302	7.65	$2,780,740	6.12	$2,847,934	4.81	$2,503,289
Administrator	6.22	$916,387	11.80	$1,835,593	13.47	$2,165,279	12.26	$1,860,448
Director of Nursing	-	-	-	-	-	-	-	-
RNs	204.22	$22,036,684	214.95	$23,358,987	213.63	$23,282,724	208.00	$22,612,405
LPNs	6.97	$615,001	3.79	$313,847	3.54	$298,605	3.51	$294,467
Nursing Aides	91.06	$4,349,065	99.91	$5,072,773	107.60	$5,188,496	114.62	$5,340,296
PTs	14.21	$1,399,314	14.15	$1,369,322	13.63	$1,366,661	12.18	$1,193,026
OTs	9.62	$830,470	10.31	$907,241	10.13	$934,366	10.36	$922,639
Speech Therapists	3.10	$331,580	3.04	$325,747	3.02	$337,354	2.74	$316,852
Clerical	112.46	$5,860,080	120.97	$6,937,660	118.89	$6,935,142	103.34	$6,011,264
Housekeeping	49.32	$1,981,376	43.43	$1,815,897	48.74	$1,950,623	46.60	$1,851,399
Other (_____)	348.03	$25,854,594	358.04	$26,461,210	360.35	$26,744,124	333.33	$24,568,919
Other (CCHP Corporate)	142.38	$14,575,954	90.79	$9,254,971	89.51	$9,020,346	72.50	$7,669,368
Totals	998.48	$82,639,033	980.87	$81,067,916	990.26	$81,533,022	926.02	$75,626,446

	Projected First Three Fiscal Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	1.77	$491,715	1.77	$501,550	1.77	$511,581
Physicians	4.81	$2,553,354	4.81	$2,604,422	4.81	$2,656,510
Administrator	12.26	$1,897,656	12.26	$1,935,610	12.26	$1,974,322
Director of Nursing[1]	-	-	-	-	-	-
RNs	208.00	$23,064,652	208.00	$23,525,946	208.00	$23,996,465
LPNs	3.51	$300,356	3.51	$306,363	3.51	$312,491
Nursing Aides	114.62	$5,447,102	114.62	$5,556,044	114.62	$5,667,165
PTs	12.18	$1,216,887	12.18	$1,241,224	12.18	$1,266,049
OTs	10.36	$941,092	10.36	$959,913	10.36	$979,112
Speech Therapists	2.74	$323,189	2.74	$329,653	2.74	$336,246
Clerical	103.34	$6,131,489	103.34	$6,254,119	103.34	$6,379,201
Housekeeping	46.60	$1,888,427	46.60	$1,926,196	46.60	$1,964,720
Other	333.33	$25,060,298	333.33	$25,561,504	333.33	$26,072,734
Other (CCHP Corporate)	72.50	$7,822,756	72.50	$7,979,211	72.50	$8,138,795
Totals	926.02	$77,138,969	926.02	$78,681,755	926.02	$80,255,391

[1] The Chief Nursing Officer (Director of Nursing) position is included in the Administrator FTE category.

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Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

3. Please complete the following table for the facility. Round all amounts to the nearest dollar.

	Past Three Fiscal Years			Budgeted Current Fiscal Year	Projected Three Fiscal Years (if approved)		
	FY:2016	**FY:2017**	**FY:2018**	**FY:2019**	**FY: 2020**	**FY: 2021**	**FY: 2022**
REVENUES							
Net Patient Revenue	$144,753,983	$146,655,831	$147,128,834	$147,296,772	$150,242,708	$153,247,561	$156,312,512
Other: (_____)	$3,470,112	$8,483,266	$3,682,677	$2,606,128	$2,658,250	$2,711,415	$2,765,644
Total Revenue	$148,224,095	$155,139,097	$150,811,511	$149,902,900	$152,900,958	$155,958,976	$159,078,156
EXPENSES							
Payroll w/Fringes	$82,639,033	$81,067,916	$81,533,022	$75,626,446	$77,138,969	$78,681,755	$80,255,391
Bad Debt	$6,913,135	$5,818,862	$6,095,861	$6,813,216	$6,949,481	$7,088,470	$7,230,240
Supplies	$17,145,358	$16,851,284	$16,837,743	$16,752,824	$17,087,880	$17,429,638	$17,778,231
Rents/Leases	$1,957,427	$1,576,762	$1,535,846	$1,543,566	$1,574,437	$1,605,926	$1,638,045
Office Expenses	--	--	--	--	--	--	--
Utilities	$2,227,191	$1,861,668	$1,956,936	$2,125,200	$2,167,704	$2,211,058	$2,255,279
Insurance	$3,286,852	$2,141,629	$1,667,603	$1,507,914	$1,538,072	$1,568,834	$1,600,210
Interest	$54,737	$966,920	$1,006,108	$1,046,624	$1,067,556	$1,088,907	$1,110,685
Depreciation/Amortization	$6,784,271	$7,334,520	$8,086,938	$7,211,862	$7,356,100	$7,503,222	$7,653,286
Leasehold Expenses	$783,325	$1,246,710	$1,261,211	$670,682	$686,926	$700,665	$714,678
Other: (Pharmaceuticals)	$3,561,419	$3,096,874	$2,824,326	$2,447,756	$2,496,711	$2,546,645	$2,597,578
Other: (Professional Fees)	$4,848,566	$4,075,108	$5,124,090	$6,512,159	$6,642,402	$6,775,250	$6,910,755
Other: (Purchased Services)	$7,260,437	$7,475,619	$9,979,849	$12,014,751	$12,263,788	$12,509,063	$12,759,245
Other: (Prop Tax and Other)	$9,543,530	$11,259,471	$9,840,420	$10,036,802	$10,237,538	$10,442,289	$10,651,135
Other: (Management Fees)	$2,915,293	$2,981,287	$2,993,644	$2,953,944	$3,013,023	$3,073,284	$3,134,749
Other: (Grant Expenses)	-	-	-	-	--	--	--
Other: (Other Exp)	$4,368,120	$3,411,167	$5,217,995	$1,256,743	$1,281,878	$1,307,516	$1,333,666
Total Expenses	$154,288,694	$151,165,797	$155,961,592	$148,520,489	$151,502,459	$154,532,522	$157,623,173
OPERATING PROFIT/LOSS	($6,064,599)	$3,973,300	($5,150,081)	$1,382,411	$1,398,499	$1,426,454	$1,454,983

4. Please provide Net Patient Revenues (dollar value and percentage) for the existing facility by completing the table below for the requested years.

	Past Three Fiscal Years (Actual)						Budgeted Current Year	
	FY: 2016		FY: 2017		FY: 2018		FY: 2019	
PAYOR SOURCE:	$	%	$	%	$	%	$	%
Blue Cross	$25,112,190	17.35%	$25,112,915	17.12%	$23,391,377	15.90%	$22,290,705	15.13%
Commercial	$7,229,355	4.99%	$12,798,611	8.73%	$8,458,701	5.75%	$8,640,675	5.87%
HMO's	$8,046,276	5.56%	$7,279,370	4.96%	$8,036,148	5.46%	$7,659,163	5.20%
Medicaid	$36,447,270	25.18%	$34,000,437	23.18%	$33,216,475	22.58%	$42,055,135	28.55%
Medicare	$61,740,327	42.65%	$61,368,968	41.85%	$67,697,383	46.00%	$59,521,211	40.41%
Other	$1,386,113	0.96%	$1,167,976	0.80%	$759,673	0.52%	$834,348	0.57%
Self Pay	$4,792,452	3.31%	$4,927,554	3.36%	$5,569,077	3.79%	$6,295,535	4.27%
TOTAL Net Patient Revenue	$144,753,983	100.00%	$146,655,831	100.00%	$147,128,834	100.00%	$147,296,772	100.00%
Charity Care*	$2,323,417	1.61%	$961,225	0.66%	$1,120,745	0.76%	$1,135,121	0.77%

	Projected First Three Operating Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PAYOR SOURCE:	$	%	$	%	$	%
Blue Cross	$22,736,519	15.13%	$23,191,249	15.13%	$23,655,074	15.13%
Commercial	$8,813,489	5.87%	$8,989,758	5.87%	$9,169,553	5.87%
HMO's	$7,812,346	5.20%	$7,968,593	5.20%	$8,127,965	5.20%
Medicaid	$42,896,238	28.55%	$43,754,162	28.55%	$44,629,246	28.55%
Medicare	$60,711,635	40.41%	$61,925,868	40.41%	$63,164,385	40.41%
Other	$851,035	0.57%	$868,056	0.57%	$885,417	0.57%
Self Pay	$6,421,446	4.27%	$6,549,875	4.27%	$6,680,872	4.27%
TOTAL Net Patient Revenue	$150,242,708	100.00%	$153,247,561	100.00%	$156,312,512	100.00%
Charity Care*	$1,157,823	0.77%	$1,180,980	0.77%	$1,204,599	0.77%

*Charity Care does not include bad debt and is based on costs (not charges). For Home Nursing Care Providers, the statewide community standard shall be one percent (1%) of net patient revenue earned on an annual basis.

NOTE: TOTAL Net Patient Revenues should equal Net Patient Revenues identified in Appendix A, Table 3.

(TO BE COMPLETED BY THE APROPRIATE STATE AGENCY)

Appendix B

Rhode Island Department of Health
Center for Health Systems Policy and Regulation

Compliance Report

(Name of Applicant) Propect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital has applied for licensure as a healthcare facility in Rhode Island. As part of the regulatory requirements to determine the character, competence and other quality related information of the applicant, the Center for Health Systems Policy and Regulation is requesting the following information regarding the health care facilities operated by or affiliated with the applicant, as listed on the attached sheet.

Please answer the following questions.

1. Are the agencies/facilities currently licensed and in substantial compliance with all applicable codes, rules and regulations? Yes__ No__

If the answer to #1 is "NO", please identify the facility(ies) and briefly explain the licensure status.

2. Has there been any enforcement actions against these agencies/facilities in the past three (3) years? Yes__ No__

If the answer to #2 is "YES", please identify the facility(ies) and include any information relevant to those enforcement actions (reason for action, stipulation, fine, etc.). In addition, please furnish a brief description of the outcome of the most recent survey, including any deficiencies cited. Additional pages may be attached, if needed.

Reviewer's Name: _____ Title: _____
Department: _____ State: _____
Telephone_____ E-mail _____
Reviewer's Signature: _____ Date: _____

If you have any questions, please contact Paula Pullano at (401) 222-2788 or e-mail, Paula.Pullano@health.ri.gov. Please return the completed form within 15 days to Paula.Pullano@health.ri.gov or to the address below:

Rhode Island Department of Health
Center for Health Systems Policy and Regulation
3 Capitol Hill, Room 410
Providence, Rhode Island 02908

Thank you.
Attachment

Appendix B (CONT.)

Applicant, please provide the following information identifying each facility to the appropriate state agency as an attachment to the letter in the table below, use additional pages if necessary. Please make sure to identify yourself in the cover letter by filling in the blank for 'Name of Applicant'.

See letters attached as Tab E.

State	Facility Name, Address and Contact Information	License Number
CA	**Southern California Hospital at Hollywood**	**930000066**
CA	**Southern California Hospital at Culver City**	**930000066**
CA	**Southern California Hospital at Van Nuys**	**930000066**
CA	**Los Angeles Community Hospital**	**93000039**
CA	**Los Angeles Community Hospital at Norwalk**	**93000039**
CA	**Foothill Regional Medical Center**	**060000178**
RI	**Roger Williams Medical Center**	**HOS00133**
RI	**Blackstone Valley Surgicare**	**FAS01032**
RI	**Prospect CharterCARE Home Health Services**	**HCN02373**
NJ	**East Orange General Hospital**	**10704**
CT	**Manchester Memorial Hospital**	**GH.0000073**
CT	**Rockville General Hospital**	**GH.0000074**
CT	**Waterbury Hospital**	**GH.0000075**
CT	**Prospect Waterbury Home Health, Inc**	**9915747**
CT	**Prospect ECHN Home Health, Inc.**	**9915748**
PA	**Crozer-Chester Medical Center**	**037201**
PA	**Springfield Hospital**	**037201**
PA	**Taylor Hospital**	**037201**
PA	**Delaware County Memorial Hospital**	**041801**
PA	**Prospect Crozer Home Health and Hospice**	**753705**

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Appendix D

Source of Funds

No equity – Purchase being made with available corporate cash

All applicants must complete this Appendix.

I. Please provide the total expenditures necessary to implement this proposal and allocate this amount to the sources of funds categories listed below:

TOTAL PROJECT COST: $_____*

SOURCE OF FUNDS	AMOUNT
a. Funded depreciation	$ _____
b. Other restricted funds (specify) _____	_____
c. Unrestricted funds (specify) _____	_____
d. Owner's equity	_____
e. Sale of stock/other equity	_____
f. Unrestricted donations or gifts	_____
g. Restricted donations or gifts	_____
h. Government grant (specify) _____	_____
i. Other non-debt funds (specify) **available corporate cash**	**$11,940,922.00**
j. Sub-Total Equity Funds	_____
k. Subsidized loan (e.g. FHA etc.) _____	_____
l. Tax-exempt bonds (specify) _____	_____
m. Conventional mortgage	_____
n. Lease or rental	_____
o. Other debt funds	_____
p. Sub-Total Debt Funds	_____
q. Total Source of Funds	**$11,940,922.00**

* should equal the response for line "q"

Appendix E

Debt Financing

Not Applicable – There is no debt financing for the proposed Transaction.

All applicants proposing debt financing must complete this Appendix.

Applicants contemplating the incurrence of a financial obligation for full or partial funding of the proposal must complete and submit this appendix.

1. Please describe the proposed debt by completing the following:
   a.) type of debt contemplated _____
   b.) term (months or years) _____
   c.) principal amount borrowed _____
   d.) probable interest rate _____
   e.) points, discounts, origination fees _____
   f.) compensating balance or reserved fund _____
   g.) likely security _____
   h.) disposition of property (if a lease is revoked) _____
   i.) prepayment penalties or call features _____
   j.) front end costs (e.g. underwriting spread, feasibility study, legal and printing expense, points etc.) _____
   k.) debt service reserve fund _____

2. If this proposal involves refinancing of existing debt, please indicate the original principal, the current balance, the interest rate, the years remaining on the debt and a justification for the refinancing contemplated.

3. Please present a debt service schedule for the chosen method of financing, which clearly indicates the total amount borrowed and the total amount repaid per year. Of the amount repaid per year, the total dollars applied to principal and total dollars applied to interest must be shown.

Appendix F

Disclosure of Ownership and Control Interest

All applicants must complete this Appendix.

I. Please answer the following questions by checking either 'Yes' or 'No'. If any of the questions are answered 'Yes', please list the names and addresses of individuals or corporations.

A. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant, that have been convicted of a criminal offense related to the involvement of such persons or organizations in any of the programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

B. Will there be any directors, officers, agents, or managers of the applicant (or facility) who have ever been convicted of a criminal offense related to their involvement in such programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

C. Are there (or will there be) any individuals employed by the applicant (or facility) in a managerial, accounting, auditing, or similar capacity who were employed by the applicant's fiscal intermediary within the past 12 months (Title XVIII providers only)? Yes___ No **X**

D. Will there be any individuals (or organizations) having direct (or indirect) ownership interests, separately (or in combination), of 5 percent or more in the applicant (or facility)? (Indirect ownership interest is ownership in any entity higher in a pyramid than the applicant) Yes **X** No___ (Note, if the applicant is a subsidiary of a "parent" corporation, the response is 'Yes') See **Tab 15.**

E. Will there be any individuals (or organizations) having ownership interest (equal to at least 5 percent of the facility's assets) in a mortgage or other obligation secured by the facility? Yes___ No **X**

F. Will there be any individuals (or organizations) that have an ownership or control interest of 5 percent or more in a subcontractor in which the applicant (or facility) has a direct or indirect ownership interest of 5 percent or more. (Also, please identify those subcontractors.) Yes___ No **X**

G. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant (or facility), who have been direct (or indirect) owners or employees of a health care facility against which sanctions (of any kind) were imposed by any governmental agency? Yes___ No **X**

H. Will there be any directors, officers, agents, or managing employees of the applicant (or facility) who have been direct (or indirect) owners or employees of a health care facility against which any sanctions were imposed by any governmental agency? Yes___ No **X**

Appendix G

Ownership Information

All applicants must complete this Appendix

1. List all officers, members of the board of directors, stockholders, and trustees of the applicant and/or ultimate parent entity. For each individual, provide their home and business address, principal occupation, position with respect to the applicant and/or ultimate parent entity, and amount, if any, of the percentage of stock, share of partnership, or other equity interest that they hold.

See Tab G1B

2. For each individual listed in response to Question 1 above, list all (if any) other health care facilities or entities within or outside Rhode Island in which he or she is an officer, director, trustee, shareholder, partner, or in which he or she owns any equity or otherwise controlling interest. For each individual, please identify: A) the relationship to the facility and amount of interest held, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G2

3. If any individual listed in response to Question 1 above, has any business relationship with the applicant, including but not limited to: supply company, mortgage company, or other lending institution, insurance or professional services, please identify each such individual and the nature of each relationship.

None.

4. Have any individuals listed in response to Question 1 above been convicted of any state or federal criminal violation within the past 20 years? Yes___ No **X**.

- If response to Question 4 is 'Yes', please identify each person involved, the date and nature of each offense and the legal outcome of each incident. **N/A**

5. Please list all licensed healthcare facilities (in Rhode Island or elsewhere) owned, operated or controlled by any of the entities identified in response to Question 15 of the application. For each facility, please identify: A) the entity, applicant or principal involved, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G5

6. Have any of the facilities owned, operated or managed by the applicant and/or any of the entities identified in Question 5 above during the last 5-years had bankruptcies and/or were placed in receiverships?
Yes **X** No___

- If response to Question 6 is 'Yes', please identify the facility and its current status.

On November 11, 2015, East Orange General Hospital, Inc. ("Oldco"), a New Jersey not-for-profit hospital, and its affiliates, filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code, 11 USC § et seq., in the United States Bankruptcy Court for the District of New Jersey (Case No. 15-31232 – VFP). On March 1, 2016, Prospect EOGH, Inc. d/b/a East Orange General Hospital ("Newco"), purchased the assets and assumed specific and identified liabilities of Oldco pursuant to Sections 105, 363 and 365 of the Bankruptcy Code. Prospect EOGH, Inc. is a wholly owned subsidiary of Prospect NJ, Inc., which is a wholly owned subsidiary of Prospect Medical Holdings, Inc.

Change in Effective Control Application

Version 01.2019

Applicant	Name of Licensee: **Prospect Blackstone Valley Surgicare, LLC** Name(s) of Parent Entity(ies): **Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facility:	**Blackstone Valley Surgicare**
Date of Submission	Submitted November 8, 2019; Resubmitted February 19, 2020; Resubmitted May 14, 2020

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

11/8/19
signed and dated by the President or Chief Executive Officer

Sheila M Capobianco 11/8/19
signed and dated by Notary Public

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Table of Contents:

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

1. Please provide an executive summary describing the nature and scope of the proposal. Additionally, please include the following: (1) identification of all parties, (2) description of the applicant and it's licensure track record, (3) the type of transaction proposed including description of the transaction and relevant costs, (4) summary of all transfer documents, (5) summary of the organizational structure of the applicant and its affiliates, and (6) whether the facility will be accredited.

Prospect Blackstone Valley Surgicare ("BVS") is a licensed freestanding ambulatory surgery center (license number FAS01032) located in Johnston, Rhode Island. BVS provides a wide array of high quality and cost-effective services to its patients, including gastroenterology, general surgery, and pain management. BVS maintains a strong licensure track record of providing high quality services to its patients.

This application seeks approval for a change in ownership of BVS's ultimate parent (five companies removed from BVS) in order to effectuate a buy-out if the private equity investors as described more fully below. The proposed change in ownership of the ultimate parent company will have no impact on the day to day services provided by BVS. Prospect CharterCARE, LLC ("PCC") wholly owns BVS, as well as Prospect CharterCARE, RWMC, LLC d/b/a Roger Williams Medical Center, a licensed acute care hospital and Prospect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital, a licensed acute care hospital. PCC is owned 85% by Prospect East Holdings, Inc., ("PEH") and 15% by CharterCARE Community Board ("CCCB"). PEH and Prospect East Hospital Advisory Services ("PEHAS") are wholly owned by Prospect Medical Holdings, Inc. ("PMH"). PMH is wholly owned by Ivy Intermediate Holding Inc., which is wholly owned by Ivy Holdings Inc. ("IH"). IH is currently owned by a combination of private equity investment partnership (the "Corporate Passive Investor"), Sam Lee, the CEO of PMH, and David Topper, the President of PMH, through his Family Trust. Other management own a small minority of shares. A copy of the pre-transaction organizational chart is attached at **Tab 15**.

The proposed transaction involves a change to IH *only* – a holding company five times removed from the Hospitals. Specially, the change involves two individual shareholders Lee and Topper (through his Family Trust) - becoming the sole shareholders of the newly formed entity, Chamber Inc., which will become the parent of IH. A copy of the post-Transaction organizational chart is attached at **Tab 15**. (The capital costs of the transaction are eleven million nine hundred forty thousand nine-hundred ninety-two dollars ($11,940,922.00)). After the transaction, the Corporate Passive Investor and the other minority management shareholders will no longer retain any ownership in IH. The transaction funds will not come from or affect any of the Prospect CharterCARE entities; instead, the transaction funds consist entirely of available PMH corporate cash. A copy of the Merger Agreement is attached as **Tab 14.**

Following the Transaction, all existing entities described above will remain as surviving corporations. There will be no change whatsoever to any of the existing entities that will in any way impact the operations or governance of the licensed facilities including BVS. Specifically, PMH will continue to own PEH and PEHAS, PEH will continue to own PCC, and PCC will continue to own and operate BVS.

The Transaction will have no impact on BVS. In particular, it will not impact the services provided, the populations served, the payor mix, the governance, the tax ID numbers, the provider numbers, staffing, strategic plans, financial condition, professional, clerical, administrative, or medical staff, policies and procedures (including charity care), or the assets, liabilities, and obligations. Following the Transaction,

BVS will continue to provide high quality and cost efficient care to members of the Rhode Island community.

2. Name and address of the applicant:

Name: **Prospect Blackstone Valley Surgicare, LLC**	Telephone: **(401) 459-3800**
Address: **1526 Atwood Avenue, Suite 300, Johnston, RI**	Zip Code: **02919**

3. Name and address of facility (if different from applicant):

Name: **N/A**	Telephone:
Address:	Zip Code:

4. Information of the President or Chief Executive Officer of the applicant:

Name: **Jeffrey H. Liebman**	Telephone: **(401) 456-2084**
Address: **825 Chalkstone Avenue, Providence, RI**	Zip Code: **02908**
E-Mail: **Jeffrey.liebman@chartercare.org**	Fax: **(401) 456-2029**

5. Information for the person to contact regarding this proposal:

Name: **Patricia Rocha, Adler Pollock & Sheehan**	Telephone: **(401) 274-7200**
Address: **One Citizens Plaza, 8th Floor, Providence, RI**	Zip Code: **02903**
E-Mail: **procha@apslaw.com**	Fax: **(401) 751-0604**

6. A. **EXISTING ENTITY:**

License category: **Freestanding Ambulatory Surgery Center**			
Name of Facility: **Blackstone Valley Surgicare**			License #: **FAS01032**
Address: **1526 Atwood Avenue, Suite 300, Johnston, RI 02919**			Telephone: **(401) 459-3800**
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**X** Limited Liability Co.
Tax Status: **X** For Profit	___ Non-Profit		

B. **PROPOSED ENTITY:**

License category: **Freestanding Ambulatory Surgery Center**			
Name of Facility: **Blackstone Valley Surgicare**			License #:
Address: **1526 Atwood Avenue, Suite 300, Johnston, RI 02919**			Telephone: **(401) 459-3800**
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**X** Limited Liability Co.
Tax Status: **X** For Profit	___ Non-Profit		

7. Does this proposal involve a nursing facility? Yes __ No **X**

- If response to Question 7 is 'Yes', please complete Appendix C.

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

8. Will the facility be operated under management agreement with any party? Yes _X_ No __

- If response to Question 8 is "Yes", please provide copies of that agreement. **While there is no written management agreement, BVS's management agreement operates in accordance with the terms of the RWMC agreement at Tab 8.**

9. Will the proposal involve the facility/ies providing healthcare services under contract with an outside party? Yes___ No **_X_**

- If response to Question 9 is "Yes", please identify and describe those services to be contracted out.

10. Estimate the date (month and year) for the proposed transfer of ownership, if approved:

December 20, 2019

11. Please provide a concise description of the services currently offered by the licensed entity and identify any services that will be added, terminated, expanded, or reduced and state the reasons therefore:

BVS is a freestanding, multi-specialty ambulatory surgery center providing services in the following areas:

- **Gastroenterology**
- **General Surgery**
- **Lithotripsy**
- **Ophthalmology**
- **Oral Surgery**
- **Orthopedic**
- **Plastic Surgery**
- **Podiatry**
- **Urology**
- **Pain Management**

No services will be added, terminated, expanded or reduced as a result of the Transaction.

12. Please identify the long-term plans of the applicant with respect to the health care programs and health care services to be provided at the facility:

BVS will continue to provide quality, cost-effective services to members of the Rhode Island community.

13. Does the entity seeking licensure plan to participate in Medicare or Medicaid (Titles XVIII or XIX of the Social Security Act)?

MEDICARE: Yes **_X_** No___ MEDICAID: Yes **_X_** No___

- If response to Question 13 for either Medicare and/or Medicaid is 'No', please explain.

14. Please provide all appropriate signed legal transfer documents (i.e. purchase and sale agreement, affiliation agreement); **NOTE**: these documents must cause both parties to be legally bound.

See Tab 14. Please note, in Section 4.03(e) of the Agreement and Plan of Merger, the names of current or former employees owning Share of Company Stock have been redacted because such information constitutes personal financial information.

15. Please provide organization charts of both agencies (existing entity and the applicant) for prior to transfer and post transfer, identifying all "parent" legal entities with direct or indirect ownership in or control, all "sister" legal entities also owned or controlled by the parent(s), and all "subsidiary" legal entities.

See Tab 15.

16. If the proposed owner, operator or director owned, operated or directed a health care facility (both within and outside Rhode Island) within the past three years, please demonstrate the record of that person(s) with respect to access of traditionally underserved populations to its health care facilities.

Historically, CharterCARE Health Partners had, for decades, provided significant levels of care for underserved, indigent, and low income patients in Rhode Island. These efforts have continued and, in fact, expanded under the 2014 joint venture with PMH.

PMH has invested significant funds since the 2014 joint venture to expand the primary care base, including in underserved areas of Rhode Island and has recruited three Spanish speaking primary care providers to assist with care to underserved areas.

Finally, BVS participates in Medicare and Medicaid, which, to a great extent, serve underserved populations. In addition, BVS has a charity care policy and will continue to serve traditionally underserved populations – see Tab 18C.

17. Please identify the proposed immediate and long-term plans of the applicant to ensure adequate and appropriate access to the program and health care services to be provided by the health care facility/ies to traditionally underserved populations.

BVS will continue to provide access to its services to traditionally underserved populations as set forth in response to question 16.

18. Please provide a copy of charity care policies and procedures and charity care application form.

See Tab 18C

19. After the proposed change in effective control, will the facility/ies provide medically necessary services to patients without discrimination, including the patients' ability to pay for services? Yes **X** No___.

- If response to Question 23 is 'No', please explain.

20. Please identify and describe all instances **involving the applicant and/or its affiliates** and the status or disposition of each of the following within the past 3 years:

A. Citations, enforcement actions, violations, charges, investigations, or similar types of actions involving the applicant and/or its affiliates (including but not limited to actions brought forward by any governmental agency, accrediting agency, or similar type of an agency.);**Other than day to day regulatory surveys, which are duly responded to, the Rhode Island licensed facilities are in good standing. With respect to the Rhode Island licensed facilities, please see the following:**

1. **6/1/18 Rhode Island State and Federal Licensing Survey Charter Care Home Health Services. Findings for two elements – Review of Medications and Home Health Aid services. A plan of correction was submitted on June 28, 2018. The plan was accepted.**

2. **2/2/2019 State of Rhode Island Fire Marshal. One violation concerning the fire alarm panel switch and one concerning smoke detectors. Plan of correction was submitted and accepted. Plan of correction has been fully implemented.**

3. **7/22/19 to 8/14/2019 Roger Williams Hospital – FDA on site unexpected 503 A (patient specific manufacture) visit for the outpatient oncology unit. Issued an FDA 483 citation for 7 observations. A plan of correction was submitted 9/5/19. No further follow-up from the FDA.**

4. **8/19 CMS Immediate Jeopardy and term track for Patient Rights conditional level findings at OLF (ED crisis unit). The Immediate Jeopardy was abated that day. A plan of correction was submitted and accepted for the conditional level findings. CMS validation survey was successfully completed and deemed status was reinstated.**

5. **January 2, 2020 Roger Williams CMS survey with one condition-level finding with a termination track for Surgical Services. The plan of correction was submitted on 2/7/20. Awaiting CMS acceptance of the plan and follow-up validation survey. Term Track Date April 17, 2020.**

There have been no enforcement actions, violations, charges, investigations or similar types of actions within the past 3 years, other than as described above.

B. Civil proceedings (whether pending or which have resulted in a disposition or settlement) in any court of law, in which the applicant and/or its affiliates and/or any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates has been a party to;
See Tab 20B

C. Convictions and/or placement on probation for any criminal offences by any state, local or federal government of any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates;
None

21. Please identify any planned actions of the applicant to reduce, limit, or contain health care costs and improve the efficiency with which health care services are delivered to the citizens of this state.

BVS will continue its existing operations, which reduce, limit, and contain health care costs and improve the efficiency with which health care services are delivered to Rhode Island citizens. The Transaction will not affect its current wide array of high quality and cost efficient services.

22. Please provide a copy of the Quality Assurance Policies (for the services) and a detailed explanation of how quality assurance for patient services will be implemented at the facility/ies by the applicant.

See Tab 22C

23. Please provide a detailed description about the amount and source of the equity and debt commitment for this transaction. (**NOTE**: If debt is contemplated as part of the financing, please complete Appendix E). Additionally, please demonstrate the following:

A. The immediate and long-term financial feasibility of the proposed financing plan;

Not applicable – there is no financing plan for this Transaction.

B. The relative availability of funds for capital and operating needs; and

The Transaction does not impact BVS's capital and operating needs. BVS generates sufficient revenues to cover its expenses. In the event any additional revenues are requires, PCC has sufficient cash to fund any additional operating needs.

C. The applicant's financial capability.

The Transaction does not impact BVS's capital and operating needs. BVS will continue to generate sufficient revenues to cover its expenses. In the event any additional funds are required, PMH has sufficient cash to fund any additional operating needs, and PCC has access to sufficient cash to fund any additional operating needs. In fact, in July of 2019, Medical Properties Trust invested $1.55 billion in PMH. That investment has not only strengthened PMH financially, but also provided it with a significant and experienced potential source of funding for improvements to its facilities.

24. Please provide legally binding evidence of site control (e.g., deed, lease, option, etc.) sufficient to enable the applicant to have use and possession of the subject property, if applicable.

See Tab 24C

25. If the facility is not-for-profit and/or affiliated with a not-for-profit, please provide written approval from the Rhode Island Department of Attorney General of the proposal. **N/A**

26. Please provide each of the following documents applicable to the applicant's legal status:

·Certificate and Articles of Incorporation and By-Laws (for corporations)
·Certificate of Partnership and Partnership Agreement (for partnerships)
·Certificate of Organization and Operating Agreement (for limited liability corporations)

- If any of the above documents are proposed to be revised or modified in any way as a result of the implementation of the proposed change in effective control, please provide the present documents and the proposed documents and **clearly identify** the revisions and modifications.

See Tab 26C for the Articles of Organization and Operating Agreement for BVS, as well as the following entities:
Chamber Inc.: Certificate of Incorporation and By-Laws
Ivy Holdings Inc.: Certificate of Incorporation and Stockholders Agreement
Ivy Intermediate Holding Inc.: Certificate of Incorporation and By-Laws
Prospect Medical Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Hospital Advisory Services, LLC: Certificate of Formation, Operating Agreement and By-Laws
Prospect CharterCARE, LLC: Articles of Incorporation and Limited Liability Company Agreement

27. If the applicant and/or one of its parent companies (or ultimate parent) is a publicly traded corporation, please provide copies of its most recent SEC 10K filing. **Not Applicable.**

28. Please provide audited financial statements (which should include an income statement, balance sheet and cash flow statement) for the last three years for the applicant, and/or its ultimate parent, and for the existing facility.

See Tab 28 for audited financial statements for PMH and PCC. **There are no audited financial statements for CI, IH, IIH, PEH, PEHAS, or BVS for the last three years, as there has been no financial activity in those entities.**

29. All applicants must complete Appendix A, D, F and G.

APPENDIX A

All applicants must complete this Appendix.

1. Please indicate the financing mix for the capital cost of this proposal. **NOTE**: the Health Services Council's policy requires a minimum 20 percent equity investment in CEC projects.

Source	Amount	Percent	Interest Rate	Terms (Yrs.)
Equity*	$11,940,992.00	100%		
Debt**	**N/A**	**N/A**	%	
Lease	**N/A**	**N/A**	%	
TOTAL	**$11,940,922.00**	**100%**		

* Equity means non-debt funds contributed towards the capital cost related to a change in owner or change in operator of a healthcare facility which funds are free and clear of any repayment or liens against the assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

** If debt financing is indicated, please complete Appendix E.

2. Please identify the total number of FTEs (full time equivalents) and the associated payroll expense (with fringe benefits) for the facility. **Please note, Applicant did not own BVS in 2016 and therefore, the information is not available.**

	Past Three Fiscal Years						Budgeted Current Year	
	FY: 2016 – **N/A**		FY: 2017		FY:2018		FY: 2019	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	#	$	-	-	-	-	-	-
Physicians	#	$	-	-	-	-	-	-
Administrator	#	$	0.38	$63,608	0.97	$146,367	0.97	$153,757
Director of Nursing	#	$	-	-	-	-	-	-
RNs	#	$	5.59	$624,306	16.09	$1,581,843	16.90	$1,722,574
LPNs	#	$	0.43	$28,641	1.06	$63,010	0.99	$61,207
Nursing Aides	#	$	-	-	-	-	-	-
PTs	#	$	-	-	-	-	-	-
OTs	#	$	-	-	-	-	-	-
Speech Therapists	#	$	-	-	-	-	-	-
Clerical	#	$	2.57	$228,947	6.32	$515,290	5.87	$408,952
Housekeeping	#	$	-	-	-	-	-	-
Other	#	$	2.22	$166,628	7.28	$455,751	8.31	$517,920
Other (CCHP Corporate)	#	$						
Totals			11.19	$1,112,130	31.72	$2,762,261	33.04	$2,864,410

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

	Projected First Three Fiscal Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	-	-	-	-	-	-
Physicians	-	-	-	-	-	-
Administrator	0.97	$156,832	0.97	$159,969	0.97	$163,168
Director of Nursing	-	-	-	-	-	-
RNs	16.90	$1,757,025	16.90	$1,792,165	16.90	$1,828,009
LPNs	0.99	$62,431	0.99	$63,680	0.99	$64,953
Nursing Aides	-	-	-	-	-	-
PTs	-	-	-	-	-	-
OTs	-	-	-	-	-	-
Speech Therapists	-	-	-	-	-	-
Clerical	5.87	$417,131	5.87	$425,473	5.87	$433,983
Housekeeping	-	-	-	-	-	-
Other	8.31	$528,279	8.31	$538,844	8.31	$549,620
Other (CCHP Corporate)	-	-	-	-	-	-
Totals	33.04	$2,921,698	33.04	$2,980,131	33.04	$3,039,733

3. Please complete the following table for the facility. Round all amounts to the nearest dollar.
Please note, Applicant did not own BVS in 2016 and therefore, the information is not available.

	Past Three Fiscal Years			Budgeted Current Fiscal Year	Projected Three Fiscal Years (if approved)		
	FY: 2016	**FY: 2017**	**FY: 2018**	**FY: 2019**	**FY: 2020**	**FY: 2021**	**FY: 2022**
REVENUES	**N/A**						
Net Patient Revenue		$2,603,366	$7,305,528	$7,113,526	$7,255,797	$7,400,913	$7,548,930
Other: (_____)		$86,400	$283,532	$448,988	$457,968	$467,127	$476,470
Total Revenue		$2,689,766	$7,589,060	$7,562,514	$7,713,765	$7,868,040	$8,025,400
EXPENSES							
Payroll w/Fringes		$1,112,130	$2,762,261	$2,864,410	$2,921,698	$2,980,131	$3,039,733
Bad Debt		$76,021	$172,724	$226,571	$231,102	$235,724	$240,439
Supplies		$825,947	$2,092,732	$2,545,784	$2,596,700	$2,648,634	$2,701,606
Rents/Leases		$270,372	$609,035	$552,495	$563,545	$574,815	$586,312
Utilities		$83,713	$179,338	$205,418	$209,526	$213,717	$217,991
Insurance		$3,337	$7,323	$6,813	$6,950	$7,089	$7,230
Interest		$4,642	$31,564	$17,125	$17,467	$17,817	$18,173
Depreciation/Amortization		$81,414	$1,147,542	$201,254	$205,279	$209,385	$213,572
Leasehold Expenses		$59,561	$126,155	$118,010	$120,371	$122,778	$125,234
Other: (Pharmaceuticals)		$37,728	$231,471	$205,356	$209,463	$213,652	$217,925
Other: (Professional Fees)		$38,921	$85,360	$58,935	$60,114	$61,316	$62,542
Other: (Purchased Services)		$193,595	$602,642	$634,149	$646,832	$659,769	$672,964
Other: (Prop Tax & Other)		$71,665	$177,576	$250,035	$255,036	$260,136	$265,339
Other: (Management Fees)		$54,034	$151,781	$60,204	$61,408	$62,636	$63,889
Other: (Other Exp)		$15,926	$52,359	$154,640	$157,733	$160,888	$164,105
Total Expenses		$2,929,006	$8,429,863	$8,101,199	$8,263,224	$8,428,487	$8,597,055
OPERATING PROFIT/LOSS	$	($239,240)	($840,803)	($538,685)	($549,459)	($560,447)	($571,655)

4. Please provide Net Patient Revenues (dollar value and percentage) for the existing facility by completing the table below for the requested years. **Applicant did not own BVS in 2016 and, therefore, the information is not available.**

	Past Three Fiscal Years (Actual)						Budgeted Current Year	
	FY: **2016 – N/A**		FY: 2017		FY: 2018		FY: 2019	
PAYOR SOURCE:	$	%	$	%	$	%	$	%
Blue Cross	$	%	$792,456	30.44%	$2,158,916	29.55%	$1,913,396	26.90%
Commercial	$	%	$296,295	11.38%	$1,035,486	14.17%	$1,608,947	22.62%
HMO's	$	%	$453,251	17.41%	$735,137	10.06%	$725,154	10.19%
Medicaid	$	%	$162,479	6.24%	$1,377,651	18.86%	$544,375	7.65%
Medicare	$	%	$765,367	29.40%	$1,653,802	22.64%	$1,960,979	27.57%
Other	$	%	$113,052	4.34%	$206,014	2.82%	$212,415	2.99%
Self Pay	$	%	$20,466	0.79%	$138,522	1.90%	$148,260	2.08%
TOTAL Net Patient Revenue	$	%	$2,603,366	100.00%	$7,305,528	100.00%	$7,113,526	100.00%
Charity Care*	$	%	$	%	$	%	$	%

	Projected First Three Operating Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PAYOR SOURCE:	$	%	$	%	$	%
Blue Cross	$1,951,664	26.90%	$1,990,697	26.90%	$2,030,511	26.90%
Commercial	$1,641,126	22.62%	$1,673,948	22.62%	$1,707,427	22.62%
HMO's	$739,657	10.19%	$754,450	10.19%	$769,539	10.19%
Medicaid	$555,263	7.65%	$566,368	7.65%	$577,695	7.65%
Medicare	$2,000,199	27.57%	$2,040,203	27.57%	$2,081,007	27.57%
Other	$216,663	2.99%	$220,997	2.99%	$225,416	2.99%
Self Pay	$151,225	2.08%	$154,250	2.08%	$157,335	2.08%
TOTAL Net Patient Revenue	$7,255,797	100.00%	$7,400,913	100.00%	$7,548,930	100.00%
Charity Care*	$	%	$	%	$	%

*Charity Care does not include bad debt and is based on costs (not charges). For Home Nursing Care Providers, the statewide community standard shall be one percent (1%) of net patient revenue earned on an annual basis.
NOTE: TOTAL Net Patient Revenues should equal Net Patient Revenues identified in Appendix A, Table 3.

(TO BE COMPLETED BY THE APROPRIATE STATE AGENCY)

Appendix B

Rhode Island Department of Health
Center for Health Systems Policy and Regulation

Compliance Report

(Name of Applicant) Prospect Blackstone Valley Surgicare, LLC has applied for licensure as a healthcare facility in Rhode Island. As part of the regulatory requirements to determine the character, competence and other quality related information of the applicant, the Center for Health Systems Policy and Regulation is requesting the following information regarding the health care facilities operated by or affiliated with the applicant, as listed on the attached sheet.

Please answer the following questions.

1. Are the agencies/facilities currently licensed and in substantial compliance with all applicable codes, rules and regulations? Yes__ No__

If the answer to #1 is "NO", please identify the facility(ies) and briefly explain the licensure status.

2. Has there been any enforcement actions against these agencies/facilities in the past three (3) years? Yes__ No__

If the answer to #2 is "YES", please identify the facility(ies) and include any information relevant to those enforcement actions (reason for action, stipulation, fine, etc.). In addition, please furnish a brief description of the outcome of the most recent survey, including any deficiencies cited. Additional pages may be attached, if needed.

Reviewer's Name: _____ Title: _____
Department: _____ State: _____
Telephone_____ E-mail _____
Reviewer's Signature: _____ Date: _____

If you have any questions, please contact Paula Pullano at (401) 222-2788 or e-mail, Paula.Pullano@health.ri.gov. Please return the completed form within 15 days to Paula.Pullano@health.ri.gov or to the address below:

Rhode Island Department of Health
Center for Health Systems Policy and Regulation
3 Capitol Hill, Room 410
Providence, Rhode Island 02908

Thank you.
Attachment

Appendix B (CONT.)

Applicant, please provide the following information identifying each facility to the appropriate state agency as an attachment to the letter in the table below, use additional pages if necessary. Please make sure to identify yourself in the cover letter by filling in the blank for 'Name of Applicant'.

See letters attached as Tab E.

State	Facility Name, Address and Contact Information	License Number
CA	**Southern California Hospital at Hollywood**	**930000066**
CA	**Southern California Hospital at Culver City**	**930000066**
CA	**Southern California Hospital at Van Nuys**	**930000066**
CA	**Los Angeles Community Hospital**	**93000039**
CA	**Los Angeles Community Hospital at Norwalk**	**93000039**
CA	**Foothill Regional Medical Center**	**060000178**
RI	**Roger Williams Medical Center**	**HOS00133**
RI	**Our Lady of Fatima Hospital**	**HOS00132**
RI	**Prospect CharterCARE Home Health Services**	**HCN02373**
NJ	**East Orange General Hospital**	**10704**
CT	**Manchester Memorial Hospital**	**GH.0000073**
CT	**Rockville General Hospital**	**GH.0000074**
CT	**Waterbury Hospital**	**GH.0000075**
CT	**Prospect Waterbury Home Health, Inc**	**9915747**
CT	**Prospect ECHN Home Health, Inc.**	**9915748**
PA	**Crozer-Chester Medical Center**	**037201**
PA	**Springfield Hospital**	**037201**
PA	**Taylor Hospital**	**037201**
PA	**Delaware County Memorial Hospital**	**041801**
PA	**Prospect Crozer Home Health and Hospice**	**753705**

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Appendix D

Source of Funds:

No equity – Purchase being made with available corporate cash

All applicants must complete this Appendix.

I. Please provide the total expenditures necessary to implement this proposal and allocate this amount to the sources of funds categories listed below:

TOTAL PROJECT COST: $_____*

SOURCE OF FUNDS	AMOUNT
a. Funded depreciation	$ _____
b. Other restricted funds (specify) _____	_____
c. Unrestricted funds (specify) _____	_____
d. Owner's equity	_____
e. Sale of stock/other equity	_____
f. Unrestricted donations or gifts	_____
g. Restricted donations or gifts	_____
h. Government grant (specify) _____	_____
i. Other non-debt funds (specify) **available corporate cash**	**$11,940,992.00**
j. Sub-Total Equity Funds	_____
k. Subsidized loan (e.g. FHA etc.) _____	_____
l. Tax-exempt bonds (specify) _____	_____
m. Conventional mortgage	_____
n. Lease or rental	_____
o. Other debt funds	_____
p. Sub-Total Debt Funds	_____
q. Total Source of Funds	**$11,940,992.00**

* should equal the response for line "q"

Appendix E

Debt Financing

Not Applicable – There is no debt financing for the proposed Transaction.

All applicants proposing debt financing must complete this Appendix.

Applicants contemplating the incurrence of a financial obligation for full or partial funding of the proposal must complete and submit this appendix.

1. Please describe the proposed debt by completing the following:
   a.) type of debt contemplated _____
   b.) term (months or years) _____
   c.) principal amount borrowed _____
   d.) probable interest rate _____
   e.) points, discounts, origination fees _____
   f.) compensating balance or reserved fund _____
   g.) likely security _____
   h.) disposition of property (if a lease is revoked) _____
   i.) prepayment penalties or call features _____
   j.) front end costs (e.g. underwriting spread, feasibility study, legal and printing expense, points etc.) _____
   k.) debt service reserve fund _____

2. If this proposal involves refinancing of existing debt, please indicate the original principal, the current balance, the interest rate, the years remaining on the debt and a justification for the refinancing contemplated.

3. Please present a debt service schedule for the chosen method of financing, which clearly indicates the total amount borrowed and the total amount repaid per year. Of the amount repaid per year, the total dollars applied to principal and total dollars applied to interest must be shown.

Appendix F

Disclosure of Ownership and Control Interest

All applicants must complete this Appendix.

I. Please answer the following questions by checking either 'Yes' or 'No'. If any of the questions are answered 'Yes', please list the names and addresses of individuals or corporations.

A. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant, that have been convicted of a criminal offense related to the involvement of such persons or organizations in any of the programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

B. Will there be any directors, officers, agents, or managers of the applicant (or facility) who have ever been convicted of a criminal offense related to their involvement in such programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

C. Are there (or will there be) any individuals employed by the applicant (or facility) in a managerial, accounting, auditing, or similar capacity who were employed by the applicant's fiscal intermediary within the past 12 months (Title XVIII providers only)? Yes___ No **X**

D. Will there be any individuals (or organizations) having direct (or indirect) ownership interests, separately (or in combination), of 5 percent or more in the applicant (or facility)? (Indirect ownership interest is ownership in any entity higher in a pyramid than the applicant) Yes **X** No___ (Note, if the applicant is a subsidiary of a "parent" corporation, the response is 'Yes') See **Tab 15.**

E. Will there be any individuals (or organizations) having ownership interest (equal to at least 5 percent of the facility's assets) in a mortgage or other obligation secured by the facility? Yes___ No **X**

F. Will there be any individuals (or organizations) that have an ownership or control interest of 5 percent or more in a subcontractor in which the applicant (or facility) has a direct or indirect ownership interest of 5 percent or more. (Also, please identify those subcontractors.) Yes___ No **X**

G. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant (or facility), who have been direct (or indirect) owners or employees of a health care facility against which sanctions (of any kind) were imposed by any governmental agency? Yes___ No **X**

H. Will there be any directors, officers, agents, or managing employees of the applicant (or facility) who have been direct (or indirect) owners or employees of a health care facility against which any sanctions were imposed by any governmental agency? Yes___ No **X**

Appendix G

Ownership Information

All applicants must complete this Appendix

1. List all officers, members of the board of directors, stockholders, and trustees of the applicant and/or ultimate parent entity. For each individual, provide their home and business address, principal occupation, position with respect to the applicant and/or ultimate parent entity, and amount, if any, of the percentage of stock, share of partnership, or other equity interest that they hold.

See Tab G1C

2. For each individual listed in response to Question 1 above, list all (if any) other health care facilities or entities within or outside Rhode Island in which he or she is an officer, director, trustee, shareholder, partner, or in which he or she owns any equity or otherwise controlling interest. For each individual, please identify: A) the relationship to the facility and amount of interest held, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G2

3. If any individual listed in response to Question 1 above, has any business relationship with the applicant, including but not limited to: supply company, mortgage company, or other lending institution, insurance or professional services, please identify each such individual and the nature of each relationship.

None.

4. Have any individuals listed in response to Question 1 above been convicted of any state or federal criminal violation within the past 20 years? Yes___ No **X**.

- If response to Question 4 is 'Yes', please identify each person involved, the date and nature of each offense and the legal outcome of each incident. **N/A**

5. Please list all licensed healthcare facilities (in Rhode Island or elsewhere) owned, operated or controlled by any of the entities identified in response to Question 15 of the application. For each facility, please identify: A) the entity, applicant or principal involved, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G5

6. Have any of the facilities owned, operated or managed by the applicant and/or any of the entities identified in Question 5 above during the last 5-years had bankruptcies and/or were placed in receiverships?
Yes **X** No___

- If response to Question 6 is 'Yes', please identify the facility and its current status.

On November 11, 2015, East Orange General Hospital, Inc. ("Oldco"), a New Jersey not-for-profit hospital, and its affiliates, filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code, 11 USC § et seq., in the United States Bankruptcy Court for the District of New Jersey (Case No. 15-31232 – VFP). On March 1, 2016, Prospect EOGH, Inc. d/b/a East Orange General Hospital ("Newco"), purchased the assets and assumed specific and identified liabilities of Oldco pursuant to Sections 105, 363 and 365 of the Bankruptcy Code. Prospect EOGH, Inc. is a wholly owned subsidiary of Prospect NJ, Inc., which is a wholly owned subsidiary of Prospect Medical Holdings, Inc.

Change in Effective Control Application

Version 01.2019

Applicant	Name of Licensee:Prospect CharterCARE Home Health and Hospice, LLC Name(s) of Parent Entity(ies): **Prospect RI Home Health and Hospice, LLC, wholly owned by Prospect CharterCARE RWMC, LLC, wholly owned by Prospect CharterCARE, LLC, 85% owned by Prospect East Holdings, Inc., wholly owned by Prospect Medical Holdings, Inc., wholly owned by Ivy Intermediate Holding Inc., wholly owned by Ivy Holdings Inc.; Applicant: Chamber Inc.**
Name of Facility:	**Home Health Services**
Date of Submission	Submitted November 8, 2019; Resubmitted February 19, 2020; Resubmitted May 14, 2020

All questions concerning this application should be directed to the Center for Health Systems Policy and Regulation at (401) 222-2788

Please have the appropriate individual attest to the following:

"I hereby certify that the information contained in this application is complete, accurate and true."

11/8/19
signed and dated by the President or Chief Executive Officer

Sheila M Capobianco 11/8/19
signed and dated by Notary Public

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Table of Contents:

1. Please provide an executive summary describing the nature and scope of the proposal. Additionally, please include the following: (1) identification of all parties, (2) description of the applicant and it's licensure track record, (3) the type of transaction proposed including description of the transaction and relevant costs, (4) summary of all transfer documents, (5) summary of the organizational structure of the applicant and its affiliates, and (6) whether the facility will be accredited.

Prospect CharterCARE Home Health and Hospice, LLC ("HH&H") d/b/a Home Health Services is a licensed home nursing care provider (license number HNC02373) located in Providence, Rhode Island. HH&H provides a wide array of high quality and cost-effective services to its patients, including pain management, physical therapy, nutritional support and palliative care. HH&H maintains a strong licensure track record of providing high quality services to its patients.

This application seeks approval for a change in ownership of HH&H's ultimate parent (eight companies removed from HH&H) in order to effectuate a buy-out of the private equity investors described more fully below. The proposed change in ownership of the ultimate parent company will have no impact on the day to day services provided by HH&H. Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center ("RWMC") wholly owns Prospect RI Home Health and Hospice, LLC ("PRIHH&H), which wholly owns HH&H. Prospect CharterCARE, LLC d/b/a CharterCARE Health Partners ("PCC") wholly owns RWMC, an acute care hospital. It also owns Prospect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital, a licensed acute care hospital, and Prospect Blackstone Valley Surgicare, LLC a licensed freestanding ambulatory surgery center. PCC is owned 85% by Prospect East Holdings, Inc., ("PEH") and 15% by CharterCARE Community Board ("CCCB"). PEH and Prospect East Hospital Advisory Services, LLC are wholly owned by Prospect Medical Holdings, Inc. ("PMH"). PMH is wholly owned by Ivy Intermediate Holding Inc., which is wholly owned by Ivy Holdings Inc. ("IH"). IH is currently owned by a combination of private equity investment partnership (the "Corporate Passive Investor"), Sam Lee, the CEO of PMH, and David Topper, the President of PMH, through his Family Trust. Other management own a small minority of shares. A copy of the pre-transaction organizational chart is attached at **Tab 15**.

The proposed transaction involves a change to IH *only* – a holding company seven times removed from HH&H. Specifically, the change involves two individual shareholders – Lee and Topper (through his Family Trust) – becoming the sole shareholders of a newly formed entity, Chamber Inc., which will become the parent of IH. A copy of the post-transaction organizational chart is attached at **Tab 15**. (The capital costs of the transaction are eleven million nine hundred forty thousand nine-hundred ninety-two dollars ($11,940,992.00)). After the transaction, the Corporate Passive Investor and the other minority management shareholders will no longer retain ownership in IH. The transaction funds will not come from or affect any of the Prospect CharterCARE entities; instead, the transaction funds consist entirely of available PMH corporate cash. A copy of the Merger Agreement is attached as **Tab 14.**

Following the transaction, all existing entities described above will remain as surviving corporations. There will be no change whatsoever to any of the existing entities that will in any way impact the operations or governance of the licensed facilities including HH&H. Specifically, PMH will continue to own PEH and PEHAS, PEH will continue to own PCC, PCC will continue to own RWMC, RWMC will continue to own RIHH&H, and RIHH&H will continue to own and operate HH&H.

The Transaction will have no impact on HH&H. In particular, it will not impact the services provided, the populations served, the payor mix, the governance, the tax ID numbers, the provider numbers, staffing, strategic plans, financial condition, professional, clerical, administrative, or medical staff, policies and procedures (including charity care), or the assets, liabilities, and obligations. Following the Transaction, HH&H will continue to provide high quality and cost efficient care to members of the Rhode Island community.

2. Name and address of the applicant:

Name:	**Prospect CharterCARE Home Health and Hospice, LLC**	Telephone:	**(401) 456-2273**
Address:	**50 Maude Street, Providence, RI**	Zip Code:	**02908**

3. Name and address of facility (if different from applicant):

Name:	**N/A**	Telephone:	
Address:		Zip Code:	

4. Information of the President or Chief Executive Officer of the applicant:

Name:	**Jeffrey H. Liebman**	Telephone:	**(401) 456-2084**
Address:	**825 Chalkstone Avenue, Providence, RI**	Zip Code:	**02908**
E-Mail:	**Jeffrey.liebman@chartercare.org**	Fax:	**(401) 456-2029**

5. Information for the person to contact regarding this proposal:

Name:	**Patricia Rocha, Adler Pollock & Sheehan**	Telephone:	**(401) 274-7200**
Address:	**One Citizens Plaza, 8th Floor, Providence, RI**	Zip Code:	**02903**
E-Mail:	**procha@apslaw.com**	Fax:	**(401) 751-0604**

6. A. **EXISTING ENTITY:**

License category: **Home Nursing Care Provider**			
Name of Facility: **Home Health Services**		License #: **HNC02373**	
Address: **50 Maude Street, Providence, RI 02908**		Telephone: **(401) 456-2273**	
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**_X_** Limited Liability Co.
Tax Status: **_X_** For Profit	___ Non-Profit		

B. **PROPOSED ENTITY:**

License category: **Home Nursing Care Provider**			
Name of Facility: **Home Health Services**		License #:	
Address: **50 Maude Street, Providence, RI 02908**		Telephone: **(401) 456-2273**	
Type of Ownership: ___ Individual	___ Partnership	___ Corporation	**_X_** Limited Liability Co.

Tax Status: **_X__** For Profit ___ Non-Profit

7. Does this proposal involve a nursing facility? Yes __ No **_X___**

- If response to Question 7 is 'Yes', please complete Appendix C.

8. Will the facility be operated under management agreement with any party? Yes___ No **_X__**

- If response to Question 8 is "Yes", please provide copies of that agreement.

9. Will the proposal involve the facility/ies providing healthcare services under contract with an outside party? Yes___ No **__X____**

- If response to Question 9 is "Yes", please identify and describe those services to be contracted out.

10. Estimate the date (month and year) for the proposed transfer of ownership, if approved:

December 20, 2019

11. Please provide a concise description of the services currently offered by the licensed entity and identify any services that will be added, terminated, expanded, or reduced and state the reasons therefore:

HH&H is a licensed home nursing care provider. The services currently offered include:
- Comprehensive home environment assessments
- Medical evaluations/assessments
- Pain and disease management
- Pain and family education
- Wound care (vacuum-assisted closure – VAC)
- Surgical dressing changes
- Communication with physician
- Telehealth program
- Pharmacy consult
- Physical therapy
- Occupational therapy
- Speech therapy
- Nutritional support (including total parenteral and enteral)
- Medical social services (including psychosocial for patients and families)
- Certified nursing assistants
- Lifeline
- Palliative care
No services will be added, terminated, expanded or reduced as a result of the Transaction.

12. Please identify the long-term plans of the applicant with respect to the health care programs and health care services to be provided at the facility:

HH&H will continue to provide quality, cost-effective services to members of the Rhode Island community.

13. Does the entity seeking licensure plan to participate in Medicare or Medicaid (Titles XVIII or XIX of the Social Security Act)?

MEDICARE: Yes **X** No___ MEDICAID: Yes **X** No___

- If response to Question 13 for either Medicare and/or Medicaid is 'No', please explain.

14. Please provide all appropriate signed legal transfer documents (i.e. purchase and sale agreement, affiliation agreement); **NOTE**: these documents must cause both parties to be legally bound.

See Tab 14. Please note, in Section 4.03(e) of the Agreement and Plan of Merger, the names of current or former employees owning Share of Company Stock have been redacted because such information constitutes personal financial information.

15. Please provide organization charts of both agencies (existing entity and the applicant) for prior to transfer and post transfer, identifying all "parent" legal entities with direct or indirect ownership in or control, all "sister" legal entities also owned or controlled by the parent(s), and all "subsidiary" legal entities.

See Tab 15.

16. If the proposed owner, operator or director owned, operated or directed a health care facility (both within and outside Rhode Island) within the past three years, please demonstrate the record of that person(s) with respect to access of traditionally underserved populations to its health care facilities.

Historically, CharterCARE Health Partners had, for decades, provided significant levels of care for underserved, indigent, and low income patients in Rhode Island. These efforts have continued and, in fact, expanded under the 2014 joint venture with PMH.

PMH has invested significant funds since the 2014 joint venture to expand the primary care base, including in underserved areas of Rhode Island and has recruited three Spanish speaking primary care providers to assist with care to underserved areas.

Finally, HH&H participates in Medicare and Medicaid, which, to a great extent, serve underserved populations. In addition, HH&H has a charity care policy and will continue to serve traditionally underserved populations – see Tab 18.

17. Please identify the proposed immediate and long-term plans of the applicant to ensure adequate and appropriate access to the program and health care services to be provided by the health care facility/ies to traditionally underserved populations.

HH&H will continue to provide access to its services to traditionally underserved populations as set forth in response to question 16.

18. Please provide a copy of charity care policies and procedures and charity care application form.

See Tab 18

19. After the proposed change in effective control, will the facility/ies provide medically necessary services to patients without discrimination, including the patients' ability to pay for services? Yes **X** No___.

- If response to Question 23 is 'No', please explain.

20. Please identify and describe all instances **involving the applicant and/or its affiliates** and the status or disposition of each of the following within the past 3 years:

A. Citations, enforcement actions, violations, charges, investigations, or similar types of actions involving the applicant and/or its affiliates (including but not limited to actions brought forward by any governmental agency, accrediting agency, or similar type of an agency.); **Other than day to day regulatory surveys, which are duly responded to, the Rhode Island licensed facilities are in good standing. With respect to the Rhode Island licensed facilities, please see the following:**

1. **6/1/18 Rhode Island State and Federal Licensing Survey Charter Care Home Health Services. Findings for two elements – Review of Medications and Home Health Aid services. A plan of correction was submitted on June 28, 2018. The plan was accepted.**

2. **2/2/2019 State of Rhode Island Fire Marshal. One violation concerning the fire alarm panel switch and one concerning smoke detectors. Plan of correction was submitted and accepted. Plan of correction has been fully implemented.**

3. **7/22/19 to 8/14/2019 Roger Williams Hospital – FDA on site unexpected 503 A (patient specific manufacture) visit for the outpatient oncology unit. Issued an FDA 483 citation for 7 observations. A plan of correction was submitted 9/5/19. No further follow-up from the FDA.**

4. **8/19 CMS Immediate Jeopardy and term track for Patient Rights conditional level findings at OLF (ED crisis unit). The Immediate Jeopardy was abated that day. A plan of correction was submitted and accepted for the conditional level findings. CMS validation survey was successfully completed and deemed status was reinstated.**

5. **January 2, 2020 Roger Williams CMS survey with one condition-level finding with a termination track for Surgical Services. The plan of correction was submitted on 2/7/20. Awaiting CMS acceptance of the plan and follow-up validation survey. Term Track Date April 17, 2020.**

There have been no enforcement actions, violations, charges, investigations or similar types of actions within the past 3 years, other than as described above.

B. Civil proceedings (whether pending or which have resulted in a disposition or settlement) in any court of law, in which the applicant and/or its affiliates and/or any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates has been a party to;
Tab 20B

C. Convictions and/or placement on probation for any criminal offences by any state, local or federal government of any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliates;
None

21. Please identify any planned actions of the applicant to reduce, limit, or contain health care costs and improve the efficiency with which health care services are delivered to the citizens of this state.

HH&H will continue its existing operations, which reduce, limit, and contain health care costs and improve the efficiency with which health care services are delivered to Rhode Island citizens. The Transaction will not affect its current wide array of high quality and cost efficient services.

22. Please provide a copy of the Quality Assurance Policies (for the services) and a detailed explanation of how quality assurance for patient services will be implemented at the facility/ies by the applicant.

See Tab 22D

23. Please provide a detailed description about the amount and source of the equity and debt commitment for this transaction. (**NOTE**: If debt is contemplated as part of the financing, please complete Appendix E). Additionally, please demonstrate the following:

A. The immediate and long-term financial feasibility of the proposed financing plan;

Not applicable – there is no financing plan for this Transaction.

B. The relative availability of funds for capital and operating needs; and

The Transaction does not impact HH&H's capital and operating needs. HH&H generates sufficient revenues to cover its expenses. In the event any additional revenues are required, PCC has sufficient cash to fund any additional operating needs.

C. The applicant's financial capability.

The Transaction does not impact HH&H's capital and operating needs. HH&H will continue to gen erate sufficient revenues to cover its expenses. In the event any additional funds are required, PMH has sufficient cash to fund any additional operating needs, and PCC has access to sufficient cash to fund any additional operating needs. In fact, in July of 2019, Medical Properties Trust

invested $1.55 billion in PMH. That investment has not only strengthened PMH financially, but also provided it with a significant and experienced potential source of funding for improvements to its facilities.

24. Please provide legally binding evidence of site control (e.g., deed, lease, option, etc.) sufficient to enable the applicant to have use and possession of the subject property, if applicable.

See Tab 24

25. If the facility is not-for-profit and/or affiliated with a not-for-profit, please provide written approval from the Rhode Island Department of Attorney General of the proposal. **N/A**

26. Please provide each of the following documents applicable to the applicant's legal status:

·Certificate and Articles of Incorporation and By-Laws (for corporations)
·Certificate of Partnership and Partnership Agreement (for partnerships)
·Certificate of Organization and Operating Agreement (for limited liability corporations)

- If any of the above documents are proposed to be revised or modified in any way as a result of the implementation of the proposed change in effective control, please provide the present documents and the proposed documents and **clearly identify** the revisions and modifications.

Tab 26Dfor Articles of Organization and Operating Agreement for HH&H, as well as the following entities:
Chamber Inc.: Certificate of Incorporation and By-Laws
Chamber Merger Sub, Inc.: Certificate of Incorporation and By-Laws
Ivy Holdings Inc.: Certificate of Incorporation and By-Laws
Ivy Intermediate Holding Inc.: Certificate of Incorporation and By-Laws
Prospect Medical Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Holdings, Inc.: Certificate of Incorporation and By-Laws
Prospect East Hospital Advisory Services, LLC: Certificate of Formation, Operating Agreement and By-Laws
Prospect CharterCARE, LLC: Articles of Incorporation and Limited Liability Company Agreement
Prospect RI Home Health and Hospice, LLC: Articles of Organization and Operating Agreement

27. If the applicant and/or one of its parent companies (or ultimate parent) is a publicly traded corporation, please provide copies of its most recent SEC 10K filing. **Not Applicable.**

28. Please provide audited financial statements (which should include an income statement, balance sheet and cash flow statement) for the last three years for the applicant, and/or its ultimate parent, and for the existing facility.

See Tab 28 for audited financial statements for PMH and PCC for years, 2016 - 2018 and RWMC for years 2017 and 2018[1]. There are no audited financial statements for CI, CMSI, IH, IIH, PEH, PEHAS, CCCB, PRIHHH or HH&H for the last three years, as there has been no financial activity in those entities.

29. All applicants must complete Appendix A, D, F and G.

[1] Please note, before May 2018, HH&H was a part of RWMC and did not have any separate financials. Effective May 2018, HH&H became its own entity. As a result, the financial information above begins as of May 2018.

APPENDIX A

All applicants must complete this Appendix.

1. Please indicate the financing mix for the capital cost of this proposal. **NOTE**: the Health Services Council's policy requires a minimum 20 percent equity investment in CEC projects.

Source	Amount	Percent	Interest Rate	Terms (Yrs.)
Equity*	$11,940,922.00	100%		
Debt**	**N/A**	**N/A**	%	
Lease	**N/A**	**N/A**	%	
TOTAL	**$11,940,922.00**	**100%**		

* Equity means non-debt funds contributed towards the capital cost related to a change in owner or change in operator of a healthcare facility which funds are free and clear of any repayment or liens against the assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

** If debt financing is indicated, please complete Appendix E.

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Reviewer: Zoila C.

2. Please identify the total number of FTEs (full time equivalents) and the associated payroll expense (with fringe benefits) for the facility.

	Past Three Fiscal Years						Budgeted Current Year	
	FY: **2016 – N/A**[2]		FY: **2017 – N/A**		FY: 2018		FY: 2019	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	#	$	#	$	-	-	-	-
Physicians	#	$	#	$	-	-	-	-
Administrator	#	$	#	$	0.42	$63,415	1.00	$151,840
Director of Nursing	#	$	#	$	-	-	-	-
RNs	#	$	#	$	8.63	$1,006,364	25.99	$2,760,397
LPNs	#	$	#	$	1.08	$75,937	2.11	$140,750
Nursing Aides	#	$	#	$	0.76	$32,600	1.96	$84,747
PTs	#	$	#	$	8.22	$703,955	15.27	$1,493,607
OTs	#	$	#	$	1.62	$199,950	6.18	$573,258
Speech Therapists	#	$	#	$	0.26	$28,975	0.61	$66,528
Clerical	#	$	#	$	0.41	$163,214	7.35	$327,590
Housekeeping	#	$	#	$	-	$6,879	0.01	$320
Other (_____)	#	$	#	$	4.92	$90,443	1.06	$102,778
Other (_____)	#	$	#	$				
Totals					26.32	$2,371,732	61.54	5, 701,815

[2] Please note, before May 2018, HH&H was a part of RWMC and did not have any separate financials. Effective May 2018, HH&H became its own entity. As a result, the financial information above begins as of May 2018.

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	Projected First Three Fiscal Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PERSONELL (by major categories)	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes	Number of FTEs	Payroll W/Fringes
Medical Director	-	-	-	-	-	-
Physicians	-	-	-	-	-	-
Administrator	1.00	$154,877	1.00	$157,974	1.00	$161,134
Director of Nursing	-	-	-		-	
RNs	25.99	$2,815,605	25.99	$2,871,918	25.99	$2,929,356
LPNs	2.11	$143,565	2.11	$146,436	2.11	$149,365
Nursing Aides	1.96	$86,442	1.96	$88,170	1.96	$89,934
PTs	15.27	$1,523,479	15.27	$1,553,949	15.27	$1,585,028
OTs	6.18	$584,723	6.18	$596,418	6.18	$608,346
Speech Therapists	0.61	$67,859	0.61	$69,216	0.61	$70,600
Clerical	7.35	$334,142	7.35	$340,825	7.35	$347,641
Housekeeping	0.01	$326	0.01	$333	0.01	$340
Other	1.06	$104,833	1.06	$106,930	1.06	$109,070
Other (CCHP Corporate)		-		-		
Totals	61.54	$5,815,851	61.54	$5,932,169	61.54	$6,050,814

3. Please complete the following table for the facility. Round all amounts to the nearest dollar.

	Past Three Fiscal Years			Budgeted Current Fiscal Year	Projected Three Fiscal Years (if approved)		
	FY: 2016-N/A[3]	**FY: 2017-N/A**	**FY: 2018 (starting 5/2018)**	**FY: 2019**	**FY: 2020**	**FY: 2021**	**FY: 2022**
REVENUES							
Net Patient Revenue			$3,035,890	$7,534,262	$7,684,947	$7,838,646	$7,995,420
Other: (_____)			$5,599	$1,383	$1,411	$1,439	$1,468
Total Revenue			$3,041,489	$7,535,645	$7,686,358	$7,840,085	$7,996,887
EXPENSES							
Payroll w/Fringes			$2,371,732	$5,701,815	$5,815,851	$5,932,169	$6,050,814
Bad Debt			$8,475	$44,055	$44,936	$45,835	$46,752
Supplies			-	-	$0	$0	$0
Office Expenses			-	-	$0	$0	$0
Utilities			-	-	$0	$0	$0
Insurance			-	-	$0	$0	$0
Interest			-	-	$0	$0	$0
Depreciation/Amortization			-	$16,146	$16,469	$16,798	$17,134
Leasehold Expenses			-	-	$0	$0	$0
Other: (Pharmaceuticals)			-	-	$0	$0	$0
Other: (Professional Fees)			-	-	$0	$0	$0
Other: (Purchased Services)			-	-	$0	$0	$0
Other: (Prop Tax & Other)			-	-	$0	$0	$0
Other: (Management Fees)			-	-	$0	$0	$0
Other: (Grant Exp)			-	-	$0	$0	$0
Other: (Other Exp)			$221,870	$1,302,645	$1,328,698	$1,355,272	$1,382,378
Total Expenses			$2,602,077	$7,064,661	$7,205,954	$7,350,074	$7,497,078
OPERATING PROFIT/LOSS			$439,412	$470,984	$480,404	$490,011	$499,809

[3] Please note, before May 2018, HH&H was a part of RWMC and did not have any separate financials. Effective May 2018, HH&H became its own entity. As a result, the financial information above begins as of May 2018. Please note, effective May, 2018, the financials were transferred from RWMC to HH&H.

4. Please provide Net Patient Revenues (dollar value and percentage) for the existing facility by completing the table below for the requested years.

	Past Three Fiscal Years (Actual)						Budgeted Current Year	
	FY: **2016 – N/A**[4]		FY: **2017 – N/A**		FY: 2018 (starting 5/2018)		FY: 2019	
PAYOR SOURCE:	$	%	$	%	$	%	$	%
Blue Cross	$	%	$	%	$108,217	3.56%	$342,513	4.55%
Commercial	$	%	$	%	$34,655	1.14%	$289,799	3.85%
HMO's	$	%	$	%	$86,545	2.85%	$208,746	2.77%
Medicaid	$	%	$	%	$322,610	10.63%	$899,826	11.94%
Medicare	$	%	$	%	$2,466,361	81.24%	$5,772,324	76.61%
Other	$	%	$	%	$0	0.00%	$0	0.00%
Self Pay	$	%	$	%	$17,502	0.58%	$21,054	0.28%
TOTAL Net Patient Revenue	$	%	$	%	$3,035,890	100.00%	$7,534,262	100.00%
Charity Care*	$	%	$	%	$22,809	0.75%	$7,539	0.10%

	Projected First Three Operating Years (if approved)					
	FY: 2020		FY: 2021		FY: 2022	
PAYOR SOURCE:	$	%	$	%	$	%
Blue Cross	$349,363	4.55%	$356,351	4.55%	$363,478	4.55%
Commercial	$295,595	3.85%	$301,507	3.85%	$307,537	3.85%
HMO's	$212,921	2.77%	$217,179	2.77%	$221,523	2.77%
Medicaid	$917,823	11.94%	$936,179	11.94%	$954,903	11.94%
Medicare	$5,887,770	76.61%	$6,005,526	76.61%	$6,125,636	76.61%
Other	$0	0.00%	$0	0.00%	$0	0.00%
Self Pay	$21,475	0.28%	$21,905	0.28%	$22,343	0.28%
TOTAL Net Patient Revenue	$7,684,947	100.00%	$7,838,644	100.00%	$7,995,420	100.00%
Charity Care*	$	%	$	%	$	%

*Charity Care does not include bad debt and is based on costs (not charges). For Home Nursing Care Providers, the statewide community standard shall be one percent (1%) of net patient revenue earned on an annual basis.

[4] Please note, before May 2018, HH&H was a part of RWMC and did not have any separate financials. Effective May 2018, HH&H became its own entity. As a result, the financial information above begins as of May 2018.

NOTE: TOTAL Net Patient Revenues should equal Net Patient Revenues identified in Appendix A, Table 3.

(TO BE COMPLETED BY THE APROPRIATE STATE AGENCY)

Appendix B

Rhode Island Department of Health
Center for Health Systems Policy and Regulation

Compliance Report

(Name of Applicant) Prospect CharterCARE Home Health and Hospice, LLC has applied for licensure as a healthcare facility in Rhode Island. As part of the regulatory requirements to determine the character, competence and other quality related information of the applicant, the Center for Health Systems Policy and Regulation is requesting the following information regarding the health care facilities operated by or affiliated with the applicant, as listed on the attached sheet.

Please answer the following questions.

1. Are the agencies/facilities currently licensed and in substantial compliance with all applicable codes, rules and regulations? Yes__ No__

If the answer to #1 is "NO", please identify the facility(ies) and briefly explain the licensure status.

2. Has there been any enforcement actions against these agencies/facilities in the past three (3) years? Yes__ No__

If the answer to #2 is "YES", please identify the facility(ies) and include any information relevant to those enforcement actions (reason for action, stipulation, fine, etc.). In addition, please furnish a brief description of the outcome of the most recent survey, including any deficiencies cited. Additional pages may be attached, if needed.

Reviewer's Name: _____ Title: _____
Department: _____ State: _____
Telephone_____ E-mail _____
Reviewer's Signature: _____ Date: _____

If you have any questions, please contact Paula Pullano at (401) 222-2788 or e-mail, Paula.Pullano@health.ri.gov. Please return the completed form within 15 days to Paula.Pullano@health.ri.gov or to the address below:

Rhode Island Department of Health
Center for Health Systems Policy and Regulation
3 Capitol Hill, Room 410
Providence, Rhode Island 02908

Thank you.
Attachment

Appendix B (CONT.)

Applicant, please provide the following information identifying each facility to the appropriate state agency as an attachment to the letter in the table below, use additional pages if necessary. Please make sure to identify yourself in the cover letter by filling in the blank for 'Name of Applicant'.

See letters attached as Tab E.

State	Facility Name, Address and Contact Information	License Number
CA	**Southern California Hospital at Hollywood**	**930000066**
CA	**Southern California Hospital at Culver City**	**930000066**
CA	**Southern California Hospital at Van Nuys**	**930000066**
CA	**Los Angeles Community Hospital**	**93000039**
CA	**Los Angeles Community Hospital at Norwalk**	**93000039**
CA	**Foothill Regional Medical Center**	**060000178**
RI	**Roger Williams Medical Center**	**HOS00133**
RI	**Our Lady of Fatima Hospital**	**HOS00132**
RI	**Prospect CharterCARE Home Health Services**	**HCN02373**
NJ	**East Orange General Hospital**	**10704**
CT	**Manchester Memorial Hospital**	**GH.0000073**
CT	**Rockville General Hospital**	**GH.0000074**
CT	**Waterbury Hospital**	**GH.0000075**
CT	**Prospect Waterbury Home Health, Inc**	**9915747**
CT	**Prospect ECHN Home Health, Inc.**	**9915748**
PA	**Crozer-Chester Medical Center**	**037201**
PA	**Springfield Hospital**	**037201**
PA	**Taylor Hospital**	**037201**
PA	**Delaware County Memorial Hospital**	**041801**
PA	**Prospect Crozer Home Health and Hospice**	**753705**

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Appendix D

Source of Funds

No equity – Purchase being made with available corporate cash

All applicants must complete this Appendix.

I. Please provide the total expenditures necessary to implement this proposal and allocate this amount to the sources of funds categories listed below:

TOTAL PROJECT COST: $_____*

SOURCE OF FUNDS	AMOUNT
a. Funded depreciation	$ _____
b. Other restricted funds (specify) _____	_____
c. Unrestricted funds (specify) _____	_____
d. Owner's equity	_____
e. Sale of stock/other equity	_____
f. Unrestricted donations or gifts	_____
g. Restricted donations or gifts	_____
h. Government grant (specify) _____	_____
i. Other non-debt funds (specify) **available corporate cash**	**$11,940,992.00**
j. Sub-Total Equity Funds	_____
k. Subsidized loan (e.g. FHA etc.) _____	_____
l. Tax-exempt bonds (specify) _____	_____
m. Conventional mortgage	_____
n. Lease or rental	_____
o. Other debt funds	_____
p. Sub-Total Debt Funds	_____
q. Total Source of Funds	**$11,940,992.00**

* should equal the response for line "q"

Appendix E

Debt Financing

Not Applicable – There is no debt financing for the proposed Transaction.

All applicants proposing debt financing must complete this Appendix.

Applicants contemplating the incurrence of a financial obligation for full or partial funding of the proposal must complete and submit this appendix.

1. Please describe the proposed debt by completing the following:
   a.) type of debt contemplated _____
   b.) term (months or years) _____
   c.) principal amount borrowed _____
   d.) probable interest rate _____
   e.) points, discounts, origination fees _____
   f.) compensating balance or reserved fund _____
   g.) likely security _____
   h.) disposition of property (if a lease is revoked) _____
   i.) prepayment penalties or call features _____
   j.) front end costs (e.g. underwriting spread, feasibility study, legal and printing expense, points etc.) _____
   k.) debt service reserve fund _____

2. If this proposal involves refinancing of existing debt, please indicate the original principal, the current balance, the interest rate, the years remaining on the debt and a justification for the refinancing contemplated.

3. Please present a debt service schedule for the chosen method of financing, which clearly indicates the total amount borrowed and the total amount repaid per year. Of the amount repaid per year, the total dollars applied to principal and total dollars applied to interest must be shown.

Appendix F

Disclosure of Ownership and Control Interest

All applicants must complete this Appendix.

I. Please answer the following questions by checking either 'Yes' or 'No'. If any of the questions are answered 'Yes', please list the names and addresses of individuals or corporations.

A. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant, that have been convicted of a criminal offense related to the involvement of such persons or organizations in any of the programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

B. Will there be any directors, officers, agents, or managers of the applicant (or facility) who have ever been convicted of a criminal offense related to their involvement in such programs established by Titles XVIII, XIX of the Social Security Act? Yes___ No **X**

C. Are there (or will there be) any individuals employed by the applicant (or facility) in a managerial, accounting, auditing, or similar capacity who were employed by the applicant's fiscal intermediary within the past 12 months (Title XVIII providers only)? Yes___ No **X**

D. Will there be any individuals (or organizations) having direct (or indirect) ownership interests, separately (or in combination), of 5 percent or more in the applicant (or facility)? (Indirect ownership interest is ownership in any entity higher in a pyramid than the applicant) Yes **X** No___ (Note, if the applicant is a subsidiary of a "parent" corporation, the response is 'Yes') See **Tab 15.**

E. Will there be any individuals (or organizations) having ownership interest (equal to at least 5 percent of the facility's assets) in a mortgage or other obligation secured by the facility? Yes___ No **X**

F. Will there be any individuals (or organizations) that have an ownership or control interest of 5 percent or more in a subcontractor in which the applicant (or facility) has a direct or indirect ownership interest of 5 percent or more. (Also, please identify those subcontractors.) Yes___ No **X**

G. Will there be any individuals (or organizations) having a direct (or indirect) ownership or control interest of 5 percent or more in the applicant (or facility), who have been direct (or indirect) owners or employees of a health care facility against which sanctions (of any kind) were imposed by any governmental agency? Yes___ No **X**

H. Will there be any directors, officers, agents, or managing employees of the applicant (or facility) who have been direct (or indirect) owners or employees of a health care facility against which any sanctions were imposed by any governmental agency? Yes___ No **X**

Appendix G

Ownership Information

All applicants must complete this Appendix

1. List all officers, members of the board of directors, stockholders, and trustees of the applicant and/or ultimate parent entity. For each individual, provide their home and business address, principal occupation, position with respect to the applicant and/or ultimate parent entity, and amount, if any, of the percentage of stock, share of partnership, or other equity interest that they hold.

See Tab G1D

2. For each individual listed in response to Question 1 above, list all (if any) other health care facilities or entities within or outside Rhode Island in which he or she is an officer, director, trustee, shareholder, partner, or in which he or she owns any equity or otherwise controlling interest. For each individual, please identify: A) the relationship to the facility and amount of interest held, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G2

3. If any individual listed in response to Question 1 above, has any business relationship with the applicant, including but not limited to: supply company, mortgage company, or other lending institution, insurance or professional services, please identify each such individual and the nature of each relationship.

None.

4. Have any individuals listed in response to Question 1 above been convicted of any state or federal criminal violation within the past 20 years? Yes___ No **X**.

- If response to Question 4 is 'Yes', please identify each person involved, the date and nature of each offense and the legal outcome of each incident. **N/A**

5. Please list all licensed healthcare facilities (in Rhode Island or elsewhere) owned, operated or controlled by any of the entities identified in response to Question 15 of the application. For each facility, please identify: A) the entity, applicant or principal involved, B) the type of facility license held (e.g. nursing facility, etc.), C) the address of the facility, D) the state license #, E) Medicare provider #, F) any professional accreditation (e.g. JACHO, CHAP, etc.), and G) complete Appendix B 'Compliance Report' and submit it to the appropriate state agency.

See Tab G5

6. Have any of the facilities owned, operated or managed by the applicant and/or any of the entities identified in Question 5 above during the last 5-years had bankruptcies and/or were placed in receiverships?
Yes **X** No___

- If response to Question 6 is 'Yes', please identify the facility and its current status.

On November 11, 2015, East Orange General Hospital, Inc. ("Oldco"), a New Jersey not-for-profit hospital, and its affiliates, filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code, 11 USC § et seq., in the United States Bankruptcy Court for the District of New Jersey (Case No. 15-31232 – VFP). On March 1, 2016, Prospect EOGH, Inc. d/b/a East Orange General Hospital ("Newco"), purchased the assets and assumed specific and identified liabilities of Oldco pursuant to Sections 105, 363 and 365 of the Bankruptcy Code. Prospect EOGH, Inc. is a wholly owned subsidiary of Prospect NJ, Inc., which is a wholly owned subsidiary of Prospect Medical Holdings, Inc.

Exhibit 4

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Chamber Inc. and Ivy Holdings Inc.**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Chamber Inc. and Ivy Holdings Inc.
Entity

Subscribed and sworn to before me on this 12 day of December 2019.

Meenelle Pleeki
Notary Public
My Commission Expires: 8/31/21

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Ivy Intermediate Holdings, Inc.**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Ivy Intermediate Holdings, Inc.
Entity

Subscribed and sworn to before me on this_____ day of_____ 20___.

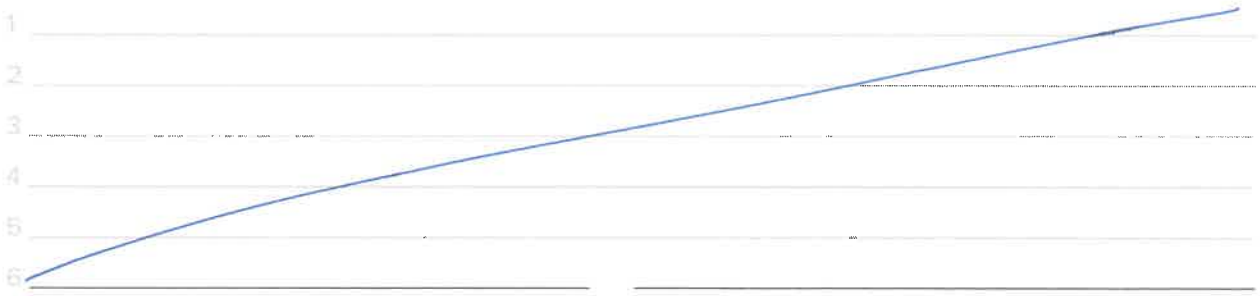
See attached certificate

Notary Public
My Commission Expires:

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

CALIFORNIA JURAT WITH AFFIANT STATEMENT **GOVERNMENT CODE § 8202**

☑ See Attached Document (Notary to cross out lines 1–6 below)
☐ See Statement Below (Lines 1–6 to be completed only by document signer[s], not Notary)

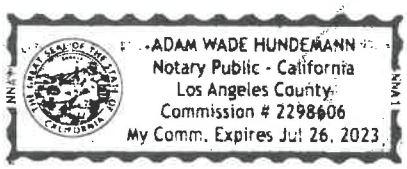


Signature of Document Signer No. 1 *Signature of Document Signer No. 2 (if any)*

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles



Place Notary Seal and/or Stamp Above

Subscribed and sworn to (or affirmed) before me

on this 30 day of January, 20 20,
Date *Month* *Year*

by (1) Sang Bum (Samuel) Lee

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature _____
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Prospect Medical Holdings, Inc.**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

_____
Signed by the President or Chief Executive Officer

Prospect Medical Holdings, Inc.
Entity

Subscribed and sworn to before me on this_____ day of_____ 20___.

See Attached certificate

_____
Notary Public
My Commission Expires:

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
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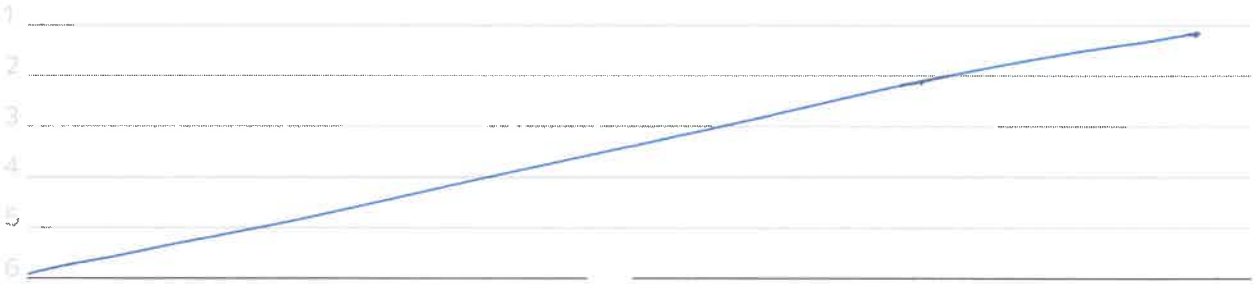

Signature of Document Signer No. 1 *Signature of Document Signer No. 2 (if any)*

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

ADAM WADE HUNDEMANN
Notary Public - California
Los Angeles County
Commission # 2298606
My Comm. Expires Jul 26, 2023

Place Notary Seal and/or Stamp Above

Subscribed and sworn to (or affirmed) before me

on this 30 day of January, 20 20,
by *Date* *Month* *Year*

(1) Sang Bum (Samuel) Lee

(and (2) —),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature _____
Signature of Notary Public

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Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Prospect East Holdings, Inc.**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Prospect East Holdings, Inc.
Entity

Subscribed and sworn to before me on this_____ day of_____ 20___.

See attached certificate

Notary Public
My Commission Expires:

CALIFORNIA JURAT WITH AFFIANT STATEMENT **GOVERNMENT CODE § 8202**

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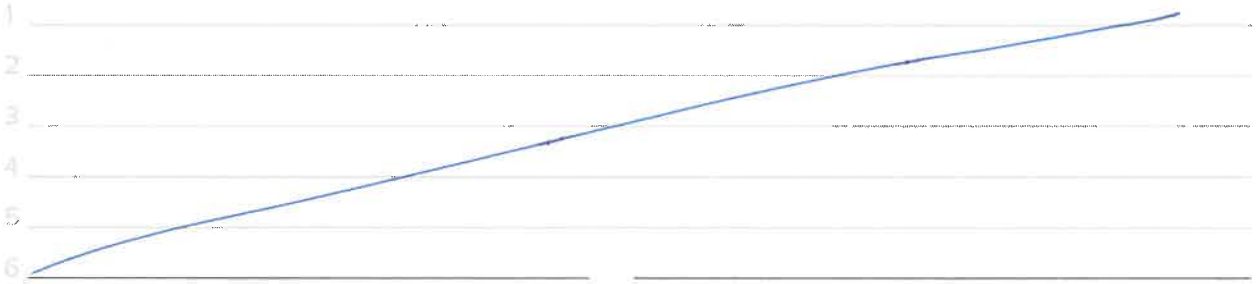

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on this 30 day of January, 2020,
by *Date* *Month* *Year*

(1) Sang Bum (Samuel) Lee

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

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Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Prospect East Hospital Advisory Services, LLC**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Prospect East Hospital Advisory Services, LLC
Entity

Subscribed and sworn to before me on this_____ day of_____ 20___.

See attached certificate

Notary Public
My Commission Expires:

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

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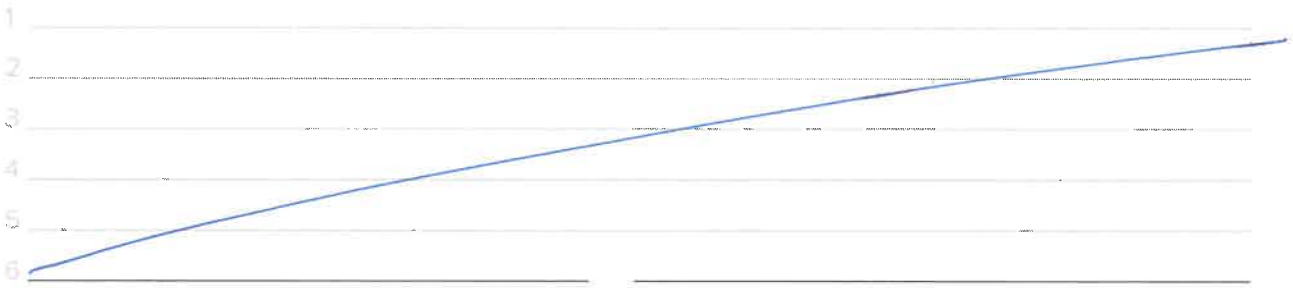

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State of California

County of Los Angeles

ADAM WADE HUNDEMANN
Notary Public - California
Los Angeles County
Commission # 2298606
My Comm. Expires Jul 26, 2023

Place Notary Seal and/or Stamp Above

Subscribed and sworn to (or affirmed) before me

on this 30 day of January, 20 20,
by *Date* *Month* *Year*

(1) Sang Bum (Samuel) Lee

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature _____
Signature of Notary Public

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Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Prospect CharterCARE, LLC**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Prospect CharterCARE, LLC
Entity

Subscribed and sworn to before me on this 3rd day of February 2020.

Notary Public
My Commission Expires: August 17, 2022

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Prospect CharterCARE SJHSRI, LLC**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Prospect CharterCARE SJHSRI, LLC
Entity

Subscribed and sworn to before me on this 3rd day of February 2020.

Sheila M. Capobianco
Notary Public
My Commission Expires: ~~August 17, 2022~~

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

HOSPITAL CONVERSION APPLICATION

Please provide the following information (please replicate as needed):

Name of Transacting Parties: **Prospect CharterCARE RWMC, LLC**
Date Application Resubmitted: **February 4, 2020; March 18, 2020**
Date of Agreement Execution with the Director for Payment of Costs*: **February 19, 2020**
Date of Agreement Execution with the Attorney General for Payment of Costs*: **January 28, 2020**

* Please provide copies of the responsive documents.

All questions concerning this application should be directed to:
Office of Health Care Advocate (401) 274-4400

CERTIFICATION

Please provide the attestation/verification for each of the Transacting Parties and licensed hospital affiliates. (Please replicate as needed):

I hereby certify that the information contained in this application is complete, accurate and true.

Signed by the President or Chief Executive Officer

Prospect CharterCARE RWMC, LLC
Entity

Subscribed and sworn to before me on this 3rd day of February 2020.

Notary Public
My Commission Expires: August 17, 2022

SHEILA M. CAPOBIANCO
Notary Public, State of Rhode Island
My Commision Expires August 17, 2022

TABLE OF CONTENTS

1. Please provide an executive summary of the proposed conversion which shall include a discussion of the date of implementation, purchase price, source of funds, debt, commitments for and development of new services and/or facilities, and reduction of existing services and/or facilities that are associated with the proposed conversion.

Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center ("RWMC") is a licensed acute care hospital (license number HOSP00133) located in Providence, Rhode Island. Prospect CharterCARE SJHSRI, LLC d/b/a Our Lady of Fatima Hospital ("OLF") is a licensed acute care hospital (license number HOSP00132) located in North Providence, Rhode Island (collectively referred to as "The Hospitals"). The Hospitals provide a wide array of high quality and cost-effective services to their patients, including emergency department services, ambulatory care services, and inpatient and outpatient services including cancer care, elder care, gastroenterology, psychiatric, mental health, and addiction medicine services. The Hospitals maintain a strong licensure track record of providing high quality services to their patients. RWMC is an academic medical center affiliated with Boston University School of Medicine. The Hospitals are accredited by the Joint Commission.

This application seeks approval for a change in ownership of The Hospitals' ultimate parent (five companies removed from The Hospitals)in order to effectuate a buy-out of the private equity investors as described more fully below. The proposed change in ownership of the ultimate parent company, to be implemented as of April 15, 2020, will have no impact on the day to day services provided by The Hospitals. Prospect CharterCARE, LLC ("PCC") wholly owns The Hospitals, PCC is owned 85% by Prospect East Holdings, Inc. ("PEH") and 15% by CharterCARE Community Board ("CCCB"). PEH is wholly owned by Prospect Medical Holdings, Inc. ("PMH"). PMH is wholly owned by Ivy Intermediate Holding Inc. ("IIH"), which is wholly owned by Ivy Holdings Inc. ("IH"). IH is currently owned by a combination of private equity investment partnerships (the "Corporate Passive Investor"), Sam Lee, the CEO of PMH, and David Topper, one of the original co-founders of PMH with Mr. Lee, through his Family Trust. Other management owns a small minority of shares. A copy of the pre-transaction organizational chart is attached at Tab 6.

The proposed transaction involves a change to IH *only* – a holding company five times removed from The Hospitals (the "Transaction"). Specifically, the change involves two individual shareholders – Lee and Topper (through his Family Trust) – becoming the sole shareholders of a newly formed entity, Chamber Inc. ("Chamber"), which will become the parent of IH. A copy of the post-Transaction organizational chart is attached at Tab 6. The capital costs of the transaction are eleven million nine hundred forty thousand nine-hundred ninety-two dollars ($11,940,992.00) with no debt associated with the proposed payment. The Transaction includes $50 Million of pension fund payments, as well as the assumption of over $1 Billion in liabilities. There were no dividends made in connection with this Transaction prior to the date of the Initial Application. After the Transaction, the Corporate Passive Investor and the other minority management shareholders will no longer retain any ownership in IH. The transaction funds will not come from or affect any of the PCC entities; instead, the transaction funds consist entirely of available PMH

corporate cash. A copy of the Merger Agreement is attached at Tab 12. The Transacting Parties as used herein refers to Chamber, IH, IIH, PMH, PEH, Prospect East Hospital Advisory Services, LLC ("PEHAS"), PCC, RWMC and OLF.

Following the Transaction, all existing entities described above will remain as surviving corporations. There will be no change whatsoever to any of the existing entities that will in any way impact the operations or governance of any PCC licensed facilities, including The Hospitals. Specifically, PMH will continue to own PEH, PEH will continue to own PCC, and PCC will continue to own and operate The Hospitals.

In particular, the Transaction will not impact the services provided, the populations served, the payor mix, the governance, the tax ID numbers, the provider numbers, staffing, strategic plans, financial condition, professional, clerical, administrative, or medical staff, policies and procedures (including charity care), or the assets, liabilities, and obligations. Following the Transaction, The Hospitals will continue to provide high quality and cost efficient care to members of the Rhode Island community.

2. Please provide the following:

   a. Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Samuel S. Lee, CEO of Chamber Inc.**	Telephone: **(310) 943-4500**	
Address: **3415 South Sepulveda Blvd. 9th Floor**	State: **CA**	Zip: **90034**
E-mail: **sam.lee@pmh.com**	Fax: **(310) 943-4504**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Samuel S. Lee, CEO of Ivy Holdings Inc.**	Telephone: **(310) 943-4500**	
Address: **3415 South Sepulveda Blvd. 9th Floor**	State: **CA**	Zip: **90034**
E-mail: **sam.lee@pmh.com**	Fax: **(310) 943-4504**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Samuel S. Lee, CEO of Ivy Intermediate Holding Inc.**	Telephone: **(310) 943-4500**	
Address: **3415 South Sepulveda Blvd. 9th Floor**	State: **CA**	Zip: **90034**
E-mail: **sam.lee@pmh.com**	Fax: **(310) 943-4504**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Samuel S. Lee, CEO of Prospect Medical Holdings, Inc.**	Telephone: **(310) 943-4500**	
Address: **3415 South Sepulveda Blvd. 9th Floor**	State: **CA**	Zip: **90034**
E-mail: **sam.lee@pmh.com**	Fax: **(310) 943-4504**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Samuel S. Lee, CEO of Prospect East Holdings, Inc.**	Telephone: **(310) 943-4500**	
Address: **3415 South Sepulveda Blvd. 9th Floor**	State: **CA**	Zip: **90034**

E-mail: **sam.lee@pmh.com**	Fax: **(310) 943-4504**

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Samuel S. Lee, CEO of Prospect East Hospital Advisory Services, LLC**	Telephone: **(310) 943-4500**	
Address: **3415 South Sepulveda Blvd. 9th Floor**	State: **CA**	Zip: **90034**
E-mail: **sam.lee@pmh.com**	Fax: **(310) 943-4504**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Jeffrey Liebman, CEO of Prospect CharterCARE, LLC**	Telephone: **(401) 456-2084**	
Address: **825 Chalkstone Avenue, Providence**	State: **RI**	Zip: **02908**
E-mail: **Jeffrey.liebman@chartercare.org**	Fax: **(401) 456-2029**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Jeffrey Liebman, CEO of Prospect CharterCARE SJHSRI, LLC**	Telephone: **(401) 456-2084**	
Address: **825 Chalkstone Avenue, Providence**	State: **RI**	Zip: **02908**
E-mail: **Jeffrey.liebman@chartercare.org**	Fax: **(401) 456-2029**	

Contact information of President or CEO of each Transacting Party (Please replicate as needed):

Name: **Jeffrey Liebman, CEO of Prospect CharterCARE RWMC, LLC**	Telephone: **(401) 456-2084**	
Address: **825 Chalkstone Avenue, Providence**	State: **RI**	Zip: **02908**
E-mail: **Jeffrey.liebman@chartercare.org**	Fax: **(401) 456-2029**	

b. Name, title, address, phone, fax and email of one contact person for each Transacting Party for this application process (only if different from the President/CEO in Question 2)(Please replicate as needed):

Case Number: PC-2019-11756
Filed in Providence/Bristol County Superior Court
Submitted: 7/27/2020 3:38 PM
Envelope: 2681186
Reviewer: Zoila C.

Name: **Patricia K. Rocha, Esq.**	Telephone: **(401) 274-7200**	
Address: **One Citizens Plaza, 8th Floor**	State: **RI**	Zip: **02903**
E-Mail: **procha@apslaw.com**	Fax: **(401) 751-0604**	

3. Please provide the following:

   a. With regard to the officers, members of the boards of directors, trustees, executives, and senior managers of each of the Transacting Parties and their Rhode Island Affiliated Hospitals, please provide the following for the past 2 years: (a) name; (b) address; (c) phone number; (d) occupation; and (e) tenure. **See Tab 3a**

   b. The (a) name; (b) address; (c) phone number; and (d) occupation of the proposed members of the board of directors, trustees, executives and senior managers after the conversion of the Transacting Parties and their Rhode Island Affiliated Hospitals, identifying any additional members or removal of members. **See Tab 3b**

   c. A description of the governance structure of the New Hospital(s) after conversion, including a description of how members of any board of directors, trustees or similar type group will be chosen. **Not Applicable – There will be no change to the governance structure of the Hospitals including management of The Hospital subsidiaries, any management companies and management agreements as a result of the Transaction.**

4. Please provide agenda and minutes of all meetings of the board of directors or trustees and any of its committees, subcommittees, task forces **related to the conversion**, or similar entities (excluding those focused on peer review and confidential medical matters) that occurred within the 2-year period (24 months) prior to submission of the application to the present in identifiable format. Please note, meeting packages may also be requested by the Attorney General to complete the Initial Application. **See Tab 4. The attached minutes, agenda and board packet include all the agendas, minutes, or packets related to the conversion including conversation or discussion of the proposed conversion at all corporate levels, both prior to or following the approved votes to the present, inclusive of any notices or updates provided to lower subsidiaries. There are no other Board meetings where the prepared conversion was discussed or voted on and no other votes or notice were required other than what was provided in response to this question.**

5. Please provide any amendments for each of the Transacting Parties and their Rhode Island Affiliated Hospitals: **As requested in the March 4, 2020 deficiency letter, see Tab 5 for documents relating to the incorporation of Chamber and Chamber Merger Sub Inc. There is no shareholder agreement between the shareholders of Chamber**

   a. Charter;

   b. Certificate and Articles of Incorporation and By-laws;

   c. Certificate of Partnership and Partnership Agreement;

   d. Certificates or Articles of Organization and Operating Agreement;

   e. Other organizational documents

   If any of the above documents are proposed to be revised or modified in any way as a result of the proposed conversion, include the proposed revisions or modifications.

6. Please provide the following:

   a. Organizational charts for the existing and post-conversion Transacting Parties and each partner, affiliate, parent, subsidiary or related legal entity in which either Transacting Party has a twenty percent (20%) or greater ownership or membership interest or control; and **See Tab 6**

   b. A detailed narrative that describes the existing and proposed post-conversion organizational structure for the Transacting Parties and each partner, affiliate, parent, subsidiary or related legal entity in which either Transacting Party has a twenty percent (20%) or greater ownership or membership interest or control. **See Tab 6. PCC wholly owns RWMC and OLF. PCC is owned 85% by PEH and 15% by CCCB. PEH is wholly owned by PMH. PMH is wholly owned by IIH, which is wholly owned by IH. IH is currently owned by a combination of private equity investment partnerships, Sam Lee, the CEO of PMH, and David Topper, one of the co-founders of PMH, through his Family Trust. Other management owns a small majority of shares. The proposed transaction involves a change to IH *only* – a holding company five times removed from the Hospitals. Specifically, the change involves two individual shareholders – Lee and Topper (through his Family Trust) – becoming the sole shareholders of the newly formed entity, Chamber, which will become the parent of IH. After the Transaction, the Corporate Passive Investor and the other minority management shareholders will no longer retain any ownership in IH. Following the Transaction, all existing entities described above will remain as surviving corporations. Specifically, PMH will continue to own PEH, PEH will continue to own PCC, and PCC will continue to own and operate The Hospitals.**

7. Please provide a description of criteria established by the board of directors of the Existing Hospital(s) for pursuing a proposed conversion with one or more health care providers. **None**

8. Please provide the names, addresses and phone numbers of professional consultants engaged by the Transacting Parties in connection with the proposed conversion. **See <u>Tab 8</u>**

9. Please provide a copy of any agreement outlining the scope of services to be rendered by any consultant or expert engaged by the Transacting Parties in connection with the proposed transaction, including the cost thereof. **There are no agreements with consultants outlining the scope of services to be rendered by a consultant or expert specific to the proposed transaction.**

10. Please provide copies of current conflict of interest forms from all incumbent or recently incumbent officers, members of the board of directors, trustees and senior managers, including the medical directors of the Transacting Parties, and experts and consultants engaged by the Transacting Parties in connection with the proposed transaction, on a form acceptable to the Attorney General ("incumbent or recently incumbent" means those individuals holding the position at the time the application is submitted and any individual who held a similar position within one year prior to the filing of the application). **See Tab 10.**

In response to the March 4, 2020 deficiency letter, the Transacting Parties have presented conflict of interest statements to the following individuals for execution:

- **Cindra Syverson,**
- **Laura Lacorte,**
- **Debby Berry,**
- **Donna Rubinate,**
- **Susan C. Benfeito,**
- **R. Otis Brown,**
- **Guenevieve del Mundo,**
- **Dan Ison,**
- **Lynn Leahey,**
- **Eleanor Milo,**
- **Joseph Samartano, Jr.,**
- **Aaron Bloomenthal,**
- **Raffi Calikyan,**
- **Steven Colagiovanni,**
- **Deborah Giannini,**
- **Charles E. Maynard,**
- **Cynthia Alves,**
- **Louis J. Mariorenzi,**
- **Lisa A. Ranglin**
- **Kara Magiera.**

As the conflict of interest responses are received, the Transacting Parties will supplement the Application. The Transacting Parties have not presented conflict of interest statements to Ellen Shin or Dan Janicak. Ms. Shin is on medical leave and Mr. Janicak left OLF approximately twelve (12) months ago and has not been employed by or affiliated with any PMH entity since that time.

The following individuals do not receive compensation for their position as board members: (i) John Baumer; (ii) Alyse Wagner; (iii) Michael Solomon; and (iv) Prasad Jeeredii, MD.

Finally, none of the persons and/or entities listed in deficiency 23 and Section 4.03(e) of the Merger Agreement who have not provided conflict of interest statements are incumbent or

recently incumbent officers, members of the board of directors, trustees, senior managers, experts or consultants. Accordingly conflict of interest statements from such persons or entities are not within the scope of this question. The shareholders who are officers or directors, Samuel Lee, David Topper, Dr. Prasad Jeereddi, Dr. Mitchell Lew and Bruce G rimshaw have submitted conflict of interest statements.

11. Please provide conflict of interest statements, policies and procedures for each of the Transacting Parties. **See <u>Tab 11,</u> which applies to all Prospect subsidiaries.**

12. Please provide the binding transaction documents, such as an asset purchase and/or transfer agreement, affiliation agreement and/or memorandum of understanding and all exhibits and schedules thereto (including any updates or supplements as they occur). **See Tab 12 for Waivers and Modification of Closing Conditions pursuant to Section 6.12 of the Merger Agreement that was discussed on the February 24, 2020 call. There was no discussion of any letter relating to Section 6.11 of the Merger Agreement on that call.**

13. Please discuss whether the proposed transaction will require review by any relevant federal authority and, if so, please identify such review(s) and the status thereof. **None**

14. Please identify all government (including local, state, or federal) permits, licenses, or other approvals necessary to implement the proposed conversion and the status thereof. **Rhode Island Change in Effective Control and Hospital Conversions Act review and California Board of Pharmacy review. The California Board of Pharmacy review has been granted. No notice is needed to, or approval from, the Joint Commission, in order to implement the proposed conversion.**

15. Please provide a list with detailed descriptions of all agreements executed or anticipated to be executed by any of the Transacting Parties in connection with the proposed conversion. **See Tab 15 for IH Shareholder Agreement and notices. The Ivy Holdings Inc. Notice of Stockholder Action Taken By Written Consent and Notice of Statutory Appraisal Rights, as well as the Letter of Transmittal, were sent on or around October 15, 2019 to the shareholders listed in Section 4.03(e) of the Merger Agreement. The Ivy Holdings Inc. Supplemental Notice to Shareholders was sent on or around October 29, 2019 to the shareholders listed in Section 4.03(e) of the Merger Agreement.**

16. Please provide copies of audited income statements, balance sheets, other financial statements, and management and discussion letters for the past 2 years, audited interim financial statements and income statements, together with a detailed description of the financing structure of the proposed conversion including equity contribution, debt restructuring, stock issuance, partnership interests, stock offerings and the like, and unaudited financial statements (where audited financial statements are unavailable) for the Transacting Parties and their Rhode Island Affiliated Hospitals. **There are no audited or unaudited financial statements for Chamber, IH, IIH, PEH or PEHAS, as there has been no financial activity in those entities. See Tab 16 for the audited financial statements for PMH, PCC, and The Hospitals for years 2017, 2018 and 2019. The Transaction funds consist entirely of corporate cash. The Transacting Parties will not incur any additional debt nor distribute any dividends to the acquiror as a result of this Transaction.**

Please note that during this time the member contribution to PCC as reflected on the balance sheet increased from approximately $65.2 million to approximately $120.1 million. Furthermore, Prospect's cash support to PCC and each individual hospital is reflected in their respective balance sheets as a due to affiliated companies. It should be noted that although each hospital received financial support from Prospect, from an operational perspective, it has had a positive EBITDA (other than SHJSRI for the short year 9/30/2014) in each year of operations. Pursuant to the provisions of the APA, Prospect provided significant financial support to PCC through physician engagement strategies and investments that have better positioned it for future success as an integral part of Rhode Island's healthcare delivery system.

17. Please provide the names of persons currently holding a position as an officer, director, board member, or senior manager who will or will not maintain any position with the New Hospital(s) post conversion and whether any said person will receive any salary, severance, stock offering or any financial gain current or deferred as a result of or in relation to the proposed conversion. **See Tabs 3A and 3B for information regarding individual positions with The Hospitals. Please see Tab 12 for listing of shares. There are no persons currently holding a position as an officer, director, board member, or senior manager that will receive any salary, severance or any financial gain current or deferred as a result of or in related to the proposed conversion.**

18. Please provide a list with detailed descriptions of all agreements or proposed agreements reflecting any current and/or future employment or compensated relationship between the acquiror (or any related entity) and any officer, director, board member, trustee, or senior manager of the acquiree (or any related entity). **None**

19. Please provide all documents related to the resignations of any directors, board members, senior managers and officers of each of the Transacting Parties and/or their Rhode Island Affiliated Hospitals within the prior year. **None**

20. Please provide a detailed description as each relates to the proposed transaction for equipment leases, insurance, regulatory compliance, tax status, pending litigation or pending regulatory citations, pension plan descriptions and employee benefits, environmental reports, assessments, and organizational goals. **There will be no impact as a result of the Transaction on equipment leases, insurance, regulatory compliance, tax status, pending litigation or pending regulatory citations, pension plan descriptions and employee benefits, environmental reports, assessments, and organizational goals.**

21. Please provide a description and quantification of the outstanding debts of acquiree and/or their Affiliates, both between and among acquiree and/or their Affiliates, and the plans for the disposition of each such debt if the proposed conversion is approved. **IH and Chamber have no outstanding debts. Please see the audited financial statements at Tab 16, for the description and quantification of the debts for RWMC, OLF, PCC, and PMH. This Transaction will not change, or otherwise impact, the day to day obligations of RWMC, OLF, PCC, and PMH.**

22. Please provide copies of any opinions or memoranda addressing the state and federal tax consequences of the proposed conversion prepared for a Transacting Party by an attorney, accountant, or other expert. **None**

23. Please provide a description of the manner in which the price was determined including which methods of valuation and what data were used, and the names and addresses of persons preparing the documents. **See <u>Tab 23</u>**

24. Please confirm that the Transacting Parties and the Rhode Island Affiliated Hospitals do not maintain any donor restricted gifts and/or charitable assets. **Confirmed**

25. If the acquiror is a for profit corporation that has previously acquired a not for profit hospital under the provisions of the Hospital Conversion Act, the application shall also include a complete statement of performance during the preceding one year with regard to the terms and conditions of approval of conversion and each projection, plan, or description submitted as part of the application for any conversion completed under an application submitted pursuant to the Hospital Conversion Act and made a part of an approval for the conversion pursuant to R.I. Gen. Law §§ 23-17.14-7 or 23-17.14-8. **On or about October 18, 2013, an Initial Application for a Hospital Conversion was filed with the Rhode Island Attorney General whereby PMH, PEH, and PEHAS, Delaware for-profit corporations, together with PCC purchased certain assets of CharterCARE Health Partners ("CCHP"), Roger Williams Medical Center and St. Joseph Health Services of Rhode Island, non-profit Rhode Island corporations with their principle offices located at 825 Chalkstone Avenue, Providence, RI 02908 to form a joint venture to own and operate all of the health care entities associated with CCHP. The proposed transaction was subject to review by the Attorney General pursuant to the Hospital Conversions Act, R.I. Gen. Laws § 23-17.14-1, *et seq.*; and the Attorney General rendered a decision pursuant to such review on May 16, 2014. Thereafter, Prospect has performed with regard to the terms and conditions of approval of conversion and each projection, plan, or description submitted as part of the application for any conversion submitted pursuant to the Hospital Conversion Act and made a part of the approval for the conversion pursuant to R.I. Gen. Law §§ 23-17.14-7 or 23-17.14-8.**

EXHIBIT A

ESCROW AGREEMENT

This AGREEMENT is made and entered into as of **January 28th 2020**, by and among **Chamber Inc.**, having a mailing address of 3415 South Sepulveda Blvd., 9th Floor, Los Angeles, CA 90034, or its assignee, nominee, or designee ("ACQUIRER"), the **Rhode Island Department of Attorney General**, having a mailing address of 150 South Main Street, Providence, RI 02903 ("ATTORNEY GENERAL"), and **Adler Pollock & Sheehan P.C.**, having a mailing address of One Citizens Plaza, 8th Floor, Providence, RI 02903 (the "Escrow Agent").

Ivy Holdings Inc. ("ACQUIREE") and ACQUIRER previously entered into an Agreement and Plan of Merger dated October 2, 2019 (the "Merger"), by which ACQUIRER will become the sole stockholder of ACQUIREE as a result of the merger of a subsidiary of ACQUIRER with and into ACQUIREE, subject to the terms and conditions set forth in the Agreement and Plan of Merger (the "Conversion"). In connection with the Conversion, ACQUIRER has submitted a Hospital Conversion Initial Application to the ATTORNEY GENERAL (the "HCA Application") on December 13, 2019.

In consideration of the mutual promises and covenants herein contained, in order to permit the transaction to proceed on schedule during the pendency of the HCA Review by the ATTORNEY GENERAL, in order to ensure prompt payment of certain costs incurred by the ATTORNEY GENERAL during the HCA Review, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Creation of Escrow Fund. Within ten (10) days of the execution of this Agreement, ACQUIRER shall deliver in escrow to the Escrow Agent the initial sum of $70,000.00 (the "Escrow Fund"). The Escrow Fund shall be deposited in the existing client trust account maintained by the Escrow Agent or a fiduciary trust account (the "Escrow Account") and shall be held in such Escrow Account and only released from escrow and distributed in accordance with the terms and conditions of this Agreement.

The Escrow Fund balance shall not be permitted to fall below a minimum balance, on hand at any one time of $25,000.00, unless otherwise permitted in writing by the ATTORNEY GENERAL. In the event the balance falls below $25,000.00 at any time, the Escrow Fund shall immediately be increased by ACQUIRER to $70,000.00. The Escrow Agent shall request from the ACQUIRER amounts sufficient to maintain the minimum balance.

The Escrow Agent shall provide the ATTORNEY GENERAL with written confirmation of the receipt of the funds for the Escrow Account within three (3) business days.

2. Term. Subject to the resolution of any "Claim Notice" (as defined in Section 3) made by the ATTORNEY GENERAL to the Escrow Fund as herein provided and subject to disbursement of the Escrow Fund at all times provided in Section 4 hereof, the term during which the Escrow Agent shall hold all or any portion of the Escrow Fund in the Escrow Account (the "Term") shall commence upon Escrow Agent's receipt of such funds and shall terminate upon written approval by a duly authorized representative of the ATTORNEY GENERAL (to be hereinafter referred to as the "Termination Date").

3. Claims Against the Escrow Fund.

(a) During the Term, if the ATTORNEY GENERAL incurs costs pursuant to the Reimbursement Agreement entered into pursuant to the authority granted to the ATTORNEY GENERAL under RIGL § 23-17.14-1, *et seq.*, the ATTORNEY GENERAL may request that the Escrow Agent disburse an amount equal to such incurred costs from the Escrow Fund as designated by the ATTORNEY GENERAL in accordance with the terms and conditions of this Section 3. In such event, the ATTORNEY GENERAL shall deliver to the Escrow Agent a written notice of such claim or claims (a "Claim Notice") with a copy delivered contemporaneously to ACQUIRER and ACQUIREE. Such written notice shall state in reasonably sufficient detail the events or circumstances which form the basis for such claim or claims, and also shall state the amount of such claim or claims.

(b) If ACQUIRER objects to any Claim Notice, then it shall deliver to the Escrow Agent, within five (5) days after its receipt of a Claim Notice pursuant to Section 3(a), a written objection notice (an "Objection Notice") with a copy delivered contemporaneously to the ATTORNEY GENERAL, setting forth in reasonable detail the basis of such objection.

(c) ACQUIRER and the ATTORNEY GENERAL shall attempt in good faith to resolve the dispute within ten (10) days after the ATTORNEY GENERAL's receipt of the applicable Objection Notice. If ACQUIRER and the ATTORNEY GENERAL are able to resolve such dispute within such ten (10) day period, they jointly shall give written notice to the Escrow Agent to disburse the Escrow Fund or any portion thereof, as the case may be, as designated by the ATTORNEY GENERAL. If ACQUIRER and the ATTORNEY GENERAL are unable to resolve such dispute within such ten (10) day period, the Escrow Agent shall continue to hold in escrow the total amount claimed by ATTORNEY GENERAL which is disputed by ACQUIRER until such claim is resolved as set forth herein.

(d) In the event the ATTORNEY GENERAL and ACQUIRER do not resolve their dispute within the ten (10) day period set forth in Section 3(c) above, then the ATTORNEY GENERAL may take the following actions:

(i) Require immediate compliance subject to the authority of the ATTORNEY GENERAL, including denial of the HCA Application; and/or

(ii) Enforce compliance through action in the Superior Court of Providence County, such action to include but not be limited to immediate affirmative relief and/or mandatory injunction.

(e) Advance consent to Superior Court jurisdiction with regard to the remedies referred to in this Section 4(d) is hereby given by ACQUIRER.

4. Disbursements from the Escrow Fund.

(a) Any claim against the Escrow Fund shall be deemed a "Final Claim" if: (i) no Objection Notice to the payment of any amount claimed in compliance with the terms and conditions hereof is delivered timely by ACQUIRER pursuant to Section 3(b); (ii) such claim has been finally determined by settlement between the ATTORNEY GENERAL and ACQUIRER; (iii) such claim has been finally determined by order of the Superior Court of Providence County in accordance with Section 3(d)(ii); or (iv) an immediate compliance order has been issued by the ATTORNEY GENERAL in accordance with Section 3(d)(i).

(b) Until the Termination Date, the Escrow Agent shall make funds available for disbursement as designated by the ATTORNEY GENERAL for any Final Claim as required in accordance with the instructions of the ATTORNEY GENERAL, such disbursement to be made from time to time upon the third (3rd) business day after each such claim becomes a Final Claim and, if requested by the ATTORNEY GENERAL, ACQUIRER shall replenish the Escrow Fund with the amount of any such disbursement within five (5) days after completion of such disbursement.

(c) Any provision hereof to the contrary notwithstanding, the amounts that may become due and be disbursed from the Escrow Fund as designated by the ATTORNEY GENERAL shall not exceed the balance of the Escrow Fund at the time such disbursement becomes due. To the extent that any claims set forth in one or more Claims Notice shall exceed the amount of the Escrow Fund, ACQUIRER shall be solely responsible for paying such amounts when, as and if due and payable pursuant to this Agreement.

(d) If, on the Termination Date, (i) any claims have been asserted pursuant to Section 3 for which an Objection Notice is not yet due or has been duly delivered and for which the objections contained therein have not been resolved pursuant to the terms and conditions hereof; or (ii) there are any Final Claims which remain undisbursed by the Escrow Agent, then the Escrow Agent shall reserve and continue to hold in the Escrow Fund an amount equal to the lesser of: (1) the total amount of all such unresolved claims or unpaid Final Claims, or (2) the remaining

balance of the Escrow Fund. If the amount so reserved is less than the remaining balance of the Escrow Fund, the amount of the Escrow Fund in excess of the amount so reserved shall be disbursed to ACQUIRER.

(e) After the Termination Date, the Escrow Agent shall disburse amounts from the remaining balance of the Escrow Fund as designated by the ATTORNEY GENERAL if and when any unresolved claims become Final Claims. If at such time after the Termination Date all unresolved claims have been resolved and all Final Claims have been disbursed, the Escrow Agent shall disburse the remaining balance (if any) of the Escrow Fund to ACQUIRER.

5. Escrow Agent.

(a) The duties of the Escrow Agent hereunder shall be administrative in their entirety and not discretionary. The Escrow Agent shall be obligated to act only in accordance with written instructions received by it arising out of or in connection with this Agreement and is authorized hereby to comply with any notices, directives of the ATTORNEY GENERAL, final orders, judgments or decrees of any court of competent jurisdiction and shall not be liable to any party hereto as a result of its compliance with the same.

(b) The ATTORNEY GENERAL and ACQUIRER each acknowledge and agree that the Escrow Agent (i) shall be obligated only for the performance of such duties applicable to the Escrow Agent as specifically set forth in this Agreement; (ii) shall not be obligated to take any legal or other action hereunder which might in its judgment involve any expense or liability unless it shall have been furnished with acceptable indemnification; (iii) may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction, instrument, statement, request or document furnished to it hereunder in accordance with the terms hereof and reasonably believed by it to be genuine and to have been signed or presented by the proper person, and shall have no responsibility for determining the accuracy thereof, and (iv) may consult with counsel satisfactory to it, including in-house counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action reasonably taken, suffered or omitted by it hereunder in good faith and in accordance with the opinion of counsel.

(c) The Escrow Agent, as a condition to any final disposition of the Escrow Fund, may require a release by the ATTORNEY GENERAL and ACQUIRER of the Escrow Agent from any liability arising out of its execution or performance of this Agreement, such release to be in a form reasonably satisfactory to the Escrow Agent and not to be unreasonably withheld or delayed by the ATTORNEY GENERAL or ACQUIRER.

(d) ACQUIRER agrees to pay the Escrow Agent the reasonable costs and expenses, including reasonable legal fees, for its provision of services hereunder. The Escrow Agent shall be entitled to reimbursement on demand for all reasonable expenses incurred in

connection with the administration of the Escrow Fund or in its capacity as Escrow Agent, including without limitation, payment of reasonable legal fees incurred by the Escrow Agent in connection with the resolution of any claim by any party hereunder.

(e) Neither the Escrow Agent nor any of its partners, directors, officers, or employees shall be liable to any person or entity for any action taken or omitted to be taken by it or any of its directors, officers, or employees hereunder except in the case of gross negligence, bad faith or willful misconduct. ACQUIRER agrees to indemnify the Escrow Agent and hold it harmless from and against any loss, liability or expense of any nature incurred by the Escrow Agent arising out of or in connection with this Agreement or with the administration of its duties hereunder, including but not limited to reasonable legal fees and other costs and expenses of defending or preparing to defend against any claim or liability, unless such loss, liability or expense shall be caused by the Escrow Agent's gross negligence, willful misconduct or bad faith. In no event shall the Escrow Agent be liable for indirect, special or consequential damages.

(f) All indemnity obligations of ACQUIRER set forth in Section 5(e) above shall survive the termination of this Agreement.

(g) By execution and delivery of this Agreement, the Escrow Agent acknowledges that the terms and conditions of this Agreement are acceptable, and it agrees to carry out the provisions of this Agreement on its part to be carried out.

(h) The Escrow Agent may resign as such following the giving of thirty (30) days prior written notice to the other parties hereto; provided, however, it is the Escrow Agent's responsibility to nominate a suitable successor Escrow Agent to the ATTORNEY GENERAL and ACQUIRER, with notice to ACQUIREE. Similarly, the Escrow Agent may be removed and replaced following the giving of thirty (30) days prior written joint notice to the Escrow Agent and ACQUIREE by the ATTORNEY GENERAL and ACQUIRER. In either event, the duties of the Escrow Agent shall terminate thirty (30) days after the date of such notice (or as of such earlier date as may be mutually agreeable to all of the parties hereto); and the Escrow Agent shall then deliver the balance of the Escrow Fund then in its possession to a successor escrow agent as shall be appointed jointly by the ATTORNEY GENERAL and ACQUIRER as evidenced by a written notice delivered to the Escrow Agent and ACQUIREE.

(i) If, for any reason, any successor is unwilling to serve as successor Escrow Agent and if the other parties hereto are unable to agree upon a successor or shall have failed to appoint a successor prior to the expiration of thirty (30) days following the date of the notice of resignation or removal, the then acting Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or other appropriate relief, and any such resulting appointment shall be binding upon all of the parties hereto.

(j) Every successor appointed hereto shall execute, acknowledge and deliver to its predecessor, and also to ACQUIRER and the ATTORNEY GENERAL, with a copy to ACQUIREE, an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, shall become fully vested with all the duties, responsibilities and obligations of its predecessor; and the existing Escrow Agent shall duly assign, transfer, and deliver all property, securities and funds held by it constituting the Escrow Fund pursuant to this Agreement to its successor. If any instrument is required by any successor for more fully vesting in such successor the rights, duties, responsibilities and obligations hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on the request of any of the other parties hereto, be executed, acknowledge and delivered by the predecessor.

(k) In the event of an appointment of a successor Escrow Agent, the predecessor shall cease to be the custodian of any fund, securities or other assets and records it may hold pursuant to this Agreement after the predecessor transfers the then remaining balance of the Escrow Fund to its successor, and the successor shall become such custodian.

(l) Upon acknowledgment by any successor Escrow Agent of the receipt of the then remaining balance of the Escrow Fund, the then acting Escrow Agent shall be fully released and relieved of all duties, responsibilities and obligations under this Agreement arising after such acknowledgment.

6. Entire Agreement, Amendments, and Waivers. This Agreement (and the Reimbursement Agreement as to the ATTORNEY GENERAL and the ACQUIRER) contains the entire agreement (including representations, warranties and covenants) among the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations, discussions, arrangements or understandings with respect thereto. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by each of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

7. Execution Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

8. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein, is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable portion were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof; and each such provision, covenant, obligation or agreement

shall be deemed to be effective, operative, made, entered into or taken in the manner and to the fullest extent permitted by law.

9. Captions. The captions and headings in this Agreement shall be solely for convenience of reference and shall in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

10. Reproduction of Documents. This Agreement and all documents relating thereto, including without limitation, (a) consents, waivers and modifications which hereafter may be executed, and (b) certificates and other information previously or hereafter furnished, may be photocopied or otherwise reproduced, and any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding, regardless of whether the original is in existence and regardless of whether such reproduction was made by a party in the regular course of business.

11. Force Majeure. Neither the ACQUIRER, its subsidiaries or affiliates, nor the Escrow Agent shall be responsible for delays or failures in performance resulting from acts beyond its control. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes or other disaster.

12. Notices. Except as may otherwise expressly be provided herein, any notice required or desired to be served, given or delivered hereunder shall be in writing and shall be deemed to have been validly served, given or delivered upon the earlier of (a) personal delivery to the addresses set forth above, (b) in the case of facsimile transmission, immediately upon confirmation of completion of transmissions, (c) in the case of mailed notice, upon receipt by receiving party, with proper postage for registered or certified mail, return receipt requested, prepaid, sent to the addresses set forth above.

13. Successors. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assignees of the parties hereto, and no other person shall have any right, benefit or obligations hereunder.

14. Governing Law. This Agreement is governed by the laws of the State of Rhode Island.

15. Escrow Agent as Counsel to ACQUIRER. The ATTORNEY GENERAL and ACQUIRER acknowledge that the Escrow Agent has acted as counsel to ACQUIRER regarding the transaction which is the subject of this Agreement and may hereafter continue to act as counsel to ACQUIRER regarding such transaction and other matters, and the ATTORNEY GENERAL agrees that it will not seek to disqualify the Escrow Agent from acting and continuing to act as

such counsel in the event of any dispute hereunder or in the course of the defense or prosecution of any claim relating to the transactions contemplated by this Agreement.

16. Enforcement. Failure to abide by the terms and conditions of this Agreement shall be cause for the ATTORNEY GENERAL to bring an action in the Superior Court for appropriate relief including affirmative relief and/or mandatory injunction consistent with the intent and purpose of the Agreement. Advance consent to Superior Court jurisdiction with regard to the remedies referred to in this Section 16 is hereby given to ACQUIRER.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date first above written.

CHAMBER INC.

By: _____

Print Name: Samuel S. Lee

Print Title: Chief Executive Officer

RHODE ISLAND DEPARTMENT OF ATTORNEY GENERAL

By: _____

Print Name: Adi Goldstein

Print Title: Deputy Attorney General

ADLER POLLOCK & SHEEHAN P.C.

By: _____

Print Name: PATRICIA K ROCHA

Print Title: SHAREHOLDER

REIMBURSEMENT AGREEMENT

This Agreement is made as of the **28th** day of **January, 2020** by and between the **Department of Attorney General**, 150 South Main Street, Providence, Rhode Island 02903 ("ATTORNEY GENERAL"), **Chamber Inc.**, a Delaware corporation with its principal offices located at 3415 South Sepulveda Blvd., 9th Floor, Los Angeles, CA 90034 ("CHAMBER"), and **Ivy Holdings Inc.**, a Delaware corporation with its principal offices located at 3415 South Sepulveda Blvd., 9th Floor, Los Angeles, CA 90034 ("IVY").

WHEREAS, on or about December 13, 2019, CHAMBER and IVY filed an initial application for a hospital conversion pursuant to R.I. Gen. Laws § 23-17.14-1, *et seq.* (the "HCA Application"), whereby CHAMBER will be the sole stockholder of IVY for the purposes of Samuel S. Lee ("LEE") and the David & Alexa Topper Family Trust ("TOPPER") to acquire all of the equity in Chamber (hereafter the "Proposed Transaction");

WHEREAS, the Proposed Transaction is subject to review by the ATTORNEY GENERAL pursuant to the Hospital Conversions Act ("HCA"), R.I. Gen. Laws § 23-17.14-1, *et seq.*;

WHEREAS, at least one of the applicants is required to execute an agreement with the ATTORNEY GENERAL for the payment of costs for the use of experts and consultants to review the Proposed Transaction pursuant to R.I. Gen. Laws § 23-17.14-13; and

WHEREAS, CHAMBER and IVY have agreed to enter into this Agreement.

NOW THEREFORE, in consideration of the foregoing and of the agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Commencement Date - The ATTORNEY GENERAL, CHAMBER, and IVY agree that the duties and obligations of the parties pursuant to this Agreement shall commence as of the date hereof.

2. Reimbursement - CHAMBER and IVY agree to reimburse the ATTORNEY GENERAL for any and all reasonable costs and expenses incurred by the ATTORNEY GENERAL in connection with the ATTORNEY GENERAL'S review of the Proposed Transaction including, but not limited to:

a. engagement of experts or consultants in its review of the Proposed Transaction, including, but not limited to: (i) fees and costs of experts and consultants providing assistance to the ATTORNEY GENERAL throughout the determination of

completeness of the Initial Application and subsequent review of the Proposed Transaction; (ii) any experts and consultants services in connection with any court proceedings concerning the Proposed Transaction; and (iii) costs incurred by the ATTORNEY GENERAL in connection with obtaining services of experts and consultants;

b. conducting investigations and/or interviews, or seeking testimony and/or statements in its review of the Proposed Transaction, as contemplated by R.I.G.L. § 23-17.14-14; and

c. holding a public informational meeting(s) in its review the Proposed Transaction.

The parties acknowledge that such expenses may include, but are not limited to, copying materials, travel expenses, postage, stenographic services and telephone calls.

3. Payment of Expenses – CHAMBER will enter into a mutually acceptable Escrow Agreement attached hereto as Exhibit A governing the establishment of an escrow account with Adler Pollock & Sheehan P.C. for reimbursement of expenses due pursuant to this Agreement. Payment for expenses pursuant to this Agreement shall be due regardless of the ultimate outcome of the review of the Proposed Transaction including, but not limited to, if the HCA Application is withdrawn, denied or approved with conditions unacceptable to CHAMBER or IVY.

4. Submission of Bills - The ATTORNEY GENERAL agrees to submit bills to the Transacting Parties received from the ATTORNEY GENERAL'S experts and consultants, at the discretion of the ATTORNEY GENERAL, either at regular intervals of no less than thirty (30) days or at the conclusion of the services of the expert or consultant. The time entry descriptions may be redacted as necessary to protect any privileged information.

5. Payment of Costs and Expenses Upon Enforcement - If it becomes necessary for the ATTORNEY GENERAL or any expert or consultant to enforce the obligations accepted by CHAMBER and IVY pursuant to this Agreement or the Escrow Agreement, CHAMBER and IVY agree to pay the costs and expenses to enforce this Agreement, including, but not limited to, reasonable attorneys' fees, in addition to any amount due in accordance with the terms of this Agreement.

6. Notification – Any notice required by this Agreement shall be sent via first class and electronic mail as follows:

to **CHAMBER & IVY**:

Samuel S. Lee, CEO
Chamber Inc. & Ivy Holdings Inc.

3415 South Sepulveda Blvd. 9th Floor
Los Angeles, CA 90034

with a copy to:

Patricia K. Rocha, Esq.
Adler Pollock & Sheehan P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903
procha@apslaw.com

to **ATTORNEY GENERAL:**

Jessica D. Rider, Esq.
Health Care Advocate
Special Assistant Attorney General
150 South Main Street
Providence, RI 02903
jrider@riag.ri.gov

7. Governing Law - This Agreement is governed by the laws of the State of Rhode Island.

8. Consent to Jurisdiction - Any action arising out of or in connection with this Agreement shall be filed in the courts of the State of the Rhode Island and the parties consent to the jurisdiction and venue of the Rhode Island courts.

9. Merger - This Agreement and the Escrow Agreement of even date herewith contains the complete and final expression of the parties' agreement, and it is a complete and exclusive statement of the terms of the Agreement between the parties.

10. Continuing Agreement - The parties understand and agree that the duties and obligations contained in this Agreement shall be binding on the successors, legal representatives or assigns of the ATTORNEY GENERAL, CHAMBER and IVY.

11. Modification - The parties agree that this Agreement may be modified only by a writing signed by both of the parties.

12. Release and Discharge - The parties agree that no entity CHAMBER and IVY from liability under this Agreement.

13. Waiver - It is understood and agreed that waiver by the ATTORNEY GENERAL of any provision of the within Agreement is not a waiver of future compliance and, that provision, as well as all other provisions of this Agreement, shall remain in full force and effect.

14. Severability - The parties agree that the invalidity, in whole or in part, of any term contained in this Agreement does not affect the validity of the remainder of this Agreement.

15. Counterparts - This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

16. Third-Party Beneficiary – CHAMBER and IVY agree that any expert or consultant retained to provide services to the ATTORNEY GENERAL in connection with the Proposed Transaction is a third-party beneficiary of this Agreement with regard to payment of such expert's or consultant's services pursuant to Section 3 and Section 5 herein and may enforce such provisions against CHAMBER and IVY directly upon consent of the ATTORNEY GENERAL. The ATTORNEY GENERAL shall be provided notice of any such action.

In Witness Whereof the parties have caused this agreement to be executed by their duly authorized representatives as of the date first above written.

DEPARTMENT OF ATTORNEY GENERAL

By: _____

Print Name: Adi Goldstein

Print Title: Deputy Attorney General

CHAMBER INC.

By: _____

Print Name: Samuel S. Lee

Print Title: Chief Executive Officer

IVY HOLDINGS INC.

By: _____

Print Name: Samuel S. Lee

Print Title: Chief Executive Officer

Exhibit 5

CharterCARE
HEALTH PARTNERS

Prospect CharterCARE RWMC, LLC
d/b/a Roger Williams Medical Center
Prospect CharterCARE SJHSRI, LLC
d/b/a Our Lady of Fatima Hospital
Prospect Blackstone Valley Surgicare, LLC
Prospect CharterCARE Home Health and Hospice, LLC
Change in Effective Control Applications

July 21, 2020

Patricia K. Rocha
Leslie D. Parker
Adler Pollock & Sheehan P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903

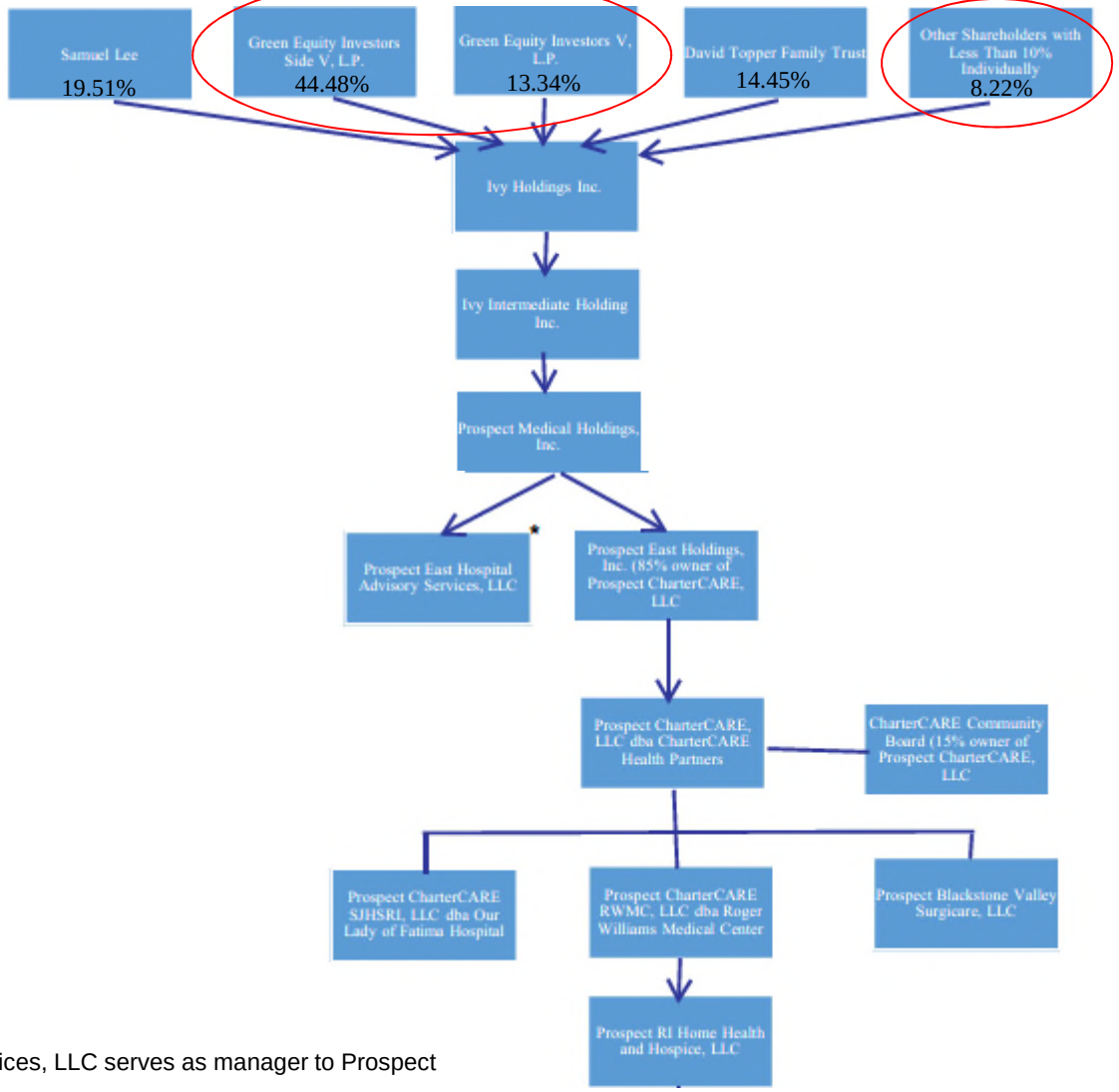
CharterCARE
HEALTH PARTNERS

Introductions

- Jeffrey H. Liebman – Chief Executive Officer, CharterCARE Health Partners
- Samuel Lee – Chairman and CEO, Prospect Medical Holdings, Inc. ("Prospect")
- David Topper – President – Hospitals, Prospect
- George Pillari – Corporate Chief of Integration & Operations Improvement, Prospect
- Von Crockett – Senior Vice President of Corporate Development & Finance, Prospect
- Lalit Katz, Vice President of Hospitals Integration, Prospect
- Eric Samuels – Treasurer and Vice President Corporate Finance, Prospect
- Frank Saidara – Vice President, Corporate Development, Prospect
- Patricia Rocha, Esq. – Legal Counsel
- Leslie Parker, Esq. – Legal Counsel

CharterCARE
HEALTH PARTNERS

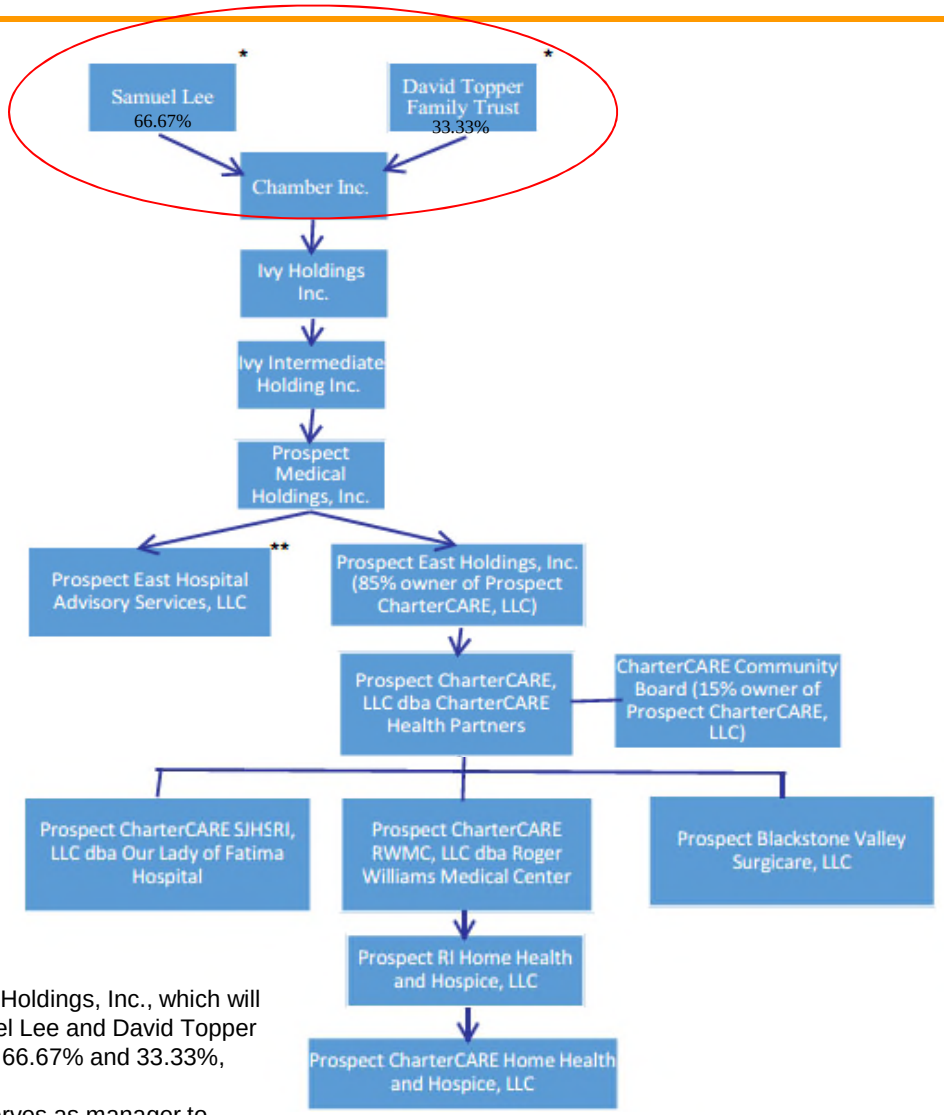
Pre-Transaction Structure



*Prospect East Hospital Advisory Services, LLC serves as manager to Prospect CharterCARE, LLC

CharterCARE
HEALTH PARTNERS

Post-Transaction Structure



*Post transaction change involves ownership of Ivy Holdings, Inc., which will be solely owned by Chamber Inc., owned by Samuel Lee and David Topper through his Family Trust, with ownership interest of 66.67% and 33.33%, respectively.
**Prospect East Hospital Advisory Services, LLC serves as manager to Prospect CharterCARE, LLC

Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center

- Licensed acute care hospital located in Providence accredited by the Joint Commission.
- Academic medical center affiliated with Boston University School of Medicine. (Vincent A. Armenio, MD)
- Roger Williams Cancer Center, an Academic Comprehensive Cancer Center. (N. Joseph Espat, MD)
- The State's most advanced continuum of eldercare, including specialized geriatric care hospital units, geriatric medical psychiatry unit, geriatric oncology program and home care program.
- Only RI inpatient Bone Marrow Transplant Program. (Todd F. Roberts, MD)
- Only RI inpatient level IV Addiction Medicine Program.
- New 12,000 sq. foot Emergency Department opened in 2018:
  - $15.1 million project to create an entirely new, comprehensive emergency department serving the metropolitan Providence area; Brand new equipment and emergency medicine technology; 2 total rooms, including a dedicated trauma room; Innovative triage and patient flow system (Candace Wray, RN)
  - A dedicated behavioral health specific ED under construction in former space to open in November 2020.
- Prospect CharterCARE is the second largest taxpayer in the City Providence.

CharterCARE
HEALTH PARTNERS

Praise for RWMC's New Emergency Department

- "Providence is home to so many institutions of health and higher learning that improve the quality of life for all residents. This new addition to the Roger Williams Medical Center strengthens the capital city's capacity to provide quality healthcare and reinforces our reputation as a regional leader in the health economy." – Providence Mayor Jorge O. Elorza

- "I commend Roger Williams Medical Center and CharterCARE on its continued investment in Providence. This beautiful new Emergency Department is a boost to the quality of life in our city." – Providence City Council Majority Leader Jo-Ann Ryan.

Prospect CharterCARE SJHSRI, LLC d/b/a Fatima Hospital

- Licensed acute care hospital located in North Providence accredited by the Joint Commission.
- Fatima has been recognized as Patient-Centered Medical Homes (PCMH) by the National Committee for Quality Assurance, home to the CARF Accredited Southern New England Rehabilitation Center and the State's first comprehensive wound treatment center. (William J. Beliveau, MD)
- First hospital in Rhode Island to receive certification for Disease Specific Care for Spine Surgery.
  - Recently recertified by The Joint Commission for another 2 years with a perfect score. (A. Robert Buonanno, MD)
- Adult and pediatric primary care clinic services now provided at 877 Chalkstone Avenue, serving the traditionally underserved pediatric and adult primary care population.
- Combined, RWMC and Fatima offer the state's second largest and most comprehensive range of behavioral health services.
- Fatima is the largest employer in North Providence and the second largest tax payer.

CharterCARE
HEALTH PARTNERS

Prospect Blackstone
Valley Surgicare

- Licensed Freestanding Ambulatory Surgery Center located in Johnston, Rhode Island.
- BVS has been the leader in outpatient services for over thirty years and now maintains its commitment to offer high quality, low cost outpatient surgical services. (Ann Dugan, RN)

Prospect RI Home Health

- Licensed home nursing care provider.
- Earned The Joint Commission's Gold Seal of Approval for accreditation by demonstrating compliance with The Joint Commission's national standards for health care quality and safety.
- Received the SHPBest Superior Performance home health patient satisfaction award for 2019 for the second consecutive year.
  - Award is determined by reviewing and ranking the overall satisfaction score for more than 2,400 home health providers and over 950 hospice providers.
  - The providers ranked in the top 20% best overall scores for both HHCAHPS and CAHPS Hospice are awarded the Superior Performer award.
  - "Our top priority at CharterCARE Home Health is to put our patients first. This national award is a wonderful affirmation from our patients that we are providing them with the clinical services they need, right in their home, with caring hands and compassionate hearts." -- Paula Roberge, Program Director

CharterCARE
HEALTH PARTNERS

CharterCARE's Commitment to Vulnerable Population

- High risk COVID population
  - Elderly (Rebecca Brown, MD)
  - Hispanic males (Abdul Saied Calvino, MD)
- Level IV Substance Abuse Patients
- Long Term Care Behavioral Health
- Bone Marrow Therapy Patients
- Suboxone Center
- Emergency Behavioral Health patients in crisis

CharterCARE
HEALTH PARTNERS

COVID Response

- John P. Miskovsky, MD
- John A. Stoukides, MD

CharterCARE Integrated Delivery System (IDS) Accomplishments (Joseph Mazza, MD)

- Developed an integrated delivery system (IDS) network with 125 primary care and 350 specialists aligned with CharterCARE facilities and services.
- Increased value-based health insurer contract membership from 3,600 in 2015 to 64,000 Rhode Islanders in 2020.
- Increased Patient Center Medical Home (PCMH) certification from 10% of PCP practices in 2017 to 87% 2020.
- Achieved highest IDS quality scores in the Neighborhood Health Plan network.
- Achieved 4.0 STAR quality score in BCBSRI quality program.
- Awarded Elite Status from the American Physician Groups Standards of Excellence Program.
- First and only IDS to be fully delegated to conduct Care Management and Utilization Review by a Medicare Advantage health insurer in Rhode Island serving nearly 9,000 members.

CharterCARE Integrated Delivery System (IDS) Accomplishments Continued

- IDS leader in the RI EOHHS Accountable Entity (AE) Medicaid program and actively engaged in EOHHS Accountable Entity Advisory Committee helping shape the future of RI Medicaid.
- First IDS to implement "Unite US" technology to improve social determinants of health (SDOH) which was the catalyst for 60+ Community Based Organizations across Rhode Island to join the SDOH network in the past 3 months.
- Expanded job opportunities to currently employing 45 local quality, care management and utilization management staff dedicated to supporting physician IDS network practices in providing the highest quality, cost-effective care to their patients and the community.
- Supported physician ID network practices quality and operational performance improvement resulting in increased payer incentive funding achievement for physician practices.

2014 Joint Venture Approval

- In 2008, in an effort to stem financial losses, Roger Williams Hospital and Our Lady of Fatima sought and received approval from the Department of Health and the AG to affiliate through the creation of CharterCARE Health Partners ("CCHP").
- Although operating efficiencies were achieved, continued financial losses jeopardized CCHP's continued financial viability (i.e, CCHP incurred a $9M loss in the six month period ending in March 2014, before it was acquired by Prospect).
- The Boards of the Hospitals confirmed that "the system does not have the ability to survive long-term with a 'go it alone' strategy."
- After an open and transparent RFP process, CCHP chose Prospect.
- In May 2014, the Department of Health and AG approved the joint venture.
- Prospect saved the failing hospitals and has provided significant support (financial and otherwise) to the Hospitals, Surgicenter, and Home Health and will continue to do so.

Prospect's Commitments

Capital Expenditures to Date

- New ED at RWMC with private bays (only ED in the state with private bay treating areas and state of the art equipment) and emergency medicine technology; ($15.1 million)
- Dedicated Behavioral Health ED under construction ($5 million)
- ED renovations and expansion at OLF ($4.3 million)
- Pharmacy equipment and upgrades at RWMC and OLF ($3.3 million)
- Main entrance redesigns and other facility renovations at RWMC ($6.3 million)
- Main entrance redesigns and other facility renovations at OLF ($2.3 million)
- Other infrastructure improvements including expansion of Cancer Center ($600,000)
- New medical, surgical, and imaging equipment and other upgrades at both hospitals; ($39.4 million)
- Initial start-up investment to create an integrated health delivery system to improve health outcomes and reduce cost of care ($1.4 million)
- Working capital investment ($6 million)
- Capital to support physician recruitment, physician retention, and other physician engagement strategies ($33.1 million)
- Many of renovations improved design and access including handicap access to the facilities, were green energy projects and allowed for growth and expansion of service lines such as behavioral and opioid addiction service lines to meet the community needs in Providence and North Providence

CharterCARE
HEALTH PARTNERS

The Transaction

- Pursuant to the terms of the October 2, 2019 Agreement and Plan of Merger, Change in Effective Control Approval is required for a change in ownership of the Licensed Entities' ultimate parent (five and six companies removed) in order to effectuate a buy-out of the private equity investors, Green Equity Investors Side V, L.P. and Green Equity Investors V, L.P. with the original founders Samuel Lee, the CEO of Prospect, and David Topper, through his Family Trust, the President of Hospitals for Prospect, retaining 100% ownership.
- Post-transaction, the Licensed Entities will continue to provide high quality and cost efficient care.
- The transaction will not impact in any way the operations or governance of the licensed facilities.
  - The transaction specifically will not impact:
    - The quality services provided;
    - The populations served;
    - The payor mix;
    - The governance;
    - The tax ID numbers;
    - The provider numbers;
    - Leadership
    - Staffing;
    - Financial condition;
    - Policies and procedures (including charity care); or
    - Assets, liabilities, and obligations.

CharterCARE
HEALTH PARTNERS

The Transaction

- The *only* change is to Ivy Holdings, Inc. ("IH") – the holding company five and six times removed from the Licensed Entities.
- The two individual shareholders and original co-founders – Sam Lee and David Topper (through his Family Trust) – will become the sole shareholders of Chamber Inc., a newly formed entity, and Chamber will become the parent of IH.
- After the transaction, the private equity investors and other minority management shareholders will no longer retain ownership in IH.

CharterCARE
HEALTH PARTNERS

Speakers

- Louis J. Mariorenzi, MD
- Ponnandai Somasunder, MD
- Andrew Beyer, MD – Nursing Supervisor, RWMC
- Jeffrey H. Liebman – Chief Executive Officer, CharterCARE

Letters of Support

- Dr. Marie Ghazal, Chief Executive Officer, Rhode Island Free Clinic
  - St. Joseph Health & Family Dental Center, has been a supportive neighbor of the clinic since the clinic opened. Walter Hollinger, MD, physician at St. Joseph's Primary Care Clinic, has been one of our long standing physician volunteers, and in 2019 was honored as our physician of the year. As we opened our new dental clinic in 2018, we collaborated with Joseph Samartano, DDS, and other members of CharterCARE's medical and dental staff. We continue to add to this relationship with more interested physicians and medical services. Additionally, as our neighbor for many years, CharterCARE assisted the clinic with allowing usage of their property for parking for patients and staff. Rhode Island Free Clinic supports the Application of Prospect Medical Holdings and recommends that the Application be approved.
- Jo-Ann Ryan, Majority Leader, Providence City Council
  - I write in strong support of the Application.
  - It is important to note what the Prospect management team has done to strengthen Roger Williams and to dramatically improve its ability to serve the health interest of my constituents.
  - Prospect's acquisition of CharterCARE saved Roger Williams Medical Center from certain financial failure and saved more than 3,000 good paying jobs across the system for Rhode Island citizens by stabilizing CharterCARE's finances and by providing millions of dollars of desperately needed working capital.
  - This capital has allowed CharterCARE to achieve significant operational improvements, including construction of a new and expanded emergency room at Roger Williams Medical Center, the conversion of the old ED to a behavioral health/focus emergency room (under construction), construction of new modern, accessible public entrances at Roger Williams, the purchase of new medical and surgical technology and further development of its cancer center, including a immunotherapy T-cell manufacturing lab at the Roger Williams Cancer Center.
  - I am pleased that they are a tax paying entity to the city and state, providing millions of dollars annually.
  - CharterCARE leadership has been a responsive corporate citizen and a neighbor in our area and has not hesitated to partner with us on a number of initiatives or projects to better our community and city. All of these positive improvements came at the direction of the CharterCARE's management team.

Letters of Support Continued

- Akshay K. Talwar, CEO & Administrator, Briarcliffe Manor
  - Briarcliffe Manor has had a long and positive relationship with Roger Williams Medical Center and Fatima Hospital from back in the 1960s. This relationship has grown stronger since CharterCARE rescued the two hospitals approximately 5 years ago. We hope for many more years of this warm and friendly cooperation and would urge the Health Services Council to approve the Application.
- James J. Cooney, Jr., President/CEO PriMedia Inc.
  - During the time we have worked together, CharterCARE has always gone out of their way to support initiatives like the SENIOR Expo, Latino Business Expo and others. They have also always been very helpful to us in every way possible as various situations arose that required timely intervention and executive level support over the years.
- Christopher Thomas, Vice President/Treasurer, Drapery House Inc./Commercial Services Division
  - The CharterCARE staff are exceptional in their community role with the public and businesses like ours. CharterCARE makes sure their invoices are paid in a timely manner. Their account with us is impeccable. We are grateful for outstanding companies like CharterCARE that make a difference.
- Armand J. Toscano, President, Communications Systems, Inc.
  - As a Rhode Island based company who provides service and installation to the hospitals' critical systems, we value our strong working relationship with CharterCARE. We also appreciate the opportunity to support a health system that counts on local talent and expertise to meet their operational needs.

Letters of Support Continued

- Dr. Gregory G. Allen, Jr.
  - As President of the Roger Williams Medical Staff Association, I can attest to the significant physical and operational improvements that have been implemented since Prospect acquired our hospital more than 5 years ago. In addition to saving thousands of jobs, Prospect has invested in new equipment and technology as well as new programs and services, including a $15 million emergency department to improve access to care. They have introduced operational and financial efficiencies that have enhanced care and safety for both patients and employees.
  - I can tell you that the clinical leadership has an excellent working relationship with the CharterCARE management team and we are equally focused on providing the highest quality care to our patients. This includes easy access to resources of the Prospect corporate office and regional management teams, both of which value and seek out our input on a range of issues.
  - As a community-based internal Medicine physician, I have been particularly pleased with the company's commitment to strengthen the role of primary care physicians in our network and to help retain and recruit PCP's, specialty physicians, and surgeons to our state and system; not an easy task. Prospect has also been committed to the valuable teaching program at Roger Williams.
  - Recently, I have been most pleased and proud of our collective response to the COVID pandemic these last few months. Roger Williams and CharterCARE treated an overwhelming number of coronavirus patients with unmatched outcomes. Prospect provided exceptional support and resources during this time that allowed our local clinicians, nurses and support staff to do the job safely and effectively. While, as a smaller hospital, we don't typically get the "acknowledgments" of other area systems, I can assure you that the effort and dedication, up and the down the organization, was nothing short of extraordinary.

Letters of Support Continued

- Joseph R. DeSantis, President and CEO, Tri-County Community Action Agency
  - Established in 1964, Tri-County Community Action Agency has developed into one of the region's busiest and most diverse community serviced network. We serve close to 20,000 low to moderate income families, disabled adults, seniors, children, and youth.
  - Roger Williams Medical Center and Our Lady of Fatima Hospital serve as our preferred referral sites for hospital based care including emergency services, behavioral health and addiction, and a range of other acute and outpatient specialty programs.
  - Since Prospect has acquired CharterCARE, this relationship has evolved as Tri-County has grown. It is apparent to us that Prospect Medical has supported CharterCARE in its effort to continue to provide quality services and outreach to community organizations like ours, and thus help meet the needs of less fortunate citizens in our state.

Character, Commitment, Competence and Standing in the Community

- RWMC and SJHSRI serve as safety net hospitals and are committed to serving the Rhode Island community.
- All of the Licensed Entities provide needed, quality, and affordable services to Rhode Islanders, including the underserved populations.
- Prospect, under the leadership of Sam Lee and David Topper, will continue to make significant investments in Rhode Island (e.g., RWMC renovated ED, addition of Spanish speaking primary care physicians)
- The Licensed Entities have strong licensure track records of providing high quality services to their patients.

The Licensed Entities Will Continue to Provide Safe and Adequate Treatment

- The Licensed Entities provide a wide array of services ranging from emergency department services, numerous inpatient and outpatient services, surgical procedures, pain management, physical therapy, and palliative care.
  - The Licensed Entities will not terminate or reduce any of those services as a result of this transaction.
- The Licensed Entities will not terminate or reduce any administration or staff as a result of this transaction.
- The Licensed Entities will maintain their current facilities-wide Quality Assessment and Assurance Program ("QA").
- The Licensed Entities will continue their mission to ensure that residents of Rhode Island receive exceptional quality care at the right time, in the right setting, with the utmost compassion and efficiency.

CharterCARE HEALTH PARTNERS

Financing and Financial Viability

Source	Amount	Percent	Interest Rate	Terms (Yrs.)
Equity*	$11,940,922.00	100%		
Debt**	N/A	N/A	%	
Lease	N/A	N/A	%	
TOTAL	$11,940,922.00	100%		

- The transaction will be funded entirely by cash.
- No monies are coming from the Rhode Island entities and the transaction will not impact their capital and operating needs.

Access to Underserved Populations

- Historically, CharterCARE Health Partners had, for decades, provided significant levels of care for underserved, indigent, and low income patients in Rhode Island. These efforts have expanded under the 2014 venture with Prospect.
- Prospect has invested significant funds since the 2014 joint venture to expand the primary care base, including in underserved areas of Rhode Island and has recruited three Spanish speaking primary care providers to assist with care to underserved areas.
- The Licensed Entities participate in Medicare and Medicaid and have robust charity care policies.

CharterCARE
HEALTH PARTNERS

- The Applicants meet all 4 CEC criteria, as evidenced by their provision of high quality, cost effective services to Rhode Island patients, including the traditionally underserved populations, which will only continue under the leadership of Sam Lee and David Topper.
- We respectfully request that the Health Service Council recommend approval of the Hospital, Free-Standing Ambulatory Surgery Center, and Home Nursing Care Change in Effective Control Applications.

Exhibit 6

In The Matter Of:

Prospect Chartercare RWMC, LLC
Change in Effective Control
Application

Health Services Council hearing
July 21, 2020

401-352-6869 / www.premierlegalsupport.com

Original File 07-21-20-DOH.txt
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RHODE ISLAND DEPARTMENT OF HEALTH
HEALTH SERVICES COUNCIL

CEEDINGS AT HEARING IN RE:

application of Chambers Incorporated for
Change in Effective Control of Prospect CharterCARE
C, LLC d/b/a Roger Williams Medical Center (RWMC), a
ensed acute care hospital, Prospect CharterCARE, SJHSRI,
d/b/a Our Lady of Fatima Hospital, a licensed acute care
pital, Prospect Blackstone Valley Surgicare, LLC, a
ensed freestanding ambulatory surgery center, and
spect Rhode Island Home Health and Hospice, LLC, a
ensed home nursing care provider.

DATE: July 21, 2020
TIME: 2:00 p.m.
PLACE: Remotely - via Zoom

bers Present:

Mancini - Chair
n Donahue
phen Boyle
n Barry
n Sepe
mond Coia

o Present:

hael Dexter
queline Kelly
nanda Lopes
dra Powell

EARANCES:

behalf of the Applicant:

PATRICIA ROCHA, ESQ.
RICHARD BERETTA, ESQ.
LESLIE PARKER, ESQ.
Adler, Pollock & Sheehan, Inc.
One Citizens Plaza, 8th Floor
Providence, Rhode Island 02903

(COMMENCED AT 2:07 P.M.)

CHAIRMAN MANCINI: Thank you, Madam Chair. Good afternoon, everybody. This is item number 3, the application of Chambers Incorporated for the Change in Effective Control of Prospect CharterCARE RWMC, LLC d/b/a Roger Williams Medical Center (RWMC), a licensed acute care hospital, Prospect CharterCARE, SJHSRI, LLC d/b/a Our Lady of Fatima Hospital, a licensed acute care hospital, Prospect Blackstone Valley Surgicare, LLC, a licensed freestanding ambulatory surgery center, and Prospect Rhode Island Home Health and Hospice, LLC, a licensed home nursing care provider.

MS. LOPES: Thank you. Hi, my name is Fernanda Lopes and I serve as Chief of the Office of Health Systems Development at the Rhode Island Department of Health. I would like to review the framework around the administrative and procedural processes that will be undertaken during today's meeting. I realize that we have a large number in attendance today, and in order for the meeting to be conducted in an organized and orderly manner, I'm requesting that you mute your phones until it is your turn to speak or present. Muting will help avoid any feedback and allow us to hear the presenters.

Please refer to the Zoom meeting guidelines for

additional information as to how this meeting will be run virtually. For example, please refrain from posting reactions or chat messages. Please identify yourselves when speaking so the record is clear. As we are working in a COVID-19 environment, we've relied upon electronic methods of keeping you apprized. Information such as the agenda which includes live links to public comments and the applications being heard before us today is posted on the Office of Health Systems Development Web page and e-mail directly to council members and interested parties.

We have received numerous written public comments to date, and instead of me identifying them individually into the record during this meeting, please note that they have been shared with the council members and interested parties.

To reiterate, these public comments are included for your review in a link which may be accessed online. For your convenience the link is continuously updated as public comments are received, and again it may be located on the agenda for today's meeting.

Any member of the public interested in providing comments before the council will be called in the order that he or she signs up, using the live link posted on our Rhode Island Department of Health's Office of

Health Systems Development Web page.

I ask that comments provided by those speaking today, please be pointed, succinct and concise so we have the opportunity to hear from all who have public comments to share. If you have already submitted written public comments, those are already part of the record and do not need to be repeated here today. I really appreciate the flexibility in this virtual environment.

Thank you.

CHAIRMAN MANCINI: Thank you, Fernanda. Okay, now we're ready to proceed.

Ms. Rocha?

MS. KELLY: And Bob, actually, this is Jackie Kelly interrupting for one moment, I apologize.

CHAIRMAN MANCINI: Not at all. Good afternoon.

MS. KELLY: A late breaking objection, actually to Pat Rocha representing, I'm going to actually see if I can share my screen and pull it up. Can you see it?

CHAIRMAN MANCINI: Yes, I can see it.

MS. KELLY: Literally, I think I got this two minutes ago. So -- or two minutes before the meeting started. So I just wanted to put this before the

Health Services Council to their attention that there was an objection to Adler Pollock & Sheehan representing in this particular matter filed by Thomas Hemmendinger and Stephen DelSesto for CharterCARE Community Board and St. Joseph's Health Services.

CHAIRMAN MANCINI: Okay, counselor, I appreciate that.

MS. LOPES: Also, this is Fernanda again, I just wanted to introduce Michael Dexter. He also had a memo that was introduced to the record and he would like to read it over with you today. It was shared earlier with you.

MR. DEXTER: Thank you, Fernanda.

It's a memo to the Health Services Council from staff of the Office of Health Systems Development dated July 21, 2020, and it's regarding this Change in Effective Control, the Hospital Conversion Act review of Chambers, Ivy Holdings, Prospect Medical Holdings, Prospect CharterCARE, Our Lady of Fatima Hospital, Roger Williams Medical Center, and other affiliated health care facilities in Rhode Island.

I just want to give you a quick chronology and outline.

The applications were filed in November 2019. The Change in Effective Control application was deemed

acceptable for initiating review in March 2020. Hospital conversion application was deemed acceptable for initiating review in April 2020.

RIDOH, the department, engaged Moss Adams as a consultant to provide financial information and analysis to perform both the hospital conversion review and the Change in Effective Control review, including before the Health Services Council. RIDOH and the Rhode Island Attorney General provided notice that under the circumstances the hospital conversion comment period and review end date has been extended to October and November respectively. And I just want to give a sense as to what's going forward.

The department staff and our consultant will conduct interviews as required by the hospital conversion statute. These individuals will be taken under oath with the principals of the above-named parties and others during August and September 2020. Moss Adams will present a written report and a PowerPoint to the Department in September 2020, hence the PowerPoint of their findings and analyses to the Health Services Council in September 2020. And just to note that this is an outline only. Dates are subject to change due to circumstances, including COVID-19.

MR. WISTOW: Mr. Vice Chairman? Mr. Vice

Chairman?

CHAIRMAN MANCINI: Yes, I'm here.

MR. WISTOW: Attorney Max Wistow, I just wanted to make a brief comment. There was a statement made that we filed within a few minutes ago an objection to Ms. Rocha presenting the case. We filed a objection back in April, I believe, setting forth in extensive what our objections were. So we did this this morning to formalize the situation. We got very late notice of this meeting, by the way. And that's hard to say as we've been saying this for months.

CHAIRMAN MANCINI: Thank you, Mr. Wistow.

MR. WISTOW: Thank you.

CHAIRMAN MANCINI: Jackie?

MS. KELLY: If there was such a filing in April, I do not believe that it was sent to me. I received this just today on here.

MR. WISTOW: Did you not see the objection that we filed to this proceeding?

MS. KELLY: In April?

MR. WISTOW: I believe it was in April. It was -- it was filed within the deadline that was given for objections. It was multiple pages, it included several reasons for the objection. Did you not see it? We got confirmation that it was filed.

MS. KELLY: I'm sure it came to the office.

MR. WISTOW: Right. Well, I -- believe me, I don't want to upset you, but when you said you just got notice of our objection, this has been for months. And I think Ms. Rocha will confirm that.

MS. KELLY: And I meant that particular filing.

MR. WISTOW: That's true.

MS. KELLY: When that came in today.

MR. WISTOW: Right.

MS. KELLY: So I literally, like, just was on and may not have even seen it right before, so.

MR. WISTOW: I understand.

CHAIRMAN MANCINI: Okay. Jackie?

MS. KELLY: The Health Services Council can take that under advisement. You can proceed if you like. That is an objection that has been filed. I don't think that there is any objection to taking the testimony which is already scheduled for today.

CHAIRMAN MANCINI: Okay. There is also a PowerPoint, my understanding?

MS. KELLY: Yes.

CHAIRMAN MANCINI: Okay.

MR. WISTOW: Well, we do object to her participation in any way. I just want to make that

clear.

MS. ROCHA: May I be heard?

CHAIRMAN MANCINI: Yes, Pat, please.

MS. ROCHA: Good afternoon, Mr. Chairman, members of the council and staff.

First, as Attorney Kelly indicated, I did just receive this objection to Adler Pollock & Sheehan participating as counsel for any of the parties just minutes ago. Mr. Wistow is correct that an objection was filed in April in which there was a suggestion that my firm had a conflict of interest in representing the parties in the matter before you. Mr. Wistow and his colleagues did not schedule that for a hearing before Judge Stern in our Superior Court who will rule on that motion. That motion will be heard on July 30. I'm sure it comes as no surprise to you, respectfully I think the motion to disqualify has zero merit, and unless and until the court instructs me that I may not represent my clients, I'm proud to do so and I would ask to be allowed to go forward.

CHAIRMAN MANCINI: Okay.

MR. WISTOW: May I respond?

CHAIRMAN MANCINI: Yes.

MR. WISTOW: What we filed back in April was not a suggestion. It was an outright statement that

she was disqualified. There's a series of letters that we had attached. We tried to get a hearing as soon as possible. We had a series of dates with the superior court that were offered to us, and Ms. Rocha selected the last available date.

MS. VIOLET: May I be heard?

MR. WISTOW: I think we should move on. I don't want to delay this any further. It's clear to me that my objection is going to be overruled, I just want to make it for the record.

MS. KELLY: That's fine, we can proceed, thank you.

CHAIRMAN MANCINI: Okay, thank you. Thank you, Mr. Wistow.

MS. VIOLET: Could I be heard on this? I had my hand raised.

CHAIRMAN MANCINI: Yes, Ms. Violet, thank you. Good afternoon.

MS. VIOLET: May I go forward?

CHAIRMAN MANCINI: Please go forward.

MS. VIOLET: All right, this is Attorney Arlene Violet and I -- of course I wanted to join in the objection that Adler Pollock & Sheehan and Ms. Rocha continue on this. I think the hearing is on July 30. I support obviously the motion that they

should recuse because I think there is a conflict of interest. But to allow this presentation in anticipation, to go forward when we're just around the corner, nine days away from the actual hearing, I think is being untoward. So I object to this presentation going forward till such time as the court has a hearing on the motion to recuse.

CHAIRMAN MANCINI: Thank you, Ms. Violet. Jackie, any comment thereafter?

MS. VIOLET: Please, sir?

CHAIRMAN MANCINI: I'm speaking to Jackie Kelly, our counsel. Thank you, Ms. Violet.

MS. KELLY: So we can note both objections. However, I would say we can proceed with the presentation, as the presentation, I'm assuming, is also a PowerPoint, we have the testimony scheduled for today, and we can certainly take it under advisement. To my knowledge there is no temporary restraining order filed in this, and not -- and I realize that the delay is close, today being 7/21, but my advice would be to proceed.

CHAIRMAN MANCINI: Okay, thank you, very much. That said --

MR. BARRY: May I ask a question?

CHAIRMAN MANCINI: Yes, John, please.

MR. BARRY: Why would the April objections not be in front of us?

MR. WISTOW: They should be. I filed them and I've gotten recognition by the office, by Ms. Pullano that they were received. So I can't answer that. I think part of the problem here is that -- I hate to use this homely expression, but I think this panel, to a large extent, is being treated like mushrooms. Being kept in the dark.

MS. LOPES: I don't believe that's the case. Any public comments that were received have been shared, both with Health Service Council members and interested parties. They were all or should all be included in the link provided. Anything that was received during the comment period in April should be included in the link.

MR. WISTOW: I'm just addressing the comment made by council member. I assume it was a council member.

MS. LOPES: Yes.

MR. WISTOW: Okay. Again, all I can say is it's been on file, and there's no issue about it being on file. Apparently many people have not seen it. And what --

MS. ROCHA: May I be heard?

MR. WISTOW: I want to say one more thing, very very brief.

There's a great many people here who signed up who are friends of the hospitals, Roger Williams and Our Lady of Fatima, and want to see the hospitals protected. I want to make one thing very clear before we get going. It is not my desire, at all, to hurt these hospitals in any way. As a matter of fact, the reasons for my objection are because I think what's going to happen, if I'm allowed to speak, what's going to happen is if this proceeding is approved, that these hospitals will suffer and be potentially closed up. And I can get into a lot of detail. I am not here to attack Roger Williams, I am not here to attack Our Lady of Fatima. I want to see them preserved for the thousands of jobs that they provide. And I want to get into the details here of what predatory practices were going on by Mr. Topper and Mr. Lee, who are going to speak in a while. And I -- what I'm concerned about is I've had a great deal of information, a great deal of information that I would like to present. This is an important thing for the state of Rhode Island. This is very very important. And to have some perfunctory --

MS. POWELL: Mr. Chairman?

CHAIRMAN MANCINI: Yes, Sandra.

MS. POWELL: And Mr. Wistow. Hi, this is Sandra Powell with the health department. I understand that Mr. Wistow, you know, certainly has some things he wants to say but we do have an order and a procedure for these meetings. I would suggest, given that council has ruled relative to the concerns that are raised, the team will check the record to make sure of its concerns. I would recommend that we move forward with these proceedings, allow Mr. Wistow to speak in the appropriate time, but I do think we need to move forward.

MR. WISTOW: Okay, thank you, Ms. Powell.

CHAIRMAN MANCINI: Thank you, Mr. Wistow. Okay, that said, Counsel Rocha, please proceed.

MS. ROCHA: Thank you, Mr. Chairman. And Mr. Boyle -- Mr. Barry, just to answer your question, the April comment has been circulated and is part of the comments filed in this action. Obviously I disagree with what Mr. Wistow has said. We'll address your comments during the course of this hearing. Mr. Wistow's client is the pension plan. I've never represented the pension plan. Mr. Wistow's client is not a party to the transaction that's subject to review in CEC review. He is not an applicant to the proceedings before you, he merely filed a comment as a

matter of the public.

So with that, we'll begin our presentation.

CHAIRMAN MANCINI: Thank you.

MS. ROCHA: First, it is great to see you, and I hope that all of you and your families are remaining safe and healthy during the COVID crisis. Member Boyle, it's good to see you joining us.

Second, I hope that the letter we e-mailed to you on Friday was instructive and will make this a productive meeting.

Third, the only thing before you is the proposed change in ownership at the top of the corporate chain. And that top of the corporate chain is five entities removed from the Rhode Island licensed hospitals and surgicenter, and six entities removed from the Rhode Island licensed home nursing care provider.

Today, at the top of the corporate chain, Leonard Green, the private equity investor, owns the majority interest with about 60 percent, and Sam Lee and David Topper, the original co-founders of Prospect, own approximately 40 percent.

Now, with your approval and after confirmation of the merger agreement, Sam Lee and David Topper's ownership interest will increase from 40 percent to a hundred percent. It's as simple as that. That's

what's before you. Nothing more, nothing less.

Now, on the good news front, Prospect's commitment to the Rhode Island licensed facilities, the hospitals, the surgicenter, the home health agency, and you're going to hear from a variety of speakers today talking about those commitments, both financial and otherwise. And I think you're going to be very impressed. Listen carefully to them, but that commitment will continue under the leadership of Sam Lee and David Topper. And in that way, it will enable the Rhode Island licensed facilities to continue to provide quality, cost effective services to patients in need. That's what this is all about.

Now, we do have a PowerPoint presentation and we're happy to answer any questions you may have, and we look forward to asking you to approve this application. Because, hands down, we meet the statutory Change in Effective Control criteria.

Before we begin our presentation, Mr. Mancini, with your permission I'd like to call on some speakers who want to comment, and they need to leave early because of prior commitments, so if I may?

CHAIRMAN MANCINI: That's fine, Pat, please proceed.

MS. ROCHA: Okay. Our first speaker needs no

introduction, he's the mayor of North Providence. Mayor Charles Lombardi. And, Mayor, I'll turn it over to you.

MAYOR LOMBARDI: Good afternoon.

CHAIRMAN MANCINI: Good afternoon, Mayor.

MAYOR LOMBARDI: So, my name is Charles Lombardi, I'm the mayor of the Town of North Providence. I, our residents, and our public safety departments appreciate and thank Fatima Hospital for their commitment to provide our town, and neighboring communities by the way, with healthcare services that are second to none.

I'm gonna talk about Fatima's existence here. Quite frankly, we need -- our residents, our town needs this hospital to flourish here. More than I think they need to be here. Not to mention they are the second highest taxpayer in our town. I think they've been in existence for some 60 years. And I can tell you as a former firefighter and rescue EMT, and also talking with our first responders, their emergency preparedness has not wavered one bit.

As the mayor and public safety director, I will tell you that my relationship with Fatima, and Roger Williams for that matter, has been enjoyable. They are very supportive of our businesses in town, our senior

center, our nursing facilities, and all of our local businesses. And to say that the Fatima is a landmark in our town would be an understatement.

Thank God Prospect rescued Fatima from insolvency. You have no idea what this has meant to our community. And as I understand, this proposed change in control does not affect Prospect's commitment for excellency in health care.

So I would respectfully request that this honorable council approve Prospect's application. And with that, thank you for your time.

CHAIRMAN MANCINI: Thank you, Mr. Mayor.

Pat, please.

MS. ROCHA: Thank you, Mayor.

Next, I'd like to ask Providence City Council President Sabina Matos, who I believe has joined the call.

MS. MATOS: Thank you. Thank you for this opportunity to speak on behalf of the Providence City Council and the City of Providence. I can tell you that we are grateful for this partnership of having Prospect being part of the community and rescuing CharterCARE, and especially Roger Williams Hospital, back in 2014. The investment that they have made in the hospital, in the inside of the hospital and also

the outside, you can see it and you can really experience that. I can tell you that because of this, we have been able to save more than three thousand jobs here in Rhode Island. Many of those jobs are from residents of the City of Providence and we're grateful for that. But also the quality of the -- of the services that are provided by those employees. I have to say that I have experiences, my family has experiences at a personal level. As many of you know, my family experienced -- one of my relatives was one of the first individuals with COVID-19, and this person was taken to the Roger Williams Hospital. And we cannot thank enough the quality of the service that we got from the staff of Roger Williams Hospital. It was amazing. And this is the quality of service that we need to have available in our city and to our residents. And especially in a moment of crisis like this. To know that we have that resource right here in the neighborhood is very important.

So I would like to also finally say that (audio difficulties) they are also our second highest tax base. That means a lot right now with the financial challenges that the city has.

So with that I would like to say that I look forward to this transaction. I hope the council would

approve it. And I'm grateful for the experience that I've had, my family, with the hospital. And if you have any further questions, I'm available to answer.

Thank you.

CHAIRMAN MANCINI: Thank you, Madam President.

Ms. Rocha?

MS. ROCHA: Thank you. Now I'd like to introduce Dick Fossa.

Dick, have you joined the call?

MR. FOSSA: Yes.

MS. ROCHA: Dick is a former mayor of North Providence, currently chief of staff, but he's going to share with you today his experience as a patient.

MR. FOSSA: Okay, thank you.

Good afternoon, everyone. My name is Dick Fossa, as she just said, and I'm the chief of staff and I've also been the mayor of the Town of North Providence. I've been on the council, school subcommittee, zoning board, you name it, I might have forgot a few positions. I'm not doing that to impress you but I'm just probably giving away my age and telling you how long I've been around here with Our Lady of Fatima Hospital.

I'd like to echo Mayor Lombardi's comments

earlier. Over the years we've had a great relationship with Our Lady of Fatima Hospital and the administration, Otis Brown and his staff.

I'd like to speak a minute about my personal experience as a patient. Approximately five years ago I was a patient at the Lady of Fatima Hospital for a full knee transplant. And a full knee transplant is like a very -- it's an experience that, if you had it before, you know people who have had it before, and you discuss it with your friends and neighbors, you get all kinds of reactions. You'll have people that will tell you what a terrible experience it was, and then there'll be people who tell you it wasn't too bad. You know, it was -- it was okay, it was a little painful. But I'm happy to report that from the moment of my admission and to the moment of my discharge three days later, I experienced nothing but professional and courteous service and care. Dr. Buonanno, who did the transplant -- not the transplant but the knee surgery, and his assistants, performed the perfect knee replacement. I have not had an issue within five years. The nursing staff, the aides, the orderlies were all professional and courteous at all times. In fact, even the hospital food wasn't that bad. And the facility itself was great.

As someone who's employed in government, we have occasion to visit the hospital quite often visiting our -- at times our employees and our constituents. And I've always been impressed with the cleanliness and the upkeep that you see when you enter the hospital. It's always clean, fresh and smells clean. So I have no problem recommending the Lady of Fatima Hospital to anyone who will require any kind of hospital services. And I look forward to continuing the great partnership and the relationship we have with Our Lady of Fatima Hospital.

Not too long ago, maybe five or six weeks ago, our fire department and our rescue service and our police department had a motorcade to drive by Our Lady of Fatima Hospital saluting those essential workers and it was a great thing. They enjoyed it, and I think we enjoyed it as much.

And so I would join my colleague Mayor Lombardi in asking this honorable council to approve Prospect's application.

CHAIRMAN MANCINI: Thank you, Mr. Fossa.

MR. FOSSA: Thank you very much.

CHAIRMAN MANCINI: Pat?

MS. ROCHA: Thank you. Next I'd like to call on James "Jamo" Carr, Jr. Mr. Carr is the President

and CEO of H. Carr and Sons, a general contracting firm, which has done business with CharterCARE. I would add with union workers. And Mr. Carr is going to talk about his relationship with Prospect under the leadership of Sam Lee and David Topper. Jamo?

MR. CARR: Thank you, Pat, I appreciate that. Just to clarify one thing, we're not the general contractor, we're trade contractors working for the CMs, and that client list would include Gilbane, Dimeo, and some other well-known names in the state.

I'm here in my office in Silver Spring Street, with my assistant Kate, we're still an essential industry so we've been open all through this COVID. And in fact I've had the opportunity to participate with -- under the direction of Dimeo, where a hundred people helped build the temporary beds down there at the Convention Center and Lowe's. And I have to tell you that I'm very proud of what our guys did, and ladies did, how they stepped up to the plate, and it shows what good union people can do when they have a focus. And it was done 25 percent under budget, and as you can see it was put together in less than a month. So I'm very proud of that, and I wanted to get that in there for those guys and gals.

My background is business. I'm a structural

engineer by trade and education, but I'm really a contractor and a builder. We have approximately 500 employees here at H. Carr and they are pretty much all signatory, either carpenters, laborers, painters union, or the (inaudible). We are based here in Providence, proud of it, although we work throughout New England and have offices up in Boston and Connecticut. So, with that I got to experience other parts of New England and what's going on in the health care industry. As I said earlier, we're a commercial contractor so we've done a lot of work in the healthcare industry, whether it be Mass General, whether it be here in Rhode Island, numerous hospitals here. We just completed in the last couple of years a one billion dollar expansion out at UConn Medical, which is west of Hartford, and so on and so forth.

So my other experience in the healthcare industry, I was ten years on the board of trustees at Women & Infants, and I also have been serving the last ten years on the Rhode Island Hospital Foundation Board. So I am somewhat familiar with hospitals and what goes on.

As far as my dealings with Roger Williams, in the last couple of years we were awarded on a competitive basis renovations to and additions to the Roger

Williams and to the Fatima, and those have met with success. They were done in a very efficient manner, very first class manner. I get to do comparisons because I get to work with some of the finest hospitals in the country up in Boston. So if you -- make no mistake, that we are happy to work with CharterCARE and with Sam Lee. I met him many years ago on a social level and then on a business level, and I can assure these -- those listening that every interaction has been positive. He's been a man of his word, he's done everything that he said he would do, and I'm proud to say that I've been affiliated with him and CharterCARE in general.

So I endorse this proposal and I wish everyone well. Thank you.

CHAIRMAN MANCINI: Thank you, Mr. Carr.

Pat?

MS. ROCHA: Okay. Let's go to the PowerPoint presentation if we may.

I can't see the PowerPoint, I just see the video faces.

MS. LOPES: It's not up on the screen for you? It's up on my end. Are you able to see it now?

MS. ROCHA: I can't. I just see the video faces. The PowerPoint's behind it? I don't know, can

other folks see the PowerPoint?

MS. POWELL: Everyone has to adjust their Zoom so they can see it. You have to adjust Zoom, it's not the PowerPoint.

MS. ROCHA: Okay, great.

So let's get started. If we could turn to page 2. Introductions.

Okay, so, I am in my office, I am socially distancing with my colleague Richard Beretta, and our colleague Leslie Parker is working from home with two young children, so Leslie deserves all the kudos.

Next on the list, I want to introduce someone who needs no introduction, Jeff Liebman. Jeff is the Chief Executive Officer of CharterCARE. We were recently with you on CharterCARE's change order for the relocation of the Peace Street clinic to Chalkstone Avenue.

Jeff, I don't know if you can do a Zoom shout-out. I know he's on the screen.

Let me introduce the folks from California.

Sam Lee. Sam is the Chairman and CEO of Prospect Medical Holdings. Again, I hope you can see him. And, Sam, if you can do a Zoom shout-out.

With Sam is David Topper, the President of Hospitals at Prospect.

George Pillari, the Corporate Chief of Integration and Operations Improvement at Prospect.

Von Crockett, the Senior Vice President of Corporate Development and Finance.

Lalit Katz, the Vice President of Hospitals Integration.

Eric Samuels, the Treasurer and Vice President of Corporate Finance.

And Frank Saidara, the Vice President of Corporate Development.

Turning to page 3.

And I'm going to go right to the organizational chart. So this is the current structure. This was approved in a 2014 CEC application for the joint venture between CharterCARE and Prospect.

At the bottom are the Rhode Island licensed facilities. You'll see the Rhode Island Hospital, the Surgicenter, and the Home Nursing Care. At the top is Leonard Green, the private equity investor, with about 60 percent ownership, and Sam Lee and David Topper with about 40 percent ownership.

Now turning to page 4.

With your approval and consummation of the merger agreement, you see the change at the top. The original co-founder, Sam Lee and David Topper, will have one

hundred percent ownership. Otherwise there is no change. The licensed Rhode Island facilities remain at the bottom, owned by Prospect CharterCARE LLC, with majority ownership by Prospect East Holdings, Inc. owned by Prospect Medical, Inc., owned by Ivy Intermediate Holding, Inc., owned by Ivy Holdings, owned by Chambers, with a hundred percent ownership with Sam Lee and David Topper.

Now, turn to page 5.

As you all know, CharterCARE owns and operates two hospitals: Roger Williams and Fatima. We thought it would be helpful as a refresher to highlight the state of the hospitals.

So you all know, Roger Williams is a licensed acute care hospital located in Providence, accredited by the Joint Commission. It's an academic medical center affiliated with Boston University School of Medicine.

And I'm gonna pause here and turn to Dr. Vincent Armenio. Dr. Armenio is the Chair of the Department of Medicine, the Program Director of the BU Internal Medicine Residency Program, and Associate Director of the Cancer Center.

Dr. Armenio, are you on?

DR. ARMENIO: I am on.

MS. ROCHA: And, Dr. Armenio, could you share

with the members of the council your experience at Roger Williams under the leadership of Sam Lee and David Topper?

DR. ARMENIO: Well, Sam Lee and David Topper are really the face of Roger Williams. At least with my commitment to the residency program.

For example, there have been many occasions where I've needed things for the residency program. For example, we needed a mannequin for, you know, to teach residents on codes and physical examination. And we had choices and, you know, Sam Lee and Dave Topper, they immediately said that you need to get the best. And when I gave them a bill for $140,000 for a mannequin that was needed, they got it. We needed a teaching ultrasound for residents, we searched for the best one, Sam Lee and Dave Topper said that's the one I want the residents to have. They have been extremely committal in teaching in our institution.

For example, residents have been given --

(Audio difficulties)

MS. ROCHA: Dr. Armenio?

CHAIRMAN MANCINI: We lost him.

MS. ROCHA: I think we may have lost Dr. Armenio.

(Pause)

MS. ROCHA: All right, let's see if he comes back and we'll go back to him. One last call. Dr. Armenio?

DR. ARMENIO: Can you hear me now?

MS. ROCHA: Yes, we can, welcome back.

DR. ARMENIO: Thank you, I'm sorry.

MS. ROCHA: I think you're on mute, Dr. Armenio.

DR. ARMENIO: How about now?

MS. ROCHA: Better.

DR. ARMENIO: I'm sorry. Well, as I was saying, there is a commitment to teaching. Especially, our residents were sent to a review course in New Jersey, all expenses paid, including review course and accommodations. And the (inaudible) of all those commitments from Dave Topper and Sam Lee, our pass rate for our internal medicine boards were a hundred percent for this year. In the past it was below 80, and with their commitment to us, it was now over a hundred percent.

But on a personal note, a personal note, we're -- unfortunately in April, I -- I was working in the ICU and I contracted COVID-19. And I had fevers of 104 and I had a choice of a hospital to go to. My wife is a practicing physician at Lifespan, which is an excellent

hospital, but I also had friends in which, you know, I was able to go to Mass General or any other hospital that I wanted to. But my commitment was to my hospital, Roger Williams. I was there for ten days. Received excellent care from the environmental staff to the CNAs to the nurses to the doctors, everyone in the hospital. The one thing that I received, that I think that really touched me, Sam Lee, the owner of Prospect, sent me a personal text and phone call to make sure that I was getting the best treatment and that I was on my road to recovery. And it wasn't just (audio difficulties) phone call, it was a continuous text and call that I was doing better and that I was -- I was to be a hundred percent. I mean, that speaks volumes, for the owner of a company to take an interest in me while I was in the hospital, and I will never forget that.

Thank you.

MS. ROCHA: Thank you, Dr. Armenio. Any questions from the Health Service Council members to Dr. Armenio?

(No questions forthcoming)

MS. ROCHA: Okay, next, I think you all now, you're familiar with the Roger Williams Cancer Center, it's an Academic Comprehensive Cancer Center with a terrific reputation, providing quality services to

folks in -- suffering from cancer. And I'd like to call on Dr. Joseph Espat. Dr. Espat is the Chair of the Department of Surgery, the Chief of Surgical Oncology, and Director of the Cancer Center.

Dr. Espat, are you on?

DR. ESPAT: Hi. Good afternoon, hopefully you can see me, or at least hear me. I can't see myself but I'm assuming you can hear me. Can you confirm?

MS. ROCHA: I can hear you and I'm hoping others can see and hear you.

DR. ESPAT: Okay. So I'll give you a few of my comments. We are a unique institution --

(Audio difficulties)

MS. ROCHA: Dr. Espat, there's a lot of feedback.

MS. LOPES: Everyone remove yourself except for the person that is speaking, that would be appreciated. Thank you.

DR. ESPAT: So we're a unique institution here in Rhode Island because we're the only comprehensive cancer center in the state, and we have had a cancer history going back to the 1960s. And I will say that when I came out here from Chicago via Sloane Kettering many years ago, one of the things that

we wanted to do was to build this comprehensive cancer center, but as you guys know, we ran out of funds. And, you know, had Prospect not come in when they came in, I don't think that we would have been able to elevate our cancer program, our bone marrow transplant programs, our surgical programs, the level that we've elevated them to.

So for the last six years, three cycles of American College of Surgeons Accreditation, we have been accredited with commendation as a comprehensive cancer center. And we provide a lot of care to underserved populations, and we provide amazing pancreas, liver, and esophageal cancer care. And we couldn't do that without Prospect.

And Prospect, the face of Prospect, to me, has been Sam Lee, Von Crockett, and Dave Topper. And I'll tell you why it's been the face. I have personally toured all of those individuals for the cancer center and the operating rooms on numerous occasions. And every time they've said Joe, whatever it is that you need to run the program at the level you're running it or better, let us know and we'll get it for you.

I've gotta tell you that they call in, they check in with me once a month at least, once a quarter, and they say what equipment do you need to have replaced.

What programs do you need to build. We've got navigators in geriatric oncology in bilingual unrepresented populations. These are things that don't generate revenue but provide excellent care. And I can count on a face, I can count on Sam or Dave Topper. It's not a corporation I'm reaching out to. These are people I can actually pick up the phone and call and ask for the needs that we need to serve our patients. And I will tell you that they call me more often than I call them just to check in.

In our operating rooms, we have the highest level ultrasounds, microwave coagulators, linear (inaudible) generators, anything you can think of that you would expect at a big university tertiary center, Prospect has purchased that equipment for us, and we are able to train the next generation of surgical oncologists and surgeons here at this institution.

So I certainly hope that the council approves this application, but I can tell you that Prospect, Sam Lee, Dave Topper and the whole team have really gone above and beyond to make sure we are an excellent institution.

Thank you for taking my comments.

MS. ROCHA: Thank you, Dr. Espat.

Any comments from members of the Health Services

Council?

(No questions forthcoming)

MS. ROCHA: Okay, next, you're all aware that Roger Williams has the state's most advanced continuum of eldercare, including specialized geriatric care hospital units, geriatric medical psychiatry unit, geriatric oncology program and home care program.

You're also aware it has the only Rhode Island inpatient Bone Marrow Transplant Program. And I'm going to pause here and turn to Dr. Todd Roberts. Dr. Roberts is the director of the Bone Marrow Transplant Unit.

Dr. Roberts, are you on?

DR. ROBERTS: I am on, thank you for having me.

As mentioned, Roger Williams has the only bone marrow transplant program in Rhode Island. The accrediting body, which is called FACT, which stands for Foundation for the Accreditation of Cellular Therapy, has accredited our program for autologous, allogeneic and cord transplants.

It's important because bone marrow transplant programs probably have the most rigorous standards of any medical surgical programs. We have never had any problem getting the support we need when the new

standards come out routinely through the years. We've been fully supported by Prospect in regards to personnel, equipment, and education to meet the standards of the accreditation.

Most recently, in our last accreditation which happened in 2019, a new accreditation is for immune effector cells, which we also got accreditation for. Immune effector cells you may know as CAR-T cells or designer T cells. They're cells that manipulate the immune system in treating relapse and refracturing hematological liver disease. We have -- you can only get these at a center that has a transplant program and so we were lucky that we have been approved for this.

Now, earlier this year we started an onboarding process working with Novartis for their commercial CAR-T cell product. These are immensely extensive treatments. There's been complete support from Prospect at the administration level, the financial level, the clinical level, to get this program off the ground. (Audio difficulties) And someone was going to talk about the COVID response and make recommendations on treating these patients with --

(Audio difficulties)

MS. ROCHA: Dr. Roberts, there's a lot of feedback. I don't know if that's coming from someone

else, they need to mute themselves. Dr. Roberts?

DR. ROBERTS: Yes, can you hear me?

MS. ROCHA: We can.

DR. ROBERTS: Okay, so just in closing, you know, we are kind of getting back to normal. We are restarting our onboarding process for our CAR-T cells. And in regards to COVID response it was great because there was a national wide Prospect algorithm that we put up for all the hospitals. So we worked well together and we had the support for that. And now we're committing it to our CAR-T cells that we also, hopefully by the end of (inaudible) will be onboarded, and we hope to bring in other Prospect hospitals that are in transmittable distance.

That's it. Thank you.

MS. ROCHA: Thank you, Dr. Roberts. Any questions from the council members?

(No questions forthcoming)

MS. ROCHA: Next on the slide, you know that Roger Williams has the only inpatient Level IV Addiction Medicine Program. And I know you're familiar with the new Emergency Department because you approved it in 2017. It's a new 12,000 square foot ED. The $15.1 million project created an entirely new comprehensive emergency department serving metropolitan

Providence area, with brand new equipment and technology. Includes two rooms, including a dedicated trauma room, with innovative triage and patient flow system.

In addition, a dedicated behavioral health specific ED is currently under construction in the former space, scheduled to open in November of 2020.

And now I'm going to call on Dr. Candace Wray. Candy, are you on?

MS. WRAY: I'm here, Pat, can you hear me?

MS. ROCHA: I can.

So Candy has been a veteran. She's been at Roger Williams forever. So Candy, do you want to tell us a little bit about your history and your experience with the new ED and the support from the leadership at Prospect.

MS. WRAY: Sure. Good afternoon. I've been actually at CharterCARE for the past 34 years of my career. I've started here and haven't left since, which says a lot for our company.

We did open, as Pat said, a brand new emergency department actually in February of 2019. All the things she had told us are correct. We have brand new private rooms for everybody. We are a stroke certified hospital. Patients are directly brought back from the

triage into their rooms. We have a short registration process for triage, and then the physician comes directly into the room to see you, all happening parallel tracks. So that way the patients are seen quicker and they are not brought back out to the waiting room.

We do have a new behavioral health space that will be opening in November of 2020. We will have a nine bed separate behavioral health emergency department, which will have a separate staff, separate waiting area to treat our large behavioral health population that we have.

I just want to thank everyone in the team at CharterCARE as well. As Dr. Espat and some of the physicians have already stated, especially during this COVID time, just the support from Sam Lee. Actually they were out, as Dr. Espat said, touring the area. There was actually a video made, a thank you video. There was constant communication with the staff, daily e-mails back and forth, and so forth, just thanking the entire staff.

I just want to thank everybody for letting me be here on the call and just -- it's a wonderful place to work, obviously, by my 34 years here. And that's all I have to say.

MS. ROCHA: Okay, thanks, Candy.

Any questions from the council members?

(No questions forthcoming)

MS. ROCHA: Finally, Prospect CharterCARE is the second largest taxpayer in the City of Providence.

May I have slide 6, please.

You may remember during your review of the new ED department, comments from Mayor Elorza and Providence City Council Member Ryan.

Mayor Elorza: Providence is home to so many institutions of health and higher learning that improves the quality of life for all residents. This new addition to the Roger Williams Medical Center strengthens the capital city's capacity to provide quality health care and reinforces our reputation as a regional leader in the health economy.

Majority Leader Ryan: I commend Roger Williams Medical Center and CharterCARE on its continued investment in Providence. This beautiful new ED is a boost to the quality of life in our city.

And I hope none of the council members need the services of the ED, but if you want a tour, I'm sure Jeff Liebman would be happy to make arrangements.

Okay, may I have slide 7, please.

Let's turn to Fatima Hospital. You know it's a

licensed acute care hospital located in North Providence, accredited by the Joint Commission. It's been recognized as a patient-centered medical home by the National Committee for Quality Assurance. It's home to the CARF Accredited Southern New England Rehabilitation Center, and the state's first Comprehensive Wound Treatment Center.

So I'm going to pause here and call on Dr. Beliveau. Dr. Beliveau is the Chair of Medicine.

And, Dr. Beliveau, if you could comment on the state of the state of Fatima, the support received from Prospect under Sam Lee and David Topper's leadership, how that's impacting patient care, and your experience during the COVID crisis.

Dr. Beliveau, are you on?

DR. BELIVEAU: Yes, I am. And good afternoon, everyone. Thank you for the opportunity to speak on behalf of the hospitals.

So, not that I'm competitive but I think I'm gonna beat Candace's record because I actually started at Fatima when I was 16, in the kitchen, and to date it was the best job I ever had. So, I've been involved at Fatima for many, many years.

And I'd like to talk on two fronts. One is the hospital support that we receive, and then I'd like to

mention sort of a personal touch on Prospect.

But Fatima, as the slide portrays, is the only -- is a top certified rehabilitation center. And actually, I started the Wound Center and Hyperbaric Unit in 1990. Prospect has donated generously to upgrades and equipment. They replaced the three monoplace hyperbaric chambers that we have. We -- they've installed pulse oximetry that monitors at the nursing stations. We have the Smart IQ pumps. All of these are very costly, costly items.

I can tell you whenever -- I probably have a unique relationship with the owners. I mean, Mr. Topper usually will call me at least two or three times a month just to touch base to see how things are going, what's needed. Same with Mr. Lee. And to give you an extent of the -- the camaraderie that they have with the hospital, I mean, Mr. Topper, I was recently married in October to an attorney, which, you know, might not have been so wise, but, and Mr. Topper flew from California to attend my wedding. So they've been intimately involved with the medical staff. They conduct at least two meetings a year to bring in all the medical staff and have discussions with them.

The last point I would -- and during the COVID crisis, I mean we had daily phone calls with the CMO

for the system, going through what we needed for equipment. Allocating drugs. So they were tremendously involved as an organization in making sure we had all the necessary equipment that was needed. And that was very very impressive.

And on -- when I first learned of this Change in Effective Control, you know, looking at it, I mean, I was excited because I -- you know, I've never heard from Mr. Green. And I don't know about you, I know Dr. Buonanno and I have had some experience -- you know, private equity firm is sort of French for a venture capitalist. And Dr. Buonanno and I have had some experience, and, when things are going great, you know, you're in a pool with dolphins, and when things aren't so great, all of a sudden they turn to great whites.

So I was pleased to see that the ownership would now be Mr. Lee and Mr. Topper, who all the medical staff know very well and are very confident in their leadership ability and their commitment to make these hospitals successful, and I thank everyone for the opportunity to speak on their behalf. Thank you.

MS. ROCHA: Thanks, Dr. Beliveau. Any questions for Dr. Beliveau?

(No questions forthcoming)

MS. ROCHA: Okay, next on the slide. Fatima is the first hospital in Rhode Island to receive certification for Disease Specific Care for Spine Surgery. It recently was recertified by the Joint Commission for another two years with a perfect score.

So let me turn it over to Dr. Buonanno, who is the Chair of Surgery.

And, Dr. Buonanno, if you can talk about the transformation of the Spine Surgery before and after Prospect acquired CharterCARE.

DR. BUONANNO: Thank you for allowing me to say a few words.

I've been a practicing surgeon at Fatima for over 40 years and I've been chairman of the department for almost 17 years, and I've seen the transformation as a result of the input from Dave Topper and Sam Lee this hospital made over the past several years.

The Joint Commission on Hospital Accreditation has Gold certification for Specific Disease Care. These Gold certifications are very very difficult to obtain and also to maintain. Several years ago, under the direction of Prospect Medical and CharterCARE, both financially and with personnel, we were one of four hospitals in New England to receive Gold disease specific certification in hip and knee surgery. We

were on the likes of Mass General, UMass Worcester, and up to even today we still maintain the certification. Now, this certification is reviewed yearly, and then every two years the certification is -- the JCAHO visits the hospital and recertifies us.

Recently, as Pat mentioned, we have been -- we are the first hospital in Rhode Island to be Gold Seal Disease Specific certified in Spine Care. We recently recertified for a two-year period with an absolute perfect score. And that's a credit to the direction and the leadership by Prospect and the -- and the surgeons who give this quality care. You have to be cutting edge care in order to receive these certifications. We also have Gold Seal certifications in some of the medical divisions. One also for diabetes.

I want to touch briefly a little bit on Prospect's commitment to Rhode Island.

Besides the clinics for the underprivileged, poorly insured and no insured, they have clinics in adult medicine, pediatric medicine, dental care. And as an orthopedic surgeon, I'm proud to say we have clinics that meet twice weekly in both pediatry and orthopedic surgery, that are manned by orthopedic surgeons. These clinics, they're located at the Roger

Williams Center, serve those individuals who can't get care because of their poor insurance or no insurance.

The third and final thing I just want to mention, I want to reiterate some of the comments of some of the previous speakers, because it's all about relationships. And the medical staff leadership has a really unique relationship with Dave Topper and Sam Lee. They've come in every three months to visit us, and when they do they make it a point to either go out to dinner or meet with the leadership in any kind of a venue to discuss our problems. They know all of us on a personal basis. The -- Sam and Dave, both, have our -- have given all of us their cellphone numbers, they have our cellphone numbers, and it's not unusual on a weekend for me to get a call from Mr. Topper to discuss a problem that I called, or returning a voice mail from me. And I find that highly, highly unusual, but great, in the fact that Prospect Medical has over 20 hospitals and they take the -- take the attention to get to know everyone personally, and micromanage and know what's going on on a daily basis.

And I can say, after -- with my 40 years of experience at Fatima, that without Prospect, Fatima would not exist today.

Thank you for allowing me to say a few words.

MS. ROCHA: Thanks, Dr. Buonanno. Any questions for Dr. Buonanno?

(No questions forthcoming)

MS. ROCHA: Next on the slide, as Dr. Buonanno mentioned, Fatima provides adult and pediatric primary care clinic services, now on Chalkstone Avenue, serving the traditionally underserved pediatric and adult primary care population.

Combined, Roger Williams and Fatima offer the state's second largest and most comprehensive range of behavioral health services.

And as Mayor Lombardi noted, Fatima is the largest employer in North Providence and the second largest taxpayer.

May I have slide 8.

Okay. Prospect Blackstone Valley Surgicare is a licensed freestanding ambulatory surgery center. It's located in Johnston, Rhode Island. And you'll recall you gave approval for the acquisition by Prospect in 2017.

You know that Blackstone's been a leader in outpatient services for over 30 years and now maintains its commitment to offering high quality, low cost outpatient surgical services.

Now, I want to turn it over to someone who needs no introduction, Ann Dugan, but let me just make one comment.

We do live in a small state and everything does come full circle. And many of you know that Ann began as an RN at Roger Williams, a not for profit hospital. She and I appeared before you for approval for for-profit freestanding ambulatory surgery centers. We appeared before you on several Change in Effective Control applications for the for-profit surgery center, some involving private equity investors, some not. And now Ann has come full circle and she's returned to the Prospect CharterCARE family. She is the Vice President of Surgical Services, she's leading Blackstone Valley Surgicare. But the point I want to make, each and every time you heard from Ann Dugan, her number one priority was patient care. Because whether you're a non-profit, for profit, PE owned or not, if you don't focus on patient care, you won't be successful. Prospect focuses on patient care.

Ann, are you on the line?

MS. DUGAN: I am, Pat. Thank you for that little intro. I'm not on the video screen but I can see some of my old friends. John Barry, John Donahue, all of my friends from the Health Services Council. So

I'm sorry I'm not in the room with you guys, I certainly would love to see you up close and personal.

Yeah, here I am again. Although all these years that we've been doing these Health Services Council, I never thought we'd be doing it on a Zoom meeting looking at each of us on the screen. But we have to go with the times.

So yes, I am here to talk about Blackstone again. A little broader perspective. I -- as Pat said, I've worked in the healthcare since 1980. I spent the first nine, ten years at Roger Williams, a place I absolutely loved and adored but went into the private sector with Dr. Paul Healy at the Surgery Center in Pawtucket. He had opened it in 1976, and here we are in 2020, still plodding along, taking care of thousands and thousands and thousands of patients through the years, and I'm happy to still be part of it.

But as Pat said, as many companies as I've worked for, as the climate changes in health care, you also have to look at what's the best avenue for you to take, particularly when you're a standalone outpatient surgery center, not part of a system.

And with that being said, we had good doctors who were working with CharterCARE, and we had many many discussions, and at the end of the day I went to

Surgical Care Affiliates at the time, SCA, and I asked them to let Blackstone go and let us be sold to CharterCARE Prospect in order for us to maintain our business, care for our patients, and be part of a health system that I felt was strong, quality driven, and would be able to maintain the services that we've done for all these past 40 plus years.

So I'm happy to say that three years later it's a good company. I'm as autonomous as I was for 30 years with all the other companies, but when needed they're there. Whether economically, financially, you know, quality, any kind of issues I have, I'm happy to say they're there to support me. And crazy as it may be, they asked me to take over all their surgical services in both Roger Williams, Fatima and Blackstone. So perhaps it wasn't the best plan of mine, I thought I would be working not as hard as I am now but I'm working more than ever enjoining surgical services in both Roger Williams, Fatima endoscopy services, and still at my home, Blackstone Valley.

So again, I can't say enough about the change I've made, and I felt that it was a good one and I still feel that it was a good one to be working with this company.

MS. ROCHA: Thank you, Ann.

Any questions for Ann?

(No questions forthcoming)

MS. ROCHA: May I have slide nine, please.

Okay, Prospect Rhode Island Home Health. Home nursing care provider. It earned the Joint Commission's Gold Seal of Approval. It received the home health patient satisfaction award for 2019 for the second consecutive year. That award is determined by reviewing and ranking overall satisfaction scores for more than 2,400 home health providers and over 950 hospice providers. And as Paula Roberge, the program director said: Their top priority at CharterCARE Home Health is to put our patients first. This national award is a wonderful affirmation from our patients that we're providing them with the clinical services they need right in their home, with caring hands and compassionate hearts.

May I have slide ten.

We thought we would spend a minute on CharterCARE's commitment to the vulnerable population. We all know that the elderly are at high risk during the COVID crisis. I'm going to call on Dr. Rebecca Brown. Dr. Brown specializes in internal medicine and geriatrics. As an aside, she's worked with the department and has done public service announcements,

answering questions by kids about the COVID crisis. She does a lot of work with the elderly.

Dr. Brown, are you on?

DR. BROWN: Yes.

MS. ROCHA: Okay. Dr. Brown, can you share with the Council your relationship with Prospect, the input from Sam Lee and David Topper, and how that's impacted your practice and your patients?

DR. BROWN: So, I have to say, I've been at Roger Williams for 15 years now, and I feel so fortunate to be part of this team. And when Prospect came in, they have provided, you know, really really wonderful in-depth resources. This COVID pandemic is an absolute tragedy for the elderly. It has been an honor to work at our hospital. I have felt very supported. Pretty much every single thing I have asked for from administration, going all the way on up the line in Prospect, I have received. At first I was concerned about PPE, and we got it very very quickly to help with the onslaught of admissions that we had for our inpatients.

Also, because I practice primarily in assisted living in addition to being at the hospital, I was no longer able to see my community patients in the assisted livings because they had to be closed down for

purposes of not spreading COVID. And I reached out to administration, and within one and a half weeks, which I never anticipated that it would be that fast, I had an outpatient clinic up and running, a 50 mod. Every single day that I've seen patients there, which is almost every day of the week, they have been so grateful to be able to see me again in person. Because I feel as if Telehealth is not good for what we do. You know, you really need to, um, to be with your patients in person so they can see you and they can -- and they can hear you. And the families have been so grateful. So there's not a day goes by where I am not so incredibly thankful that Prospect has given me this office and an ability to continue to do what I do, both on the inpatient setting and the outpatient setting.

On the inpatient setting for COVID, I have felt enormously supported by the team, the COVID -- the COVID team that helps me with every single admission that I have. They have provided fabulous resources that I have access to basically 24/7. And because they are in communication with the entire country, I feel as if I have a really, really deep group of brilliant, dynamic, just wonderful people who are doing cutting edge treatment and are saving my elderly people. So I really feel very confident when I work with patients,

to tell them come to my hospital, I'm there, I'm gonna take care of you. We have a wonderful group of providers all the way on up the line and we have saved many many lives at Roger Williams. People aging all the way up to the upper nineties with COVID. We have gotten, you know, through this first wave so far and I am really really proud of what we've done.

I was also very grateful when I was asked by PBS Kids to do public service announcements with them where kids would ask questions about COVID. They wanted a geriatrician to help with that in case children had questions about whether they were going to transmit the virus to their grandparents, because everybody was worried about the public aspect of that. And I was a little bit concerned that maybe the corporation wouldn't allow me to do that, and everybody all the way up to the top said that's great, and I've been able to do that and that's been a wonderful service. My patients that have actually seen me on television, they're like Dr. Brown, you're on television, this is so exciting. Answering questions for kids. Sometimes a lot of the questions that they're asking are questions that my patients and their families also want to have answered. So that's been great.

And I was also able to participate in Hospital

Association of Rhode Island Public Service Announcement, which I encouraged families to bring their loved ones to the hospital. Because we -- one of the big problems in geriatrics was that a lot of people were afraid to come to the hospital, they were afraid they were gonna get COVID. But we have worked so hard at our hospital and been so incredibly fabulously supported by our administration, on up through the line with Sam Lee and David Topper, to have everything that we need for families of patients to feel safe, including now allowing visitation at the hospitals where families can come in and be with their loved ones. And that has made everybody feel a lot more confident about them being in assisted living.

So, I feel extremely fortunate that I work with this fabulous group of people.

MS. ROCHA: Thank you, Dr. Brown. Any questions for Dr. Brown?

(No questions forthcoming)

MS. ROCHA: All right. Could we go to slide ten, please.

Next I'd like to call on Dr. Calvino. Dr. Calvino is the Program Director for the Surgical Oncology Fellowship at the Roger Williams Medical Center's Cancer Center. He does a lot of outreach to the Latino

community.

Dr. Calvino, are you on?

DR. CALVINO: I am.

MS. ROCHA: Dr. Calvino, could you -- yes. Could you say a few words about your work and the support you have from Prospect under Sam Lee and David Topper's leadership and how that impacts day-to-day patient care.

DR. CALVINO: Sure, definitely, I'll be glad to.

So, Abdul Saied Calvino, oncologist here at Roger Williams Medical Center. And five years ago when I started working here at Roger Williams, one of the things that I noticed right from the beginning was that my Hispanic patients were presenting with later stage of cancer. Then I started learning a little bit more about Rhode Island, how 13 percent of the population is Hispanic, and how 40 percent of that population is actually in the Providence County. And working actually with the Department of Health we realized, well, this is real, many patients with more advanced cancer. So we thought, well, what can we do.

One of the bigger issues is the language and the cultural barriers that these patients have. They don't get their colonoscopies, they don't get their

mammograms done on time. So we said, you know what, something we can do is to create a program where we can have a navigator, have someone who can help them to get the tests they need.

The problem with that is that we needed someone to support that program. And I can say that Prospect and Sam Lee, Dave Topper were truly supportive. We have a program that doesn't bring in any revenue, that pretty much bring patients that are uninsured and underserved, but we have a program that ensure that Hispanic patients in this community can get timely quality cancer prevention care.

We have more than 700 patients who have received their colonoscopies throughout the program. We have more than 200 patients who have received mammograms since we started a year ago through this program. The program works in outreach to educate the community with multiple -- collaborate with multiple groups, and has been very very active.

The program received the John Cunningham Award from the Rhode Island Health Centers Association two years ago. Received an award from the Latino Control Cancer Task Force. Received a national award for decreasing disparities in Spanish population, the Carol Friedman award, from the CDC. And last year we got the

Director's Award from the Department of Health, Dr. Nicole Alexander.

So the program had a huge impact. We don't have any extramural funding. So all the support we have received for a coordinator, for navigators, has been from Prospect and from Sam Lee and Dave Topper.

And I rest assured that if all these goals and move forward, we're gonna continue to have their support and we're gonna be able to provide our Hispanic and underserved population of the timely and quality cancer prevention care they need.

MS. ROCHA: Thank you, doctor.

Any questions for Dr. Calvino?

(No questions forthcoming)

MS. ROCHA: Okay, back to slide 10.

You all know CharterCARE's commitment to Level IV substance abuse patients, long-term care behavioral health, bone marrow therapy patients, the Suboxone Center, as well as the emergency behavioral patients in crisis.

May I have slide ten. We wanted to spend a -- I'm sorry, slide eleven.

We wanted to spend a few moments talking about Prospect's leadership and responding to the COVID crisis. Unfortunately John Miskovsky very much wanted

to speak with you. This morning his mom fell and broke her hip, so he was traveling to New Jersey, he can't be with you. Dr. Miskovsky is a hospitalist and he joined CharterCARE in 2018, he was recruited after Memorial Hospital closed.

But we're fortunate to have Dr. Stoukides. Dr. Stoukides is a geriatrician. Dr. Stoukides has spoken to you on other matters.

And, Dr. Stoukides, do you want to share with the Council your involvement with the leadership from Prospect in dealing with the COVID crisis and how that benefits the patient?

DR. STOUKIDES: Sure, I'm happy to.

When you look at how we did with COVID, it's really a phenomenal accomplishment we made. For the third small -- largest health care system in the state, we cared for the second highest amount of COVID patients. And at Roger Williams we had the lowest ventilator-associated mortality rate of COVID patients, which really is a testament to quality.

Where did quality come from? It really came from support of our system. And one thing this whole thing has really done is crystalized us as a national system, which really helped us achieve our goals of really providing excellent care. Because we were able to

learn from East Orange, New Jersey, who was right in the midst of the New York City surge and absolutely inundated with COVID patients. And through that, through -- we had daily physician leadership calls seven days a week at 9:00 in the morning, which wasn't the most convenient for California but they were there on the call. Dave Topper and Mitchell Lew(phonetic) and Von Crockett were involved in the calls. Finding out what we needed for support, what we needed for PPE. When one shipment of PPE coming in from Malaysia got trapped at the border, within a day we had another shipment coming in on the East Coast to support what we needed. And we couldn't have done that as a small little hospital. We did that because we're part of a national organization that had buying power and we were able to get all that.

From a pharmacy support, I have the privilege of chairing the National P&T Committee for Prospect where we look at our drug acquisition and utilization. We were -- our pharmacy -- national pharmacy director was tirelessly looking for ways to acquire drugs when we needed them, for every step of the way, not just antivirals but drugs to support patients on ventilators, to provide the necessary treatments that we needed for the patients.

And also we -- one of the reasons why we did so well is through a merging of our immunotherapy program at Roger Williams, utilizing some very advanced types of treatments that didn't really make it out into the press a whole lot, but using the IL-6 inhibitors was a great thing for patients going through what's called a Cytokine Storm that we at CharterCARE had good experience with and were able to distribute around the country using a drug called Tocilizumab, which seriously helped a lot of patients in extreme crisis on ventilators get off the ventilators and survive. And we had no questions asked about this very expensive drug, utilizing it as much as we needed to, and supplying it for patients throughout the system.

What we also did was we shared best practices from the hospitals. We organized a number of national grand rounds that brought in experts at each of our hospitals to present, via Microsoft Teams and Zoom meetings, to all the different physicians in our different hospitals to share what each hospital was doing best. And that's actually moved forward as we go forward into a monthly presentation now that we're doing, to continue to share best practices. We realized that we work best as a large national organization, not as little individual hospitals.

And that's one thing that Sam and Dave have really instilled on the organization is we are a system, we're not just little hospitals surviving on their own. We're working together, using our talents to really support each other. It's helped us immensely in our ability to reopen safely, utilizing best practices. When New Jersey started reopening and Philadelphia started reopening, we were able to draw from their experiences and use it in our system.

You know, California got hit hard initially and now they're getting hit hard again. Now we're learning what we have to do for a second wave by sharing best practices with the California hospitals and what they're doing. We had a call with them yesterday, and we just continue to learn and grow because of the size of the system we are. And I think that's clear in why we've done so well in our COVID response, clearly better than any other system in state, so, I'll be happy to take any questions.

MS. ROCHA: Thank you, doctor. Any questions?

(No questions forthcoming)

MS. ROCHA: Okay. Turning to slide 12. We thought we would spend a minute on Prospect's commitment to the CharterCARE integrated delivery

system. I think you all know Dr. Joseph Mazza. Dr. Mazza is the Division Director of Cardiology at both Fatima and Roger Williams. He's the Board Chair of the CharterCARE Provider's Group.

Dr. Mazza, are you on? Dr. Mazza?

DR. MAZZA: I'm here, can you hear me?

MS. ROCHA: We can, thank you.

Dr. Mazza, do you want to spend a couple minutes talking about the IDS and the support from Prospect and the importance in the Rhode Island health care delivery system?

(No response)

MS. ROCHA: Dr. Mazza, are you on mute? Dr. Mazza, I heard you a minute ago.

(No response)

MS. ROCHA: Any suggestions?

(No response)

MS. ROCHA: All right, Dr. Mazza, I see you on the screen but I don't know if you're on mute, so why don't we move on and let us know as soon as you unmute.

Okay, let's turn to slide 14.

Okay, we thought we'd do a very quick recap of the 2014 joint venture approval.

You will remember in 2008, in an effort to stem

financial losses, Roger Williams Hospital and Our Lady of Fatima sought and received approval from the Department and the Attorney General to affiliate through the creation of CharterCARE Health Partners.

CharterCARE Health Partners did achieve operating efficiencies, but continued financial losses, jeopardized its continued financial viability.

For those of you who were present during the 2014 review, you may recall that CharterCARE incurred a nine million dollar loss through a six-month period ending in March 2014, before it was acquired by Prospect.

The boards of the hospitals confirmed that the system did not have the ability to survive long-term with a go it alone strategy.

After an open and transparent RFP process CharterCARE chose Prospect.

In May of 2014, the Department of Health and the Attorney General approved the joint venture.

And as you've heard from many of the speakers, Prospect saved the failing Rhode Island hospitals. It's provided significant support, you've heard financial and otherwise, to the hospitals, the surgicenter, and the home nursing care provider, and it will continue to do so in the future.

Let me just try Dr. Mazza one more time?

(No response)

MS. ROCHA: Okay. Let's turn to slide 15.

We thought it would be instructive to take a look at Prospect's commitment, including capital expenditures to date.

You're aware, you've heard about the new ED at Roger Williams with the private bays and emergency medicine technology, a $15.1 million project.

You heard about the dedicated Behavioral Health ED that's under construction, a $5 million project.

There were ED renovations and expansion at Fatima.

Pharmacy equipment and upgrades at Roger Williams and Fatima.

There were main entrance redesigns and other facility renovations at both Roger Williams and Fatima.

Other infrastructure improvements, including expansion of the Cancer Center that you heard about.

New medical, surgical and imaging equipment and other upgrades at both hospitals.

Capital to support physician recruitment, physician retention, and other physician engagement strategies.

And many of the renovations improved design and access, including handicap access to the facilities, involved green energy projects, and allowed for growth

and expansion of service lines such as behavioral and opioid addiction service lines to meet the community needs in both Providence and North Providence.

Okay, before I turn to the transaction on 16, I'm going to ask one more time, Dr. Mazza, I see, and your mute is on. Do you want to unmute?

(No response)

MS. ROCHA: Okay. Going going gone. Let's go to Transaction on page 16.

DR. MAZZA: Can you hear me, Pat? I'm sorry.

MS. ROCHA: Yes, I can hear you.

DR. MAZZA: I apologize, I'm sorry. I went through half the presentation before I heard you, I apologize.

MS. ROCHA: No problem.

DR. MAZZA: Do you want me to start now? I apologize. I'm not technically savvy.

MS. ROCHA: Not at all.

Can we just go to slide 12, please.

DR. MAZZA: I'll keep it brief.

MS. ROCHA: Excellent.

DR. MAZZA: So, I apologize again to the -- to the members of the council.

Just for purposes of background, I do serve as the cardiology chairman at both Roger Williams and Fatima.

I serve as the chairman of the CharterCARE Providers Group. I actually came to Roger Williams in 1989 as a resident, and I was a resident and chief resident and then stayed as a cardiology fellow in the Brown system. I'm in private practice here in Rhode Island with ten other cardiologists.

In 2014 when Prospect came, it was clear that we needed an integrated delivery system. We needed to be able to provide high quality value based care to the people of Rhode Island. In order to do this, we knew we had to get patients, physicians, and hospitals, and insurers all on the same page and be able to provide affordable high quality care. CharterCARE Providers Group was established in 2014 to be a key element of this.

Back in 2014, to be honest with you, I think a lot of physicians really didn't understand what managed care was, what value based care was, population health. These were concepts that were kind of foreign, because most of us are busy practicing physicians. What Prospect did, though, is they brought their resources, their knowledge and experience in managed care, the analytics people needed to actually provide this care, and the on the ground people to create a cohesive group.

One of the most important but the least spoken that Prospect did is they provided knowledge and education. This has been an ongoing process and Prospect has been there every step of the way to educate us. This is -- we've had ongoing meetings where we speak about all these (inaudible) change, and Prospect has provided the resources we needed to actually do that.

When we started, we had literally a handful of physicians that were part of the group, and in six years we've grown into 125 private care physicians and 350 specialists. And with the CharterCARE hospitals we've been able to provide efficient value, high quality care.

When we began six years ago, I still remember several physicians raised the question, you know, why can't we do this by ourselves? Why do we need Prospect, why do we need a company, why do we need anything. And it became very apparent quickly that, really, without the hands-on guidance that Prospect provided, we really couldn't get to where we are now. We've actually grown and we've actually succeeded very quickly compared to other groups.

In 2014 -- the slide says that we started actually in 2015 but we had initially about 2,200, 2,300

patients. We've grown to over 6,400 members under care. During this time we also formed a Medicare ACO. We've also become leaders in the Rhode Island accountable entity Medicare program and are engaged in helping to shape the future of Rhode Island Medicaid.

When we initially started, our membership was mostly Rhode Island Medicare Advantage patients from one insurer. We actually very quickly provided value to those patients. You know, we provided what was called wraparound care where we provided the care they needed, where they need it, when they need it. We provided care in homes, and by doing so we actually were able to provide good quality care at a value, and continue to do so.

We've also created specialized teams to care for people with chronic disease process to better manage them at home, avoid exacerbations. And our results actually speak for themselves. We were actually -- we are still the only group that is fully dedicated -- sorry, delegated to conduct care management and utilization by Medicare Advantage -- by Medicare Advantage health provider in Rhode Island. Right now we have 9,000 of those patients under our care.

We not only brought care and value to patients but we also brought value to the physicians that have

joined the group. Over the past six years, we've taken our percentage of patient-centered medical home certification from 10 percent in 2017 to 87 percent in 2020. We couldn't have done that without the resources that Prospect brought to the table to quickly do that.

We still have a commitment to ongoing education which happens literally on a monthly basis.

Truly, though, our benefit came out during the COVID crisis. It's difficult to be a primary care physician, especially in private practice and have COVID hit you at once. We immediately created channels for communications to the physicians. We created outlets for the physicians to reach out if they became ill and needed help in their practice. Most importantly, we actually created a supply chain. And much like Rebecca Brown spoke about, we created a supply chain to provide PPE to private practices so they could go on and function, because without that we actually (audio difficulties). And obviously our benefits -- we have been recognized for all the work we've done. We achieved the highest possible quality scores in the Neighborhood Health Plan. We achieved four stars in Blue Cross. Several years running we actually have been awarded the elite status through the American Physicians Groups.

We're -- though Prospect is in California, the group also is local. We have over 45 employees here which work in quality and care management on a daily basis.

I will echo what everyone said regarding Sam Lee and Dave Topper. I -- they are available to me if I need them. They've always responded. I actually have a relationship with someone called Steve O'Dell at Prospect who actually deals with me on a regular basis and he helps us run the group locally. He -- he's available 24 hours a day, 7 days a week. He actually flies out here three out of four weeks a month and is available to us.

So there is no doubt that Prospect has come to the table to provide what we need. Without them we wouldn't achieve in six years what other groups took 15 or 20 years to actually achieve.

And with that I'll stop, and I apologize for my lack of computer skills.

MS. ROCHA: Thanks, Dr. Mazza.

Any questions for Dr. Mazza?

(No questions forthcoming)

MS. ROCHA: All right, let's turn to slide 16, The Transaction.

Okay, and as you know well now, the only change

pursuant to the October 2, 2019 merger agreement is the change at the top of the corporate chain where Sam Lee and David Topper's ownership interest will increase from 40 percent to a hundred percent. And based upon everything you've heard today from doctors, nurses, health care providers, that's a good thing for patients needing the services of the two hospitals, the surgicenter, and the home nursing care provider.

The licensed entities will continue to provide high quality and cost-efficient care. This merger agreement, it will not impact the quality services you've heard about. The populations, including the underserved populations served, the payor mixes, the governance, tax ID number, provider numbers, executive and medical leadership, staffing, financial condition, policies and procedures, including charity care, or assets, liabilities and obligations of the Rhode Island facilities.

Page 17, please.

As we discussed, the only change, you have the corporate chart, is to Ivy Holdings, Inc., the holding company five and six times removed from the licensed entities.

Sam Lee and David Topper will become the sole shareholders of Chamber, Inc., a newly formed entity,

and Chamber will become the parent of Ivy Holdings.

After the transaction, Leonard Green, the private equity investors, and other minority management shareholders will no longer retain ownership in Ivy Holdings.

Eighteen, please.

We have a few more folks who want to speak to you. And we've had a lot of speakers and it shows their dedication to these hospitals under the leadership of Prospect.

Dr. Mariorenzi, are you on?

DR. MARIONRENZI: I am.

MS. ROCHA: Dr. Mariorenzi is the Chief of Orthopedics at Roger Williams Medical Center. He's also a member of the Roger Williams Community Advisory Board.

And, Dr. Mariorenzi, can you share your experience with Prospect under the leadership of Sam Lee and David Topper in terms of the orthopedic services and the services to your patients?

DR. MARIONRENZI: I'm happy to.

First, I'd like to thank the Health Services Council for giving me the opportunity to speak on behalf of this Change in Effective Control application.

As Pat alluded to, I'm Louis Mariorenzi, I'm head

of orthopedics at Roger Williams. I was actually going to speak more as a longstanding member of the board and medical staff. I'm gonna suffice it to say that orthopedics is very solid at the hospital. We have Joint Commission certification for hip and knee and spine. We have a lot of awards, I'm going to probably not promote that as much.

As you already heard, in 2008 -- 14, we were in need of capital. And we were forced to look to the private -- to the for profit world. And we were approached by an awful lot of for profit entities that really wanted full ownership, full control.

Prospect was different. Prospect was willing to allow us to maintain some ownership, maintain control. And they offered us a managed care piece that Dr. Mazza alluded to that was very attractive.

We soon got to know Sam Lee and Dave Topper. Even though they're based in California, even though they have many hospitals under their wings, they made it a point to show up at our board meetings, our medical staff meetings, our IPA meetings. They come out every year for our holiday party, and I'll tell you, it's not for the party. They have been very strongly supportive of our needs for infrastructure and new technology. They've been very strongly supportive of our academic

mission and affiliation with Boston University. And they've been very very supportive of the medical staff.

You've already heard a lot about during the COVID outbreak and how they were instrumental in obtaining the PPEs that were needed by the hospital and the physician practices. They also identified ventilators at their other hospitals that were not being swamped by COVID. Those ventilators were tagged for export to us, if necessary. It wasn't needed but it was certainly nice to know we had backup.

They know us and we know them. I, too, get calls from Dave Topper frequently. Mostly just to check in and see how I'm doing. I actually never knew that Dave and Sam were minority owners. I think I would have been a little bit more anxious if I'd known that was the case.

I think I speak for the rest of us, we're thrilled that they got the opportunity to take over full control of Prospect. Our hospitals are in such a much better position now than we were six years ago, and I am confident that with their continued support, we'll continue to grow and meet the needs of our patients in our community.

I've also gotten to know Dave Topper a little bit outside the hospital. He and I have had some fantastic

hikes together. The very first time we ever went hiking we found ourselves trying to get down Mount Washington in late fall, middle of the night, pouring rain with one headlight. Dave is a very kind person, very generous person. He's got a huge heart. The reason we had one headlight is he had given our other one away earlier in the evening to another group in the mountain. Dave is honest and Dave is true to his word. I actually am proud to call him a friend. I do hope that the Health Services Council sees these two people as the rest of us do and accepts the change in effective control, really to allow us to continue to move forward as we have, and provide the care that we want and need to provide.

I'll leave it at that. I'm just so hopeful that you see these two the way we do, and thank you very much for your time this afternoon.

MS. ROCHA: Thank you, doctor.

Any questions for Dr. Mariorenzi?

(No questions forthcoming)

MS. ROCHA: Next I'd like to ask Dr. Somasunder to share comments. Dr. Somasunder is the Associate Chief of Surgical Oncology and Director of Geriatric Oncology at Roger Williams.

Dr. Somasunder, are you on the call?

(No response)

MS. ROCHA: Dr. Somasunder?

DR. SOMASUNDER: Yeah, thank you for providing me this opportunity to speak today. Do you hear me?

MS. ROCHA: We do, thank you, doctor, yes.

DR. SOMASUNDER: Yeah, I am Dr. Somasunder, I'm the Vice Chairman of Surgery and I'm also the Director of Geriatric Oncology Program which runs here, and I'm also the immediate past president of the medical staff.

I will talk to you first in terms of the geriatric oncology program. What does that entail. It's essentially taking care of the cancer very early. It is -- if you look at it, it's also an underrepresented population in terms of taking care of the cancer very early. We have very few programs across our country which does it, and we are one of the few that actually takes care of it. If you look at the hospitals, essentially looking at two things, which are geriatrics and cancer care, that's what our biggest goal towards taking care of these patients, so we combine both and we are taking care of them. And we do provide patient navigation and taking care of these patients to see to it that they complete their care, whether it be

chemotherapy, radiation, or surgery. Until we complete the care we do not have good results. And they have unique problems, and a lot of the such unique problems are addressed with our program, and that's our goal. And we have been doing it for the past six years with a lot of success in taking care of these patients.

In regards to the taking care of the surgical oncology patients, during COVID response we were one of the few hospitals which actually continued to take care of the surgical oncology patients. We did operate on these patients. Where they are Level II patients, they were not elective cases, we continued to do -- give care to these patients, because only because of the administration's commitment towards taking care of these patients that we did, we were able to take care of these patients.

I think we were bombarded with COVID patients. In spite of that, the administration talked to us like we were able to give adequate care and operate in timely care for these patients, which is we know that is one important aspect of taking care of cancer patients.

Then, in terms of immediate past president of the medical staff, I have an experience where there were some issues with the medical staff. They were asked some questions initially when especially Prospect had

come in, when -- so we had questions about it, and I've spoken to the -- to Mr. Topper, and there was an immediate response. Within two weeks they flew in, and in the quarterly medical staff meeting, they properly and adequately answered all the questions that were there from the medical staff and was well received.

And so this was one of my experience with the -- personal experience with the owners. And I think the hospital is there to stay and we need them for the hospital to do well. Thank you.

MS. ROCHA: Thank you, doctor.

Any questions for Dr. Somasunder?

(No questions forthcoming)

MS. ROCHA: Next is Andrew Beyer. Andrew Beyer started his career as a CNA in the ED and today he's the nursing supervisor.

Andrew, are you on?

MR. BEYER: I am.

MS. ROCHA: Can you share your comments with the Council?

MR. BEYER: Absolutely. Thank you.

So, I'm speaking on behalf of Prospect Medical Holdings and the (inaudible) it's brought to our facility at Roger Williams Medical Center.

I've worked here at Roger Williams for about nine

years. I started as a CNA in the emergency room, as she had said, and quickly learned that I was interested in much more. Long story short, I'm now a supervisor.

Prior to Prospect coming in it was fairly difficult for us to have a sitdown conversation with upper management about patient growth within our facility. I personally was met with hardship on multiple occasions when I was requesting to have conversations with upper management during that time.

Now, since Prospect has come in, there's a new mind frame which was also brought in, which, the term that a lot of management uses here now is the open door policy. And I'd heard that term in the past; however, it's never been implemented as well as it has been with the leadership that was brought in with Prospect coming in. When they say open door policy, they truly mean an open door policy, and they will sit down and talk with anyone.

Thinking back to some of the hardest times that I've had here in my nursing career was during this COVID pandemic. Two of the main points that stick out at me the most for this period was the relief that was allotted to us with helping hands, which was extra nursing staff on the COVID units to help aid with the extensive care that was needed for these critically ill

patients. Without the approval of the system I do not believe that we would have had as many positive outcomes for our patients that we had.

Secondly, the meticulous distribution of the PPE for these patients so that we could have -- for patient care and the staff safety which was implemented. We were able to adequately care for the load -- our patient load with the appropriate PPE during the entire COVID pandemic.

The leadership which has been crafted by this company has implemented up to date standards of care to increase our patient safety, our patient satisfaction, our patient outcomes, as well as increased the ability of our employees to better care for our customers and patients.

I've seen this facility go through numerous changes in leadership in my time at Roger Williams; however, I have not seen a more dedicated, caring, capable, driven group of leaders which has been groomed by this company, and I am honestly very thankful, and as are most of my peers for this.

That's all I have. Thank you.

MS. ROCHA: Thanks. Any questions for Andrew Beyer?

(No questions forthcoming)

MS. ROCHA: And last but certainly not least, Jeff Liebman, the CEO of CharterCARE whom you all know. Jeff in his tenure has been involved with several healthcare systems. But, Jeff, I'm going to ask you, since you've taken over as CEO, can you share with the council your relationship with the folks at Prospect under the leadership of Sam Lee and David Topper, the impact on the hospitals, your experience during COVID, and the future of the hospitals and the surgicenter and the home nursing care provider under Sam Lee and David Topper's leadership.

MR. LIEBMAN: Right, so thanks, Pat.

So, first it's good to be back again. It was several months ago the last time I was with the council members, just before COVID sort of put everything on the rocks here.

So I've been here about two years now, and as many of you know I've worked in multiple systems in New England. [audio difficulties] Beth Israel, Lahey system. And I will tell you that I get much better support from Sam Lee and David Topper than I did in those systems, and I was running some fairly good-sized operations for them. They have truly showed a personal and professional interest here that I've not seen before in many many larger hospital systems and

entities.

You know, my personal involvement is basically that I never have to ask twice. When I need something and I pick up the phone or I make a phone call, that happens very, very quickly. And in addition to that, they truly believe in what I call the focus on the community through their shared governance model. We have a shared governance model at the board level. We have advisory boards at both hospitals. We have lots of physician input. And their dedication to being here that you've heard today, and knowing everyone on a personal basis, has really been outstanding.

So let me give you three specific examples that I think a few point to that and verifies what I just said.

The first as everyone has talked about is in the COVID response. So as Dr. Stoukides mentioned, we took care of a lot more patients on a percentage basis than our size would indicate when it came to COVID patients. We are closely approaching our four hundredth patient, COVID positive, that we took care of within the hospital, with outstanding results between the two institutions. I believe that's because we never doubted for a moment whether or not we would have enough supplies. We were never asked during that time

what's this gonna cost, how are things going to be taken care of financially. Whenever we had a need, whether it be for face masks or PPE or ventilators, it arrived almost the next day. We got daily reports of how we were doing in terms of supply chain management, bringing materials and supplies here for our patients, and the national effort to establish good clinical standards was outstanding as you've heard from many of the doctors. Some of those committees continue to serve and continue to go forward.

The second was facility/management support. You know, we have spent well over a hundred million dollars here since Prospect has saved CharterCARE. And I do mean saved. You know, when I was raising my children on Orchard Avenue, it was back a ways but I would hear all the time how Our Lady of Fatima was losing double digits with millions of dollars. How Roger Williams was barely breaking even. We don't see those things today. Today we are a much stronger, more secure financial situation because of a lot of the support and expertise that we got. So in terms of spending over a hundred million dollars here, when you look at the facility and management support, we couldn't do that without a national system supported by Sam Lee and David Topper sending us expertise when we need it.

We've taken on some very, very large projects, and the only reason we completed those successfully was because at the very top, people supported us and made sure we got all the things we needed as quickly as possible.

And then finally, financial support. I don't worry if there's a crisis or an urgent situation, that I'm not going to have enough resources to deal with it. We deal with it now, and then we worry about cost later. We've always put the patients, the doctors, the employees and the medical staff first. And that's one of the reasons our results have gone on so well. You know, Roger Williams many years ago before CharterCARE -- before Prospect was involved, was what we call a One Star hospital, is today a Three Star hospital, and we think by the end of the year it will be a Four Star hospital.

I also have to chuckle a little bit about the whole question here. I've never met anyone from Leonard Green. No one from Leonard Green has ever expressed any interest here. This has not been at any -- in any means or any way any involvement with Leonard Green at these institutions. So it will have no impact on a going forward basis on patient care, community support, quality. The existing leadership that we're talking about -- Sam Lee and David Topper --

are the ones who have put their heart and soul into converting these into first class organizations. And I look forward to working with both of them. You know, it's been a pleasure and I've been very, very lucky having their support.

And with that I'll turn it back to you, Pat.

MS. ROCHA: Thanks, Jeff.

Any questions for Jeff?

(No questions forthcoming)

MS. ROCHA: Okay, let's turn to slide 19, please.

I'm going to briefly highlight some letters of support but I want to go back to a comment by Mr. Barry at the beginning of the meeting.

All public comments, pro and con, have been provided to the applicant. It's my understanding they've been provided to all the Health Service Council members. It's in the link that went out with the notice of this meeting. And as much as I enjoy mushrooms with my dinner, we are not living in a dark mushroom world. This is an open, transparent process, as it should be.

Now, I do want to highlight a few of the letters of support. I'm not gonna go through these word for word. But we all know Dr. Ghazal, the CEO at the Rhode

Island Free Clinic and the important role the Free Clinic plays in the Rhode Island health care community. Dr. Ghazal said as they opened their new dental clinic in 2018, they collaborated with Dr. Samartano and other members of CharterCARE's medical and dental staff. They continue to add to this relationship with more interested physicians and medical services. As the neighbor for many years, CharterCARE has assisted the clinic with allowing usage of their property for parking for patients and staff. The Rhode Island Free Clinic supports the application of Prospect Medical Holdings and recommends that the application be approved.

Jo-Ann Ryan, the Majority Leader of the Providence City Council, she wrote in strong support of the application. And she said CharterCARE's leadership has been a responsive corporate citizen and a neighbor in our area and has not hesitated to partner with us on a number of initiatives or projects to better our community and city. All of these positive improvements came at the direction of the CharterCARE's management team.

On page 20.

As many of you know Akshay Talwar, the CEO and Administrator at Briarcliffe Manor. He tells us that

Briarcliffe has had a long and positive relationship with Roger Williams Medical Center and Fatima Hospital from back in the sixties. Relationship has grown stronger since CharterCARE rescued the two hospitals approximately five years ago. He's hoping for many more years of this warm and friendly cooperation and urges the council to approve the application.

Jim Cooney, the President and CEO of PriMedia, Inc. CharterCARE has always gone out of their way to support initiatives like the Senior Expo, Latino Business Expo, and others.

Chris Thomas, the Vice President and Treasurer of Drapery House. "CharterCARE staff are exceptional in their community role with the public and businesses like ours. We're grateful for outstanding companies like CharterCARE that make a difference."

Armand Toscano, the President of Communications systems. "We also appreciate the opportunity to support a health system that counts on local talent and expertise to meet their operational needs."

Page 20. I'm sorry, 21.

Dr. Gregory Allen. Dr. Allen's the President of the Roger Williams Medical Staff Association. And he tells us that as a community-based internal medicine physician, he's been particularly pleased with the

company's commitment to strengthen the role of primary care physicians in the network and to help retain and recruit PCPs, specialty physicians and surgeons to Rhode Island in the system, not an easy task. Prospect has also been committed to the valuable teaching program at Roger Williams. He tells us recently he's been most pleased and proud of the collective response to the COVID pandemic these last few months. Roger Williams and CharterCARE treated an overwhelming number of Coronavirus patients with unmatched outcomes. Prospect provided exceptional support and resources during this time that allowed our clinicians, nurses and support staff to do the job safely and effectively. And he concludes that while it's a smaller hospital, we don't typically get the acknowledgments of other area systems. He can assure you that the effort and dedication up and down the organization, from Sam Lee and David Topper down, was nothing short of extraordinary.

Page 22.

Joe DeSantis, the President and CEO of Tri-County Community Action Agency which serves close to 20,000 low to moderate income families, disabled adults, seniors, children and youth. He tells us that Roger Williams and Fatima serve as our preferred referral

sites for hospital-based care, including emergency services, behavioral health and addiction, and a range of other acute and outpatient specialty programs. He concludes that, "it's apparent to us that Prospect Medical has supported CharterCARE in its effort to continue to provide quality services and outreach to community organization like ours, and thus help meet the needs of less fortunate citizens in our state."

Okay, page 23.

My famous green checkmark. I'm gonna end where I began.

We look forward to asking you to approve the CEC applications. All the CEC criteria have been met. And you know me, I'm an advocate, I hope I'm a good advocate for my clients. But here, this isn't even a close case. This is hands down. You heard from each of the speakers who deal with the Prospect management team and executive. And these applications meet each and every one of the criteria.

So let's take a look on page 24.

And you're all familiar with the criteria. In fact I think it was handed out to you at the beginning of the meeting. Character, Commitment, Competence and Standing in the Community.

Speaker after speaker affirm Prospect's character,

commitment, competence and standing in the community to allow the hospitals, the Surgicenter, and the home health agency to provide quality, cost-effective, needed services to patients in need.

You know that Roger Williams and St. Joe's serve as safety net hospitals and are committed to serving the Rhode Island community. All of the licensed entities provide needed quality and affordable services to Rhode Islanders, including the underserved populations.

Prospect, under the leadership of Sam Lee and David Topper, will continue to make investments in Rhode Island. You've heard about them, including the renovated ED at Roger Williams, the addition of Spanish speaking primary care physicians, and the licensed entities have a strong licensure track record of providing high quality services to their patients.

Slide 25.

Speaker after speaker has affirmed that the licensed entities will continue to provide safe and adequate treatment. You know they provide a wide array of services, ranging from emergency department services, inpatient and outpatient services, surgical procedures, pain management, physical therapy and palliative care. The entities will not terminate or

reduce any of those services as a result of this transaction. They'll maintain their current facility-wide quality assurance -- assessment and assurance program that's part of the application. They will continue to ensure that residents of Rhode Island receive exceptional quality care at the right time in the right setting with the utmost compassion and efficiency.

Page 26. Financing and Financial Viability. This table is in your application at Appendix E. The transaction will be funded entirely by cash. No monies are coming from the Rhode Island entities, and the transaction will not impact their capital and operating needs.

Page 27, Access to Underserved Populations. You know that historically CharterCARE has for decades provided significant levels of care to the underserved, indigent, low income patients in Rhode Island. Those efforts have expanded under the joint venture with Prospect and they will continue in the future.

You've heard about Prospect's significant investment of funds since the joint venture to expand the primary care base, including in underserved areas of Rhode Island to recruit Spanish speaking primary care providers to assist with care to underserved

areas. The entities participate in Medicare and Medicaid and have robust charity care policy.

Also attached to tab 18 of the application.

Slide 28, please.

So I am going to end where I began. The applicants meet all four CEC criteria, as evidenced by their provision of high quality, cost-effective services to Rhode Island patients, including the traditionally underserved population, which will only continue under the leadership of Sam Lee and David Topper. And it's been proven since it acquired CharterCARE in 2014.

We are asking that you recommend approval of the hospital, freestanding ambulatory surgery center, and home nursing care Change in Effective Control application.

That concludes our preparation and we are happy to answer any questions you may have.

CHAIRMAN MANCINI: Thank you very much, Pat. And before we move to public commentary are there any questions from the members of the Council?

(No questions forthcoming)

CHAIRMAN MANCINI: Okay. Fernanda, do you have a list of who is speaking on the opposite side?

MS. LOPES: Yes, thank you. Public comments

are important -- an important part of this process, and again, I as mentioned before there is a live link if anyone wants to sign up. You may still do so.

The first person to speak today is Miriam Weizenbaum.

Is Miriam available, please?

MS. WEIZENBAUM: Yes, thank you. Hi, good afternoon. I know it's been a -- you've heard a lot today so I appreciate your patience.

My name's Miriam Weizenbaum and I am the relatively new incoming chief of the Civil Division at the Office of Attorney General. I will be speaking as a representative of one of the offices that is performing a regulatory function with respect to the same changes for which approval is being sought before this council. So I'd like to thank the vice chair and council members and staff for giving me this opportunity and I'm just going to speak briefly.

So in my capacity as representative of the Office of Attorney General, I am making the strong recommendation that the Health Services Council not rush this deliberative process and take all the time necessary to permit a full investigation into this matter, knowing that several questions have been raised. Certainly no one wants an unconsidered

decision. You know, doctors and nurses are on the ground doing important work, and it's our job, our collective job to protect that work. That means we have to look very closely at the integrity of this corporate change.

The oversight of my office is similar to the oversight of the obligation of the Health Services Council. So the Health Services Council is to consult and advise the Department of Health regarding healthcare facility licensing reviews, and for our office, similarly, it's to assure the viability of a safe, accessible, and affordable health care system that's available to all citizens of -- excuse me, all citizens of this state.

Our office, along with the Department of Health moved the deadline for the parallel -- in many ways the parallel process that we are involved in. As I said, reviewing the same transaction that's before this body in the Change in Effective Control application. And we made the decision that we needed to move the deadline for a number of reasons, and I just want to quickly list them.

First of all, we're looking at the integrity of the hospital systems that look -- even under the Change in Effective Control, continue to hold these important

hospitals and noting the important functions they serve. So in that regard, we really, again, need to look closely at these entities. The COVID-19 pandemic has drastically changed the landscape of health care across the nation and certainly in Rhode Island, and we -- we need to, and I would urge the council likewise, needs to take the time to look at the impact of that massive change on the health care landscape in the entity that would, even under this Change of Effective Control, continue to hold these important hospitals.

Another reason we recommended that -- another reason we changed the deadline for the conversion application is because there are -- there are documents still coming in related to a significant transaction that they -- a sale leaseback transaction that the broader national corporate entity engaged in. And we -- we recognized that we need additional information in order to fully understand that transaction and its impact here in Rhode Island.

The -- again, these are some of the factors that we feel are important and give a reason to -- for this process to be as deliberative as possible.

Another factor is the questions that remain -- without having decided one way or another, but simply

as a regulator, the questions that remain about the purchase price for the proposed transaction. Especially in light of dividends that have been distributed in recent years.

So those are just some of the reasons that gave us pause, said to us that we needed to change those deadlines. And needed to do so in order to fulfill our statutory obligations. And so it's for that reason that, again, on behalf of the office of Attorney General, we urge the council to be very deliberative in this process and to take all of the time necessary to do a complete review of the implications of this decision.

I think those are all the comments I have, and again I want to thank the council for taking these comments at the end of a long afternoon.

CHAIRMAN MANCINI: Thank you, Ms. Weizenbaum. Fernanda?

MS. LOPES: The next person that signed up to speak is Max Wistow.

MR. WISTOW: Can you hear me now?

CHAIRMAN MANCINI: Yes, we can.

MR. WISTOW: Thank you.

So, let me say that everybody's expecting me to attack all of those wonderful people who spoke before,

I'm not going to do that. I believe that virtually everybody that spoke, the witnesses, were totally sincere and believed everything they said. And I accept that. What they succeeded in doing is proving conclusively, in my mind, how important these two hospitals are to the state of Rhode Island. And how important it is to protect them. I don't want to put words into Ms. Weizenbaum's mouth, but one of the things she's looking at is some of the financial transactions behind the scenes that these physicians, these surgeons, these nurses don't know anything about at this point.

Now, Ms. Rocha flat out said that I represent only the pensioners who have stewed numerous people because of the failed pension. That is categorically not correct. I am authorized and do speak for Thomas Hemmendinger, who nobody has probably heard of here, who happens to own, because he's the Receiver of CharterCARE Community Board and the two old hospital corporations. In the United States, of the various hospitals that are owned by the Prospect chain, the only two hospitals in the United States that have owners outside of the Leonard Green and Topper and Lee, the only two hospitals, are Roger Williams and Our Lady of Fatima. And that entity, and I'll explain how it

happens, the CharterCARE Community Board owns at least 15 percent of these two hospitals. That's what in the chart that was submitted to you by Ms. Rocha shows the 15 percent ownership. I'll bet you nobody noticed that. We contend that we own more like 30 percent of the ownership of those two hospitals. When I say "we," CharterCARE Community Board.

Now, let me just go back up just a little bit. We absolutely -- my clients, the pensioners, Mr. Hemmendinger, we all absolutely support these two hospitals. We want to see them flourish. That's why we're here today.

Now, let me tell you that -- how we got to own these hospitals.

They're held in trust for the pensioners. I'll bet you that's the first time anybody on the council has heard anything about this. What happened was in 2014, Prospect came in and bought the two hospitals through an entity that at that time owned CharterCARE Health Partners, now known as CharterCARE Community Board.

A lot of people want to believe that Prospect came as a white knight and saved the hospital -- two hospitals that were potentially going to go out of business. Which admittedly would have been very bad

for this state. However, there was a company called Prime. Many of you might remember that Attorney Flanders, former Justice Flanders in the Supreme Court, represented Prime and tried to get authority to buy the hospitals to put them in the Prime system and was offering more money for the hospitals, at that time in 2014, and more money for the pensioners. The old hospitals came back -- and their officers went on to work for Prospect with contracts. They came back and said no, we've already signed binding commitments with Prospect. This was before they got approval from the council, the AG, or anybody to do the deal, they refused to do anything with Prime.

You may be surprised to know that Prime is now offering more money for the shares that belong to Leonard Green than is Topper and Dr. Lee. More money. And you know what they've been told? Prime? The exact same thing. Sorry, we have a binding agreement with Leonard Green and we're going forward with it, and Leonard Green has a binding agreement and is not willing to take more money.

Something is going on. Something went on in 2014, something is going on now.

Let me tell you what the transaction was in 2014. Because that's how we end up where we are today.

In 2014, Prospect came in and said we would give you, for at least two hospitals, $31 million in cash to pay off bonds that were issued for those two hospitals. We'll also give you $14 million to put in to the pension fund. And they made a to-do about how that $14 million would get the pension fund funded to 92.5 percent, and would assure the retirement security of many of the retirees. That turned out to be absolute baloney. And they are defendants, Prospect's a defendant in the federal lawsuit that is pending now.

Now, other defendants in that lawsuit were CharterCARE Community Board, which owned the 15, to what we say is more like 30 percent -- the actuaries, Angel and the bishop. Because originally this was supposed to be a church plan.

In addition to the $31 million in cash to pay off the bonds, the 14 million to go in the pension fund, there was going to be a $50 million long-term capital contribution. There was a commitment made to do that. And in addition, there were ten million dollar per year promises to put into these hospitals for routine capital expenditures. We have been fighting for two years to find out if they really put the money in. Instead of coming back and showing what they've done -- and I'm talking about Prospect, about fulfilling this

commitment -- they have danced all over the place.

The attorney general in 2014 hired a monitoring service to go in and monitor, among other things, whether or not the capital commitments were made. Those $50 million commitments should have been finished by 2018. It is now 2020. And on July 3, 2020, the Attorney General turned over to me the monitoring report that it received. And the monitor who's supposed to be checking all this and has been checking all this has reported they are unable to say that these requisite capital contributions have been made. They flat out say they can't say it, and they're now two years past the time the money should have gone in.

So I've heard a lot about how available cash is, they bought a mannequin for $148,000 -- and I'm happy they did that. But all they talk about is a $15 million emergency room that they put into Roger Williams Hospital. Five congressmen have written to them about the dividends. I imagine none of you have seen these letters from the congressmen. That's part of the record. The five congressmen, including Congressman Cicilline, are from districts where Prospect had hospitals. Including Texas where they just sold out a huge operation there to a hotel developer. A safety net hospital.

By the way, at the end of this presentation, I am not going to ask you to turn down the application. I'm going to ask you please, please, please do not just accept representations made by anybody, including Pat Rocha, who I know you have a high regard for. Get to the bottom of this. And don't do as Pat suggested in her letter to you, which was let somebody else look into this.

Let me tell you what happened.

Three years after the transaction closed in June of 2014, this pension, which was supposed to be assured the 92.5 percent funding by the $14 million, was petitioned into receivership in the superior court in August of 2017. I was appointed to investigate. The superior court appointed my office, Steve Sheehan, Benjamin Ledsham in my office, to investigate what went wrong with the pension plan. We ended up suing the old hospitals, CharterCARE Community Board, and the two old hospitals whose assets have been transferred to Prospect. We sued Prospect for fraud. We sued the bishop, as I said, and we sued the actuaries, for misrepresenting, in front of this board and others, the status of the pension fund. The old hospitals, including CharterCARE Community Board, which is now an undisputed owner of a portion of these two hospitals,

either 15 percent or 30 percent, or perhaps more for reasons I'll get into in a moment, settled with us after a long period of time, and that settlement was approved by the superior court in Rhode Island, and then it went to federal court, and it was approved after a lot of fighting. I mean a lot of fighting. By the federal court. And I am now -- and Steve Sheehan and Benjamin Ledsham, we are all representative of the class of about 2,700 pensioners who are desperately wanting these hospitals to survive for obvious reasons.

And by the way, those pensioners, as part of the settlement, now own whatever that percentage is of the hospital. And they want it to survive.

And the reason they own it is because part of the settlement was a assignment of those interests to Stephen DelSesto who's the Receiver of the pension fund.

The Receiver -- strike that, let me start over.

The old hospitals, as part of the settlement, went into a what's called liquidating receivership. That's Tom Hemmendinger. He now runs those three hospitals. He now holds that 15 to 30 percent of the two hospitals and has expressly authorized me to speak on his behalf. Because he is holding that in trust, really for my clients and for the Receiver. So we want the hospital

to succeed.

Let me say -- and I -- I don't mean to drag on your patience, but you allowed the presentation for about two hours. I'm not gonna speak for two hours, I know the hour is getting late, and I know I'm talking about a lot of things that may seem strange to you people, and I'm gonna do my best to make it understandable.

Now, one of the reasons you should not automatically rely on counsel, Ms. Rocha, or Adler Pollock & Sheehan is because in this very case, Ms. Rocha represented the old entities in achieving a Cy Pres petition in the superior court, where about $8.2 million of the old company's assets were being transferred to a new entity called the CharterCARE Foundation. I think you all know, these were non-profit hospitals, they had charitable assets. When they ceased doing business, something has to happen to that about $8.2 million.

Judge Stern, who is the judge who's sitting on the receivership, approved the transfer of $8.2 million to the Foundation. Took it away by agreement from the old entities. And he was presented with hundreds and hundreds of pages of documents, and he relied on the representations of Ms. Rocha, among other things. When

we brought suit, we actually alleged that Judge Stern had been misled, and it was inappropriate to transfer over that 8 point million dollars, and he had -- he had been absolutely misled.

That case ended up settling, that portion. That 8.2 million that was transferred settled for more than half of the transfer. $4.5 million. And we went to Judge Stern to get approval of that, and the fear was he had been misled, and he approved that settlement. We went over to the federal court and they approved it.

I bring that up now because you're in a position where you know Ms. Rocha very, very well. And she has, I'm sure, a high level of credibility with you. You don't know me from Adam. And maybe what you heard about me maybe helps destroy my credibility, I don't know. But it's important that you not simply rely on representations.

There was a slide put up that showed many, many, many millions of dollars put into these two hospitals. Way beyond the 15 million. Where did that come from? Where is that information substantiated? It's a naked representation by Ms. Rocha. And if they could prove that, we would not be litigating in another case that I'm going to tell you about in a moment, what, if anything, was put in by these hospitals.

By the way, when a congressman wrote and said what about these hundreds of millions of dollars of dividends, which I'll get to in a minute, which I'll betcha very few people, if anybody, on the Council knows even what I'm talking about, with the hundreds of millions of dollars of dividends. When a congressman wrote complaining that hundreds of millions of dollars was taken out of safety net hospitals, the response to them was, wait a minute, we put money into these places too. Do you know what they referred to? The $15.1 million emergency room. That's the only thing they referred to. And those documents are part of your record. I submitted them. I'm sure nobody has seen them yet because of the short notice that we've had to prepare for this.

Now, the other settlement that we made for -- where we got the 15 percent and where we got an agreement, there was a payment of substantially all the assets of the old hospitals that they did have. That amounted to about 14 point -- excuse me, $12.5 million. So that plus the 4.5 is we settled partially that case for $17 million. Even more than the 14 million that had been paid before that was supposed to make this pension secure. Well, let me tell you, even with the additional $17 million, it's nowhere close to being

secure. Nowhere close.

So what happened.

If you look at the papers, you'll see that Leonard Green and, and, Dr. Lee and Mr. Topper all took out hundreds of millions of dollars from the Prospect Medical hospitals. Hundreds of millions of dollars of dividends. That means it went into their pockets. How did they do that? They borrowed over a billion dollars, and took more than half of it and paid themselves dividends. Guess who got saddled with the obligation to pay the billion dollars. The hospitals.

In addition, to get rid of that obligation, because Moody's rating service was giving them a bad time, they entered into a sale leaseback with a company called Medical -- Medical Trust. A sale leaseback is they sold a bunch of the hospitals for over a billion dollars and entered into lease agreements, which is another financing transaction. So they got rid of the straight out debt and now owed lease payments to the Medical Trust that advanced like $1.3 billion.

Now, the problem with that is the Rhode Island hospitals, the Rhode Island hospitals on their own financial statements, the consolidated finance statements of the two Rhode Island hospitals, show that the two Rhode Island hospitals are pledgers. Pledgers

on all of the payments. So if a California -- the way these financial statements read, if a California hospital doesn't make the payment to the Medical Trust, their landlord -- and I put landlords in quote, this was just a financing transaction -- guess who's on the hook. The Rhode Island hospitals. And that's why I'm saying I don't want to hurt the Rhode Island hospitals, I want to make sure that they stay in business.

Now, think about what we're talking. This is supposed to be 20 odd hospitals they claim. It's less. They lost some. Whatever the number of hospitals is. What is being proposed -- and think about this. You don't have to be the corporate lawyers or CPAs, all you have to have is common sense. Sixty-one percent -- it's not 60 percent, though, like Ms. Rocha -- 61 percent of all these hospitals through these complex channels and chains, 61 percent of the hospitals belong right now to Leonard Green.

What is Leonard Green going to get for 61 percent of all these hospitals. Twelve million dollars. That would mean, if you extrapolated what is $12 million 61 percent of, it would be less than $20 million grand total for all of these hospitals. Something wicked is going on.

There are references to the documents which I'm

sure nobody has looked at.

They talk about options that have to be paid off. They don't talk about who has to pay off the options, they don't talk about how much the options have to be. They don't say who's gonna get the option benefits.

This thing is a complete mystery. And one of the things that we put in in our objection in April was these very facts that I'm talking about now. That nobody can possibly understand what this transaction is based on the papers that have been submitted. And, I'm gonna get to what the Attorney General has said, in writing. It says exactly what I'm saying. They don't understand what's going on.

Now, Ms. Rocha in her letter to you of July 17 tells you, first she says I know you all know what the criteria are for a Change in Effective Control, but I'm gonna tell you anyway. And she lists it. I don't know how many of you yet have looked at her letter of July 17. This is last Friday. Her letter misrepresents what's in the Change in Effective Control. She leaves out the most important thing for you to know. And I'm gonna tell you what that is right now. And it's got nothing to do -- I shouldn't say got nothing to do. It's something you're charged with, and it cannot be palmed off to the Attorney General and the

Department of Health in the HCA application.

And what does she leave out? She leaves out a lot of things. And I refer you to your own regulations that are posted on the Secretary of State's, the regulations that guide what they're supposed to be doing. And that includes, among other things, quote, the applicant's proposed and demonstrated financial commitment to the health care facilities.

Now, we've had a lot of generalizations by a lot of people saying when they want money, these people have been great. And I know those people who said that believe that. But Topper and Dr. Lee -- somebody used the word that they're shrewd businessmen. They are shrewd businessmen and they've kept everybody very, very happy while they've walked off, literally, with hundreds of millions of dollars.

Now, the burden of proof to show that they've complied with the CECA, according to your own regs, the burden of proof is on them. The burden of proof is not on me. That's in the regs, I represent that, check it out. I see -- I can see Ms. Rocha is making notes to see if she can find out if I'm wrong. That's in your regs. The burden of proof is on them, not on me. Burden of proof for you non-lawyers means that the party who has the burden has to come forward with the

evidence. They have not done that. Except in generalities and representations now on the slides that Ms. Rocha made. And I'm going to talk a little more about her representations.

MS. KELLY: Excuse me, Attorney Wistow, just for the record, I just want everybody to know that all information that is submitted to the Health Services Council is provided to the members. We will after this verify that all the submissions in this application were provided, because I know you -- that you had questioned that, so we'll verify that. But it is the usual practice of the Department of Health to forward those all on to the members.

MR. WISTOW: I'm sorry, did you say I questioned it?

MS. KELLY: Well, you had asked if people had had it or not, had --

MR. WISTOW: No, no, no, I don't question that. What I'm saying is, there's such voluminous material --

MS. KELLY: That's true.

MR. WISTOW: -- which was submitted, there's literally -- one of the submissions we made was -- I want to say it's like seven or eight hundred pages. I'm sure nobody has read it. That's what I mean. I'm

not saying that anybody's taking it and throwing it in the garbage. I'm saying that -- and I'll talk about experiences I have with other state agencies and their reliance on counsel, and why it's not such a good idea in a minute. I'm asking you to please look at everything. We are talking about the future of two very important hospitals in this state.

MS. KELLY: No, I agree, and you're right, everything should be examined.

MR. WISTOW: Right, okay.

Now, the letter from the AG and the Department of Health, that's what was anomalous about this. That letter that we're talking about that Miriam Weizenbaum talked about is dated July 14. I suspect that very few of the members of the Council have had the opportunity. I'm not suggesting that you're all lazy or anything, I know you're all busy and you're volunteers and you've got other things to do, but there's a letter dated July 14 from -- not from the Attorney General, from the Attorney General and from the Department of Health, on a letterhead with the seals of both, and which is signed not just by the attorney general's office, but also by Fernanda Lopes, signing that letter. And that's the letter that says why they're extending the deadlines for them to review to November 5. And why my

opportunity and other people's opportunity to comment on this complex mess is extended till October.

And what does the letter say? Ms. Rocha represented that it was because of the Coronavirus that this was being extended. In other words people just don't have the opportunity to get together. That is not what the letter says at all. It talks about the Coronavirus, and as Ms. Weizenbaum stated a few minutes ago, she was interested in what did the Coronavirus do to the financial situation in these hospitals, not that they couldn't do it because of the limitations.

But let me read you an important part of the letter, which was signed by Fernanda Lopes also. And one of the things they want to extend it for is the implications of the MPT transaction. That's the Medical Property's Trust, where I talked about the sale leaseback, including the TRS note. That's meaningless to you also. But that's in their documents. It's in their financial statements. Including the TRS notes, the implications on the Rhode Island hospitals still remains unknown and must be resolved prior to any decision by the reviewing authorities.

Then they say -- I'm quoting from Ms. Lopes and from the attorney general's office: Overall, questions still remain about the purchase price for the proposed

transaction and payment of dividends in recent years, hundreds of millions of dollars of dividends, and now buying out 61 percent of 17 hospitals at a price that reflects a grand total valuation of less than $20 million. The reviewing authorities anticipate the need to pose additional supplemental questions and conduct multiple interviews of senior management and key individuals to address these questions.

Now, do you know why this happened? I'll tell you why this happened. This happened because all of a sudden people have been pushing and trying to find out about this transaction. And it's going to be a big deal. It's not a big deal yet in Rhode Island, for reasons I don't understand, why it hasn't had a big splash. But I will represent to you that I have been called by PBS Frontline who wants to do a story, guess what, about Prospect Medical Holdings. And that can be confirmed by Arlene Violet, who also got a call from Frontline.

Not only is Frontline involved in this, I got a call from The Financial Times. That's the big London newspaper. They have a New York office, they weren't calling me from London. They want to know about Preston -- and by the way, the guy I spoke to in the New York had a wonderful British accent. But he wants

to know what's going on with all these dividends.

Not only that, NBC -- Frontline is PBS. NBC has been involved. The Wall Street Journal has published two articles, which I'll bet you nobody on the council has seen. I have submitted those, those are part of the record now. The Wall Street Journal is on this. Everybody is looking at this thing. And let's be sure, number one, that we don't lose these hospitals, and number two, don't end up a laughing stock of the country.

Bear with me just one moment.

(Brief pause)

MR. WISTOW: I have been bugging the attorney general's office for months, and I say that because I've got e-mails and letters, to get the report from the monitor that was hired, even before the closing in 2014, to check to make sure that Prospect Medical adhered to all of the conditions that were imposed by the attorney general's office and the department of health. Conditions. You know when I got that report? As I said before, July 3rd. Of this year. Two years after, when the $50 million in long-term capital contributions should have been completed, which would have been June of 2018, and two years after the ten million dollars in (inaudible) capital contributions.

Now, I'm going to tell you what the report says.

Oh, before I get to that report, what I want to address, I want to tell you what Prospect financials said. Prospect's financials were not given to you. You don't have them. Even though one of the criteria that Ms. Rocha didn't tell you about under the CECA was their financial ability to perform now and in the future. You don't have the financials.

Let me tell you what they say. The AG has them, I have them.

The 2019 financials were submitted to the AG. It's on his website, and it's tab number 16. You never got it. It -- I'll read you what their financials say. Prospect CharterCARE LLC's financials.

Prospect CharterCARE is the two Rhode Island hospitals. That's all. Just those two Rhode Island hospitals. What does it say? It says the Prospect CharterCARE is contingently libel as a guarantor, among others, for amounts borrowed by Prospect Medical Holdings on senior secured notes through August 23, 2019, credit facilities in September 30, 2019, and 2018 additional -- additionally -- now listen to this, please. As of September 30, 2019, nine months ago, the company, that's Prospect CharterCARE, LLC, not the whole big caboose, just the two hospitals in Rhode

Island -- the company is a pledger, a pledger for all of the transactions that PMH has entered into with the affiliates of Medical Properties Trust, Inc. (MPT) a publicly traded real estate investment trust, on August 23, 2019. They pledged the credit of all two local hospitals. That's how wonderful Mr. Topper and how wonderful Dr. Lee.

Then it goes on to say -- and this is their financial statements. These are audited certified financial statements submitted to the regulators of this state, but not to you. And I'll read and I'll quote -- and by the way, if you want to look at those financials, the first quote was from page 22. The next quote's on page 24. So you can check that, Ms. Rocha.

Quote. Additionally, Prospect Medical Holdings -- that's the big group -- entered into a promissory note, the, quote, TRS note, under which Medical Property Trust has advanced to PMH $112 million -- $112,937,000. That's in addition to what we were talking about. And it says related to the value of the properties in Rhode Island. $112,900,000 related to the value of the properties in Rhode Island.

Then it goes on and explains what the interest is on the notes, and it says the maturity date of this note is, guess what. The earlier of July 2022, two

years from now, or the conversion to and sale leaseback of the properties in Rhode Island.

The balance under this mortgage was $112,215,000 that September 30, 2019. And get this, ladies and gentlemen. As reflected in PMH, Prospect Medical Holdings consolidated financial statements, all of the agreements with MPT -- Medical Properties Trust -- all of them are, quote, cross collateralized and cross defaulted.

For you non-lawyers, but you -- there's a bunch of businessmen and you know what that means. It means if there's a default on any of these sale leaseback deals, everybody's in trouble.

Now, one of the reasons that we haven't been able to give you the kind of background that we really want to give you, and we want more time to do it, is we just got the monitoring report from the attorney general's office on July 3. That monitoring report, by the way, is dated as of March 20th, I believe, of 2020. However, interestingly enough, within the document, when you look at it, you'll see it contains data that was generated in late May of 2020. So the document had changes made to it by the monitor. I'm not suggesting anything felonious, but it's a very, very current monitor report.

Now, let me read you something from the monitor report about the service that's being given to people of Rhode Island. I heard a lot of wonderful things. The monitor was specifically charged with the following:

To determine whether, quote, Prospect will continue to provide care through sponsorship and support of community-based health programs, including cooperation with local organizations that sponsor health care initiatives to address, identify community needs and improve the health status of the elderly, poor and at-risk populations in the community.

The material was requested of Prospect Medical Holdings by the monitor. However it was the monitor's response, in writing, was she cannot certify that this has been accomplished. There's insufficient information.

Again, we have nice people coming forward and talking in generalities.

The next question -- and by the way, there's a whole series of questions that the monitor said we don't have enough information on. The most important being, by the way, the $50 million in capital contributions. You would think that Prospect, knowing they would come before you, and knowing that we would

be checking them, would give all of the material to the monitor. They didn't.

The next question that they were supposed to -- the monitors: Has Prospect CharterCARE adopted the existing hospital's charity care guidelines. Existing hospital means in that context the old hospitals. Because this was what was supposed to be monitored from 2014 on.

Has Prospect CharterCARE adopted existing hospital's charity care guidelines and continued to provide all medical necessary services to patients regardless of their ability to pay. Answer: Cannot say. Not enough information.

So, some of these doctors, I'm sure they think that everything is going all right. I don't think they'd come before you and make it up. But they don't know what happens in the admitting areas. They don't know what people are chased away. They don't know any of this. And that was the monitor's job to find out, and she can't say -- I say she, it's a big organization -- how about this, how about this.

One of the things that was a big condition back in 2014 that had to be monitored was has Prospect CharterCARE maintained a ratio of full-time equivalent employees to average occupied bed that is consistent

with accepted industry practices. In other words are they adequately staffed. Give us the data. You know what Prospect did? Didn't give them enough stuff. They said -- now, I'm talking about now. They reported they can't say if that's been satisfied or not.

So, yeah, you bring a lot of people in that said I love working there, I this, I that. By the way Chris Colacci(phonetic), who I think put an objection in, he could get up and talk about what nurses say their experience has been. But we don't need to muddle this all.

Now, I want to say something that I think may be controversial but I'm going to say it anyway. I have an obligation to my clients. I've got 2,800 people and their families who are very concerned about this, and I'm going to be a little bit aggressive.

This reminds me very much of the 38 Studios case, where Adler Pollock & Sheehan was general counsel to the EDC, the Economic Development Corporation, which later became -- had to change its name out of shame to Commerce Corp. And there were general meetings and the like, and people expressed general reluctance, some people came in and opposed this, other people came in and advocated for it. Adler Pollock was general counsel and the secretary of the board of the EDC.

They went out, they did due diligence. The money was lent to Curt Schilling's outfit, 38 Studios, because of the jobs, the thousands of jobs it would generate, the millions of dollars it would generate.

I represented Commerce Corp in that case. I sued Adler Pollock & Sheehan because it became absolutely clear that they had discovered negative information, really really really important negative information that they withheld from the Commerce board.

Now that board is made up of volunteers and businessmen and the like, and they rely on representations made to them. Again, you've got hundreds and thousands of pages.

And by the way, I'm not suggesting Adler Pollock was the only wrongdoer in that case, there were other people sued. But I can tell you and I will tell you that Adler Pollock settled for many millions of dollars.

So, it is not Ms. Rocha, I'm not suggesting it was her, but I am saying to you, please, please use your own intelligence. Use your own integrity. Don't rely on anybody making representations to you.

I was very impressed with the statements from the city council members of Providence, from the mayor of North Providence. And, yes, those hospitals are the

second biggest taxpayers in those respective districts. What I don't think they realize is that representations were made to the city councils of both of those cities in 2014. And I have the tapes and I can tell you verbatim what was said. And I'm just going to give you -- I'm not going to drag this out interminably, but the representatives of Prospect, not -- at that time Adler Pollock wasn't representing Prospect, they were representing my current clients. That was before they did the switch. The lawyer who represented Prospect told the city council in Providence, and I'll quote: Some of the commitments that have been made and haven't been approved by the state are, I think, important to outline for you.

He was looking for tax stabilization agreement with the city of Providence.

And so he said, the transaction is a total transaction of $135 million. There's a $45 million purchase price that will be used to pay off all of the existing long-term debt of the hospital system. And in turn, CharterCARE will in turn invest 14 million into the St. Joe's pension which will help a number of retirees in our community. It will make sure that that fund remains sustainable.

He knew damn well it wouldn't.

And by the way, the 45 million that he was talking about was just what I told you: The 31 million to pay off the bonds, and the 14 million to go into the pension fund.

So in -- then he says: In addition to that $45 million purchase is a $90 million commitment over four years that will be invested in the community to improve the hospitals. That's the 50 million long-term capital, and the 40 million routine capital that we have been trying like the devil to find out if it went in or not. And we just got an order from the superior court, literally this morning, requiring Prospect in another suit, which I will tell you about in a moment, to reveal information about this. We've been fighting for two years. The AG hasn't been able to get the information, and we haven't been able to get the information.

Now, that statement that was made in Providence -- there were multiple statements made in Providence, I only quoted one. They appeared verbatim in a lawsuit brought by Thomas Hemmendinger as the present owner of CharterCARE Community Board, and which has been joined by my other client, Stephen DelSesto, the Receiver. And in that complaint, which I beg you to look at, we quote verbatim the statements made by Prospect's

lawyers to the City of Providence. The commitments they said existed, they got tax stabilizations from Providence that we computed as best we can, got them about $26 million in savings.

Remember now, this is a for profit hospital, this is not a charity anymore.

We also quote verbatim -- and I'm ready to produce the tapes -- what was told to the North Providence Chamber. The reason I didn't bring those quotes with me is I didn't expect that Mayor Lombardi would be speaking. I thought we would only have the letter from Jo-Ann Ryan. And I wanted to address that. That Jo-Ann was not aware -- I'm sure not aware, that -- my computation is there's about $16 million in tax savings from North Providence.

So between those two cities, the taxpayers are out about $42 million. And that $42 million, hey, that is part of the hundreds of millions of dollars of dividends that went to our fellows Dr. Lee and David Topper.

Ms. Rocha said to you flat out in her letter, do your job, don't worry about the jobs of anybody else, just approve this thing.

Don't do that. Please don't do that. I'm not asking you now to turn this down. That would be like

asking you to believe everything I said. I'm not asking you to do that. I'm asking you to use your intelligence and use your integrity, and if before you sign off on this, make sure that you know what is going on. The attorney general's office has the investigatory ability to get to the bottom of this, I believe, and we're certainly going to try to help them. Why don't you get the benefit of what they find out before you do this.

And I would like an opportunity to put on a full presentation. I don't have that opportunity now. And if you give me a week I won't have it because of all the new materials that keep flooding in. Including, as I said, we just got the report from the monitor.

Now, I want to just take a moment, I know this is anti-climactic, to look at some of my notes and make sure I covered -- oh, yes, there's one other thing. I'm very troubled about this, and I hope I'm mistaken.

I found out about this because I got called by Chris Colacci, a union guy. He's on one of the e-mail blasts. He gets all the notices. And he told me he got notice of this hearing today, the 21st at 2 p.m, he got it on Friday afternoon at 1:36. That's when I found out about it.

One of the submissions -- one of the

submissions -- and by the way, everybody should have known -- I put in a substantial objection, and everybody should have known I wanted to be heard. And we asked to be heard. We formatively said in our papers we'd like to be heard. So we hear about this, not from any formal notice, but from hearing it from Colacci, and then we go on to the site and see, yes, it's posted. But here's what I want to point out.

Go back, ladies and gentlemen, and look at the statements that came in from people who were selling things. For example, said, you know, they always pay our bills, we like them and we're going to extend them credit and so forth. There's a whole series of those.

And again, I'm not suggesting that these hospitals are not important to the local economy. They are. I agree. But here's the point.

Briarcliffe Manor is one of the endorsements you have. It's in writing. And it was submitted, and you have it. And it's dated July 9, 2020. Eight days before the notice went out. And guess what that letter says. Ms. Rocha showed you an extract of that letter when she went through the points. She didn't read you this part of the letter.

She says -- this is Briarcliffe Manor. I'm sure you probably know Mr. Talwar, who's the CEO and

administrator. And he says: I'm writing in support of the application of Prospect Medical Holdings which is an application before the Rhode Island Health Services Council for a Change in Effective Control. My understanding of the transaction is that they will simply buy back the majority share of the company from private investors.

Well, that's incorrect. I don't blame them. Prospect Medical Holdings is not buying it back. It's these two individuals.

But then he goes on to say: This should be a positive step for CharterCARE. The first hearing on their application is scheduled for July 21, 2020 at 2 p.m.

I wonder how he knew that. I wonder how he knew that.

MR. DEXTER: Excuse me. Mr. Chairman?

CHAIRMAN MANCINI: Yes, sir. Yes, Michael.

MR. DEXTER: This is Mike Dexter, I just want to, you know, comment on a couple of things.

We don't send the agenda until we believe that we have a quorum. This council has had some issues with quorums and we've been challenged. We didn't determine a quorum until Friday. We then posted the application and sent out the notice to all the affected persons,

including, I believe, Mr. Colacci.

MR. WISTOW: I don't believe that we've read the letter. So, I don't mean to offend you.

MR. DEXTER: No, no, I --

MR. WISTOW: The letter says flat out --

MR. DEXTER: Don't interrupt.

MR. WISTOW: You interrupted me, I feel like I want to respond.

The letter says flat out -- I don't know about quorums. Somebody told him --

MR. DEXTER: Mr. Chair.

MR. WISTOW: -- a hearing was scheduled for July 21st.

MR. DEXTER: Mr. Chairman?

CHAIRMAN MANCINI: Gentlemen, hold on a second. Yes, Michael. Excuse me, Mr. Wistow, one moment. Yes, sir.

MR. DEXTER: We always have to schedule a meeting ahead of time. We have to make sure that the applicant is available.

MR. WISTOW: How about finding out if the people who filed objections and said they want to be heard are available. How about giving them some notice. Not just three -- a weekend. Friday afternoon. For the following Tuesday? I don't mean to

be offensive but it really is disturbing to see that this guy knew that it was tentatively scheduled. How about telling us it was tentatively scheduled subject to a quorum. I just ask to be treated the same way that my sister is being treated. Obviously she went out and she got these letters. Again, the reason I say that is if you look at the letters, many of them have the same sentences over and over again. It was written by one person.

Anyway, let's -- that's a minor thing. I just -- I just want to note that it gives me a feeling of insecurity to know that I am being -- look what happened. There was this wonderful PowerPoint presentation. I find out about this thing the Friday afternoon for Tuesday. And I'm doing the best I can, and probably not a very good job. And by the way, if I sound very aggressive, I don't mean to be offensive, I just -- I hope you don't mistake my vehemence for discourtesy. I'm really very, very motivated to protect my clients, protect the hospital, and to please ask you to slow down.

The letter advising -- what is so amazing to me is the department of health itself sends a letter saying we've got to slow down, we're missing all of this information. So let me --

MS. POWELL: Mr. Chair?

CHAIRMAN MANCINI: Yes, Sandra.

MS. POWELL: Could I add one thing? And, Mr. Wistow, I apologize for interrupting you a second time.

MR. WISTOW: Not at all.

MS. POWELL: But I want to clarify for everyone, and it may not be clear, that the meetings of the Health Services Council are not time limited. There are -- there can be multiple meetings and multiple speakers, and sometimes public members speak -- again, we've had that recently as we went through the Encompass presentation. There were three meetings of the council. So just to clarify, it is not a one and done. There's not one day that this application, or any application, depending on the need of it, is presented and there is no opportunity for further input. There are other members of the public, I don't know the Chair's wish, but we may not get to them today, which means that this application will be continued.

So I just wanted to clarify, it may not be absolutely fair to everyone, but I wanted to indicate it is not one meeting and done and if it's not said today there is no opportunity. I just wanted to

clarify that.

MR. WISTOW: Thank you for that clarification.

MS. KELLY: And, Jackie Kelly to clarify on top of that, just to say that I know you found the notice disconcerting, but sadly that's within the Open Meetings law, is the amount of time that we gave. But I agree with you, giving more advanced notice, you know, is always better, but the notice that was given is within the statutory requirements.

MR. WISTOW: I'm not suggesting that it was set up too soon, I'm suggesting that some people had advanced notice of this and were able to prepare better than I was.

And let me say this. I'm delighted to hear that there can be multiple meetings because I learned a great deal that was presented, in a very professional way, a very catchy way by Ms. Rocha, and I would like to, with all this material, respond to that. I'd like to have an opportunity to come back again and make a presentation, at your convenience, where I have some time. But I'd like that to be when I get the monitoring report concluded.

And let me say one other thing I left out, I think this is important.

I left it up in the air, people are probably confused, why am I saying that we own something like 27 percent, perhaps more, perhaps 30 percent, and Ms. Rocha flat out says we own 15 percent.

By the way, that's one of the reasons I say there's an enormous conflict. She represented CCB at the time that the percentages were awarded. She is now taking a position completely contrary to her client, CCB. CCB says we own more than our lawyer who represented us in this transaction is now saying. If that is not a conflict, I don't know what is.

Now let me tell you why there's an issue about this. Because the percentage -- and if you look into the documents we filed, you'll see what I'm talking about. The percentage that was given to CCB as the ownership of 15 percent depended -- depended on $90 million going in in the first four years. That's what it depended on. We're saying it didn't, and therefore our capital contribution is a bigger percentage.

That's a lot to hit everybody with here, but please look at that. That's why I'm saying it is so important to see what the capital contribution is. And it's also important to realize that you're dealing with somebody who owns a significant portion of these

hospitals. Even if it's only 15 percent. And contrary to what Ms. Rocha said, it's not just the pensioners.

So having said all of that, I'm going to subside, with my apologies, and I hope you understand, it's very difficult to picture the kind of people that would -- by the way, if you think about what happened here, Topper and Lee walk away with hundreds of millions of dollars, and the petition filed against the fund, the pension fund says let's reduce these paltry pensions, let's reduce them by 40 percent. When is enough enough? What level of predatory practices, these people that I'm talking about, these are the kind of people -- Arlene Violet used this expression and I'll never forget it, she said these are the kind of people, the workers there, the nurses, the food service workers, the janitors, these are the kind of people, when they go on the bus, they have the right change. Wait till they find out, they don't even know now that these guys walked off with hundreds of millions of dollars.

CHAIRMAN MANCINI: Thank you, Mr. Wistow. And in reference to Ms. Powell's commentary, and also in an effort to ensure fairness to everyone who needs to comment, yourself included, sir, we are going to be continuing this particular meeting.

So anybody from the council have any questions with regards to that?

MS. ROCHA: Mr. Chairman?

CHAIRMAN MANCINI: Yes, Pat.

MS. ROCHA: As the applicant with the burden of proof, may I make some closing remark? It's important that I respond to comments that have been made, and I'll try my best to be brief.

MS. VIOLET: Could I just please add public comments, I've had my hands raised, and then you can do your conclusion?

CHAIRMAN MANCINI: Ms. Violet, if we could keep this at a very quick -- in fairness to you.

MS. VIOLET: Yes, sir, and in fairness to you all because I want to be very conscious of your time. So I'm not going to reiterate anything, but I agree, 95 percent of what Max said has been my concerns. I just want to beg you to, as Ronald Reagan would say, trust but verify. Verify, verify the facts. And secondly to ask you please look at the big picture and ask yourself the question does it make sense that somebody who is looking for close to a billion dollars a little more than a year ago for 61 percent, would settle for ten million, etc. You know, in 1974, my first stint in the attorney general's office, and up to

'84, I looked at a lot of schemes. I'm not saying this is a Ponzi scheme or any of those other schemes, but they all look great, they all do the right thing when they're leading to where they want to go. So I'm just begging you, look at the big picture, trust but verify.

Thank you.

CHAIRMAN MANCINI: Thank you, Ms. Violet. Pat?

MS. ROCHA: May I? First, I want to follow up on Miriam Weizenbaum's comment regarding the role of COVID in enlarging the statutory period of review. And just as an aside, Mr. Wistow said that my representation in my letter to you was a misrepresentation. I said on July 3, 2020, DOH and the AG advised the transacting parties that for a variety of reasons, including the COVID-19 pandemic, it would not be able to complete the review within the statutory period, and it was extended to November 5, 2020. That is an absolutely correct statement, Mr. Wistow's statement was not.

With respect to the role of COVID, I know I speak for all Rhode Islanders thanking all the folks at the Department of Health and the Attorney General for addressing the COVID crisis. They have been involved in herculean efforts, and Rhode Island is in a better

place than most of the states in our country, and I know I speak for everyone that we're most appreciative. Number one.

Number two, we have worked cooperatively with the Department of Health and the Attorney General on both the CEC application and the HCA application, and we will continue to do so. We look forward to answering any questions you may have, but whether it's today or the next meeting, and Mr. Wistow mentioned I was writing something down. Here's what I wrote down. We have met our burden of proof. We have met our burden of proof in spades. We are going to ask that you approve this application.

Now, Mr. Wistow talked about the pensioners' litigation and he said he was representing Mr. Hemmendinger, the Receiver of CharterCARE Community Board, formerly known as CharterCARE Health Partners, Roger Williams Hospital and St. Joe's, what we call the Oldco entities. And many times he said you're probably surprised to know this, you probably don't even know this. I wasn't surprised at all. But what I do know is that Prospect disagrees with all the material allegations and claims made by Mr. Wistow. Who, by the way, is a member of the public, who has provided written comment and has been afforded opportunity to

speak as a member of the public. He shouldn't be treated any better or worse than any member of the public commenting on an application. He is not the applicant and he's not entitled to call witnesses or put on presentations.

Mr. Wistow talked about the pension litigation and the litigation before Judge Stern. And unless you've been living under a rock you know that there's very important litigation pending regarding the pensioners' right on the St. Joe's pension. That's pending in our federal court before Judge Smith. You couldn't get a better judge. But respectfully, those issues are not before you. You are not gonna decide the pension litigation. That would be decided in federal court.

Mr. Wistow mentioned litigation before Judge Stern in our superior court. You couldn't get a better superior court judge. That litigation involves the Oldco entities and Prospect and business disputes between the parties, including the 15 percent ownership. That is not before you, that will not be impacted by the change of the corporate ownership at the top of the corporate structure.

Now, I don't represent any of the parties in those litigations, Preston Halperin does. I know Preston is on. And, Preston, if you could just in two minutes

describe the status of that litigation and Prospect's response to the litigation. Preston?

MS. VIOLET: I thought we weren't going to give any more nuances to (inaudible) now that's what you're asking him to do.

MS. ROCHA: I would ask permission, Mr. Chairman, for a brief comment.

CHAIRMAN MANCINI: I would -- in fairness to everybody because we have council members who have to leave based on earlier assignments, Mr. Halperin, I think we should reserve your commentary to the next meeting in fairness to everybody else.

MR. HALPERIN: I will look forward to that opportunity because there's a lot to say in response to everything Mr. Wistow had to say today.

CHAIRMAN MANCINI: And you shouldn't be rushed. No one should be rushed. In the spirit of fairness, that's what we here would like to see at the Council. So thank you very much.

MS. LOPES: Mr. Mancini? If I --

CHAIRMAN MANCINI: Yes, Fernanda.

MS. LOPES: Individuals have signed up and there is an order of when people can speak. So these have signed up, we can do that at a different meeting, like I said, but I just want to clarify a little bit

that the Department of Health commenced the initiation of this review back in March, and notices were posted and sent out. The application materials were included in that listing and we requested that public comments be submitted. This was again back in March. The application is tied to a link that is included in today's agenda, along with the public comments that we have received to date. We've been sending out those public comments to council members and interested parties as we received them, and it is a live link, so as we receive public comments they will continue to be put on that link and people can access that. So I wanted to clarify that. And included in the agenda as well is also a link to the application itself that is under review, and that also includes the financials.

CHAIRMAN MANCINI: Okay. Thank you, Fernanda.

MS. ROCHA: Mr. Chairman, I have one final comment, if I may.

CHAIRMAN MANCINI: Go ahead, Pat.

MS. ROCHA: Okay. As always, we want to thank you for your time. We look forward to meeting with you again. And I am going to ask that you do your job, which you always do, which is review of the Change in Effective Control litigation -- application. It's

not to decide the pension issues, it's not to decide the business dispute between the parties pending in superior court. It's not to decide issues raised by congress, that will be done at the congressional level. And, by the way, that was directed to Leonard Green, we're seeking to buy out Leonard Green. And we know that when you do your job, you will find that the applicant has met its burden of proving the four statutory review criteria.

So thank you very much, I know it's been a long day, and we look forward to meeting with you again.

CHAIRMAN MANCINI: Thank you everyone, good evening, have a wonderful evening.

(The meeting was concluded after motion was made to adjourn)

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C E R T I F I C A T E

I, Lori P. Hamel, a Certified Shorthand Reporter in and for the State of Rhode Island, do hereby certify that the foregoing is a full and true record of the proceedings held remotely, via Zoom, transcribed to the best of my ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of July, 2020.

Lori P. Hamel, CSR
Certified Shorthand Reporter

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Exhibit 7

Center for Health Systems Policy and Regulation

Rhode Island Department of Health
x----------
In re: Change in Effective Control Applications
by Prospect Chartercare RWMC, LLC and
Prospect Chartercare SJHSRI, LLC, et al.

x----------

OBJECTION BY THOMAS HEMMENDINGER AS LIQUIDATING RECEIVER FOR CHARTERCARE COMMUNITY BOARD AND STEPHEN DEL SESTO AS RECEIVER FOR ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND RETIREMENT PLAN TO THE CHANGE IN EFFECTIVE CONTROL APPLICATIONS FILED PURPORTEDLY[1] BY PROSPECT CHARTERCARE RWMC, LLC, PROSPECT CHARTERCARE SJHSRI, LLC, AND OTHER PROSPECT ENTITIES

This is a time when the importance of hospitals to our communities and our society as a whole needs no discussion. Common sense dictates that anything that can help hospitals and other health care facilities—whether for-profit or non-profit—in fulfilling their roles must be encouraged.

However, the principal purpose of the change in effective control applications ("CECAs") is nothing other than to benefit two individuals, Samuel Lee and David Topper, and private equity investors (and their affiliates), who have already taken hundreds of millions of dollars in "dividends"[2] through the operation of for-profit hospitals they control. Lee and Topper seek by these CECAs to become the 100% owners of the entity at the top of the ownership chain. Lee and Topper alone have withdrawn more than $155 million in dividends after assurances were made to the Rhode Island Department of Health and the Rhode Island Attorney General that no such further

[1] In fact, the sole applicant is Chamber, Inc., as discussed below.

[2] Whether these payments were improper and not properly characterized as dividends are not addressed herein, but we reserve all rights to address those issues at the appropriate time.

dividends would be taken, after questions had been raised about $33 million in dividends taken in 2013 by those individuals.

Thomas Hemmendinger, as the court-appointed permanent liquidating receiver ("Liquidating Receiver") of CharterCARE Community Board, St. Joseph Health Services of Rhode Island, Roger Williams Hospital, and Stephen Del Sesto, as the court-appointed permanent receiver ("Plan Receiver") for the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"), hereby object to the CECAs purportedly[3] filed by or on behalf of Prospect Chartercare RWMC, LLC ("Prospect RWMC"), Prospect Chartercare SJHSRI, LLC ("Prospect SJHSRI"), Prospect Blackstone Valley Surgicare, LLC, and Prospect CharterCARE Home Health Care and Hospice LLC.

The proposed change in effective control will only worsen the financial condition of the licensed hospitals and medical facilities and should be denied.

BACKGROUND

CharterCARE Community Board ("CCCB") is a non-profit corporation and the sole member in the non-profit corporation Roger Williams Hospital ("RWH") and the controlling[4] member in the non-profit corporation St. Joseph Health Services of Rhode Island ("SJHSRI"). Through its ownership of SJHSRI and RWH, CCCB until June 20, 2014 owned Our Lady of Fatima Hospital, Roger Williams Medical Center, and the other licensed medical facilities covered by the CECAs. These facilities (collectively the "Licensed Hospitals and Medical Facilities") were the subject of a 2014 CECA transferring ownership to Prospect Chartercare, LLC (Prospect CharterCARE") and its

[3] See n. 1, supra.

[4] The other member in SJHSRI is the Bishop of Providence but his rights are limited to issues involving religion.

newly created subsidiaries. As discussed below, CCCB currently owns at least 15%[5] of the Licensed Hospitals and Medical Facilities, through its membership interest in Prospect CharterCARE, which is the sole member in the four[6] for-profit entities that now own the Licensed Hospitals and Medical Facilities.

Certain background information is essential to understand why the proposed applications for change of effective control must be denied.

In late 2013 Prospect Medical Holdings, Inc. ("PMH" or "Prospect Medical Holdings"), Prospect East Holdings, Inc. ("Prospect East Holdings"), Prospect East Hospital Advisory Services, Inc. (Prospect Advisory"), Prospect CharterCARE, Prospect RWMC, Prospect SJHSRI, CCCB, SJHSRI, and RWH applied for approval from the Rhode Island Department of Health and the Rhode Island Attorney General to convert the Licensed Hospitals and Medical Facilities to for-profit entities.

That 2013 application made several representations concerning CCCB that are central to the appropriateness of the pending applications for change in effective control. These included the following:

> The model being proposed, post-conversion, provides for the not-for-profit entity, CCHP[7], to continue to maintain an ownership position in the acute care, community hospitals. In addition to maintaining an ownership position, CCHP will have equal representation on the governing board post-conversion. In this manner, the local community hospital healthcare network continues with all the advantages of that model with respect to local leadership, healthcare mission, and positive economic impact on the community.[8]

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[5] CCCB contends it owns at least 27.14%, as more fully explained below.

[6] Prospect RWMC, Prospect SJHSRI, Prospect Blackstone Valley Surgicare, LLC, and Prospect CharterCARE Home Health Care and Hospice LLC.

[7] "CCHP" is CCCB. Until the for-profit conversion was approved, CCCB was named CharterCARE Health Partners, and was referred to as CCHP. However, upon the closing of the conversion on June 20, 2014, Prospect CharterCARE began operating under the fictitious name of CharterCARE Health Partners.

[8] 2013 Application at 5.

As set forth above, through the proposed transaction PMH[9] will purchase an 85% interest in the Existing Hospitals and CCHP will retain a 15% interest in the Existing Hospitals. Furthermore, CCHP will have significant stake in the continued governance of the Hospitals, as the governing board will be what has been termed above as a 50/50 Board.[10]

Prospect CharterCARE, LLC's Board of Directors will be structured as follows: (i) eight (8) members; (ii) fifty (50%) percent of its members will be appointed by PMH; and (iii) fifty (50%) percent of its members will be appointed by CCHP. The purpose of the structure is to ensure a strong local presence and mission.[11]

In addition to a routine capital investment of at least $10M per year to be reinvested by Prospect CharterCARE, LLC, PMH has committed to future capital contributions of $50M within four (4) years of the closing on the transaction ("Long-Term Funding Commitment"). The specific goals of the Long-Term Funding Commitment will be determined, post-conversion, after appropriate studies and analyses are undertaken. However, under the APA,[12] the use of the Long-Term Funding Commitment may include (i) the development and implementation of physician engagement strategies, and (ii) projects related to facilities and equipment, including but not limited to:

- expansion of the cancer center at RWMC,
- expansion of the emergency department at RWMC,
- renovation/reconfiguration of the emergency department at Fatima,
- renovation of the operating rooms at RWMC,
- conversion of all patient rooms to private rooms at both Hospitals,
- renovation and expansion of the ambulatory care center at Fatima,
- new windows at both Hospitals,
- a new generator at Fatima,
- a facelift for the facades at both Hospitals,

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[9] Prospect Medical Holdings.

[10] 2013 Application at 8.

[11] 2013 Application at 39.

[12] The Asset Purchase Agreement covering the sale of the assets of SJHSRI, RWH, and CCCB to Prospect entities in 2014.

- access for the handicapped at the front entrances of both Hospitals.

The specific capital projects to be funded will be determined by Prospect CharterCARE,[13]

The Director of the Department of Health issued his report approving the transaction on May 19, 2014. That approval relied upon the above-quoted representations, by noting the following elements of the proposed conversion:

> In addition to the purchase price, Prospect CharterCARE, LLC proposes to reinvest a minimum of $10 million per year in routine capital investments at the new hospitals. PMH has also committed to a future contribution of $50 million within four years of the closing on the transaction. This "long term funding commitment" may include: (a) the development of and implementation of physician engagement strategies and (b) projects related to facilities and equipment, including but not limited to:
>
> 1) expansion of the cancer center at Newco RWMC,
>
> 2) expansion of the emergency department at Newco RWMC,
>
> 3) renovation/reconfiguration of the emergency department at Newco Fatima,
>
> 4) renovation of the operating rooms at Newco RWMC, 5) conversion of all patient rooms to private rooms at both new hospitals,
>
> 6) renovation and expansion of the ambulatory care center at Newco Fatima,
>
> 7) new windows at both new hospitals,
>
> 8) a new generator at Newco Fatima,
>
> 9) a renovation to the facades at both new hospitals.
>
> Whether the long term funding commitment is spent on physician engagement strategies or one or more of the listed capital projects will depend on the results of studies and analyses to be undertaken after the conversion is approved.[14]

[13] 2013 Application at 8-9.

[14] DOH Approval at 9.

The application for the hospital conversion included the Limited Liability Company Agreement ("LLC Agreement") to be entered into by Prospect East Holdings and CCCB.[15] That LLC Agreement made detailed provision for the obligation of Prospect East Holdings (guaranteed by PMH) to make $50 million in long-term capital contributions over four years.

> (b) The Prospect Member[16] hereby commits to make additional Capital Contributions to the Company[17] in an aggregate amount of the Long-Term Capital Commitment, to be made within four (4) years of the date of this Agreement[18] at such times and in such increments as the Board of Directors causes the Manager to request. With respect to each request for a Capital Contribution from the Prospect Member pursuant to the Long-Term Capital Commitment: (i) such request shall be supported by a return on investment calculation or a material needs assessment (in each case, acceptable to both Members); and (ii) the Capital Contribution shall neither reduce CCHP[19]'s interest or Units in the Company nor increase the Prospect Member's interest or Units in the Company.

LLC Agreement § 4.2(b).

Thus, to qualify as a Long-Term Capital Contribution, Prospect East Holdings must document that the payment was made:

1. within 4 years of June 20, 2014;
2. at the request of the Manager of Prospect CharterCARE; and
3. pursuant to either a return-on-investment analysis of a capital needs assessment that was
4. acceptable to (i.e. approved by) both CCCB and Prospect East.

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[15] CECAs at 43 (referring to Exhibit 10A-8) (LLC Agreement).

[16] Prospect East Holdings, Inc.

[17] Prospect CharterCARE.

[18] June 20, 2014

[19] As noted, "CCHP" in this context refers to CharterCARE Health Partners, which is the former name of CharterCARE Community Board.

CharterCARE Community Board was required by a subpoena issued in the Receivership Proceeding to produce all of its documents concerning Prospect CharterCARE, but CCCB did not have in its records a single request by Prospect CharterCARE's Manager for a capital contribution, return on investment calculation, material needs assessment, request for acceptance by CCCB, or even a single document evidencing that CCCB was ever given the opportunity to accept or reject a capital contribution.

In August 2017, SJHSRI filed a petition seeking to place the St. Joseph Health Services of Rhode Island Retirement Plan in receivership, alleging that the Plan was inadequately funded. Stephen Del Sesto was appointed by the Superior Court as Receiver of the Plan, and Wistow, Sheehan & Loveley, P.C. was appointed as special counsel to the Plan Receiver. Wistow, Sheehan & Loveley, through subpoenas issued in the Receivership Proceeding, obtained hundreds of thousands of documents which revealed that the original hospital conversion in 2014 was accomplished through a fraudulent scheme perpetrated on the Department of Health, the Rhode Island Attorney General, the unions representing Plan participants, Plan participants, and the general public. This scheme only became known as a result of an approximately eight-month investigation that was conducted under the orders and supervision of the Rhode Island Superior Court following the failure of the Plan.

Based on that investigation, the Plan Receiver and seven representative Plan participants (acting on behalf of the over 2,700 Plan participants, and their beneficiaries)

brought suit on June 18, 2018, by filing a complaint[20] in the United States District Court for the District of Rhode Island against fourteen defendants, including CCCB, PMH, Prospect CharterCARE, Prospect SJHSRI, and Prospect RWMC, seeking damages and other relief for the benefit of the Plan participants.

The claims against the Prospect entities are detailed, extensive, and raise very serious issues concerning their character and fitness to operate the Licensed Hospitals and Medical Facilities.[21] Of particular relevance to the pending CECAs are the allegations in the federal court complaint that the Prospect entities misled the Department of Health and the Attorney General concerning CCCB's control over Prospect CharterCARE.[22] These Defendants had represented that CCCB's right to elect half the directors of Prospect CharterCARE made it "essentially a 50/50 board," when in fact "the seats filled by Prospect East had the power to make some of the most significant corporate decisions against the wishes of the directors chosen by CCCB,"[23] meaning the LLC Agreement gave Prospect East control over the key decisions for the company.[24]

The federal complaint also detailed how the Prospect entities misled the union that represented many of the Plan participants into supporting the 2014 hospital conversion, by misrepresenting the effect the proposed conversion would have on the

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[20] Attached hereto as Exhibit 1. On October 5, 2018 the Plan Receiver and Plan participants filed an amended complaint, which is attached hereto as Exhibit 2. They also previously filed a companion Superior Court lawsuit, *Del Sesto et al. v. Prospect Chartercare, LLC, et al.*, PC-2018-4386, which presently remains stayed.

[21] They include claims for breach of fiduciary duty, aiding and abetting breaches of fiduciary duty, fraudulent transfer, fraud through intentional misrepresentations and omissions, fraudulent scheme, conspiracy, and civil liability for damages resulting from violation of state and federal criminal statutes. Exhibit 2 (Complaint) ¶¶ 452-555.

[22] Exhibit 1 (Complaint) ¶¶ 373-377.

[23] Exhibit 1 (Complaint) ¶ 373.

[24] Exhibit 1 (Complaint) ¶ 377.

funded status of the Plan. Beginning in August 2013, Christopher Callaci of the United Nurses & Allied Professionals had discussions with representatives from Prospect Medical who assured him that $14 million would be paid into the Plan in connection with the closing which would adequately fund the Plan, and he was provided with a bar graph purporting to show that the Pension Fund would remain adequately funded, when in fact the Prospect entities knew that the Plan would run of funds after the hospital conversion.[25]

In the petition to put the Plan into receivership filed in August 2017 (and vetted by the Prospect entities prior to its filing), filed three years after the 2014 Asset Sale, SJHSRI admitted that "**the long term issues affecting the Plan**" (emphasis supplied) had not been considered at the time of the 2014 Asset Sale. This statement alone amounted to an admission of the falsity of the representations in connection with that sale that a $14 million payment to the Plan would "stabilize" the Plan, made in connection with obtaining approval of the Department of Health and the Attorney General the 2014 Asset sale.

Four months after the federal lawsuit was brought, CCCB, SJHSRI, and RWH entered into a Settlement Agreement with the Plan Receiver (the "Settlement Agreement").[26] After intensive litigation with the Prospect entities (and others) who opposed the settlement, both the Superior Court[27] and the federal court[28] overruled those objections and approved the Settlement Agreement, certifying the individual

[25] Exhibit 1 (Complaint) ¶¶ 300-302.

[26] The Settlement Agreement is attached hereto as Exhibit 3.

[27] See Order dated November 16, 2018, attached hereto as Exhibit 4.

[28] See Memorandum and Order dated October 9, 2019, attached hereto as Exhibit 5.

plaintiffs as class representatives for purposes of that settlement. The Settlement Agreement provided for a substantial cash payment[29] and gave the Receiver control over CCCB's non-cash assets, which would be converted into cash when it was advantageous to do so.

Those non-cash assets included CCCB's interest in Prospect CharterCARE. The Settlement Agreement provides in pertinent part[30] as follows:

> The Settling Defendants[31] agree to hold the CCCB Hospital Interests in trust for the [Plan] Receiver, and that the [Plan] Receiver will have the full beneficial interests therein.

The Settlement Agreement defined "CCCB's Hospital Interests" as "all of the claims, rights and interests against or in Prospect CharterCare, LLC that CCCB received in connection with the LLC Agreement or subsequently obtained, including but not limited to the 15% membership interest in Prospect CharterCare LLC, and any rights or interests that SJHSRI or RWH may have in connection therewith." [32]

On March 11, 2019, CCCB brought suit by filing its complaint in the Rhode island Superior Court in CCCB v. Lee.[33] The defendants in CCCB v. Lee included, *inter alia*,

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[29] The initial payment was $12,596,253.48. Further payments are anticipated in connection with proceedings that have been brought to liquidate CCCB, SJHSRI, and RWH.

[30] See Exhibit 3 (Settlement Agreement) ¶15.

[31] See Exhibit 3 (Settlement Agreement) at 1 (defining CCCB, RWH, and SJHSRI as the "Settling Defendants").

[32] See Exhibit 3 (Settlement Agreement) ¶1(d) (defining "CCCB's Hospital Interests" as "all of the claims, rights and interests against or in Prospect CharterCare, LLC that CCCB received in connection with the LLC Agreement or subsequently obtained, including but not limited to the 15% membership interest in Prospect CharterCare LLC, and any rights or interests that SJHSRI or RWH may have in connection therewith.").

[33] The Verified Complaint is attached hereto as Exhibit 6. The full caption is CHARTERCARE COMMUNITY BOARD, individually and derivatively, as member of PROSPECT CHARTERCARE, LLC and as trustee of the beneficial interest of its membership interest in PROSPECT CHARTERCARE, LLC, Plaintiff, v. SAMUEL LEE; DAVID TOPPER; THOMAS REARDON; VON CROCKETT; EDWIN SANTOS; EDWARD QUINLAN; JOSEPH DISTEFANO; ANDREA DOYLE; PROSPECT EAST HOSPITAL ADVISORY SERVICES, LLC; PROSPECT CHARTERCARE, LLC; PROSPECT EAST HOLDINGS, INC.; PROSPECT MEDICAL HOLDINGS, INC.; JOHN DOE 1 – 10, AND JANE DOE 1 – 10, Defendants, Rhode Island Superior Court, C.A. No.: PC-2019-3654, filed March 11, 2019.

all of the directors of Prospect CharterCARE, including Samuel Lee and David Topper, who will become the sole shareholders in PMH's ultimate parent company if the CECA is granted. The allegations in CCCB v. Lee include that Prospect East and PMH failed to make the requisite $50 million in long term capital contributions, with the result that CCCB's percentage interest in Prospect CharterCARE is at least 27.14%, as follows:

> Exhibit B to the LLC Agreement states that in connection with the 20 I 4 Asset Sale, CCCB acquired "15%" of Prospect Chartercare in recognition of an "ADJUSTED CAPITAL CONTRIBUTION" of "$16.75M" while Prospect East renewed or retained "85%" of Prospect Chartercare in recognition of an "ADJUSTED CAPITAL CONTRIBUTION" OF "$95.00M*" all of which bore the same footnote, viz: "* Assumes full funding of Long-Term Capital Commitment"... The $95 million attributed to Prospect East in this Exhibit B to the LLC Agreement consisted of $45 million paid at the closing of the 2014 Asset Sale plus the $50 million due to be paid in connection with the long term capital commitment. In light of the failure to Fund the Long Term Capital Commitment, CCCB'S true proportionate membership interest in Prospect Chartercare is actually at least 27.14%.[34]

The complaint in CCCB v. Lee also alleges that the failure to fund the $50 million long-term capital commitment exposed Prospect CharterCARE to liability to the municipalities of North Providence and Providence, from whom tax stabilization and exemption ordinances were obtained, benefitting Prospect CharterCARE by over $40 million, based upon the misrepresentation by Prospect's representatives directly to the municipalities that such funds would be paid, and that such misrepresentation exposed Prospect CharterCARE (and the value of CCCB's interest in Prospect CharterCARE) to liability to refund those sums.[35]

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[34] Exhibit 6 (Verified Complaint) ¶¶ 40-42.

[35] Exhibit 6 (Verified Complaint) ¶¶ 40-79.

The Verified Complaint also alleges that the directors of Prospect CharterCARE breached their fiduciary duties, and aided and abetted in other directors' breach of their fiduciary duties, by "failing to obtain the funding of the Long-Term Capital Commitment and/or allowing Prospect Chartercare to be exposed to liability to the [municipalities] of Providence and North Providence for such failure."[36] The Complaint also alleges that Prospect East Holdings and PMH in early 2018 fraudulently transferred their assets to their shareholders or related entities, by borrowing money and distributing it as dividends.[37]

Those dividends totaled $457 million, which was split $170 million to Lee and Topper, and the balance of approximately $287 million almost entirely to the private equity investors. It is theses private equity investors and their affiliates that Lee and Topper now seek to buy out if the pending CECA is granted.

On December 19, 2019, PMH and Prospect Advisory[38] brought suit in Delaware against CCCB.[39] That suit was based upon Prospect Advisory and PMH's interpretation of the LLC Agreement, which they contended CCCB had breached by entering into the Settlement Agreement, and also sought indemnity from CCCB for the Prospect entities' legal fees and potential liability in the suit that the Plan Receiver had brought against them in the United States District Court for the District of Rhode Island.[40]

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[36] Exhibit 6 (Verified Complaint) ¶¶ 114-127.

[37] Exhibit 6 (Verified Complaint) ¶ 130 ("Fraudulent transfers were made in connection with the 201 8 Dividends, with the actual intent of Defendants Prospect Medical Holdings and Prospect East as transfers to hinder, delay, or defraud their creditors, within the meaning of R.I. Gen. Laws § 6-1 64(3).").

[38] Prospect Advisory is the manager of Prospect CharterCARE, pursuant to a management services agreement of June 20, 2014, and is a defendant in CCCB v. Lee.

[39] That complaint is attached hereto as Exhibit 7. The full caption is PROSPECT MEDICAL HOLDINGS, INC. and PROVIDENCE EAST ADVISORY SERVICES, INC., Plaintiffs, v. CHARTERCARE COMMUNITY BOARD, Defendant, Delaware Court of Chancery, Case No. 2019-1018, filed December 19, 2019

[40] Exhibit 7 (Complaint) ¶¶ 1-6.

On December 13, 2019, CCCB, SJHSRI, and RWH petitioned[41] themselves into a liquidating receivership (as required by the Settlement Agreement approved by the Superior Court and the federal court), and the Liquidating Receiver was appointed temporary receiver.[42] Thomas Hemmendinger was appointed permanent Liquidating Receiver on January 17, 2020.[43] The order appointing Thomas Hemmendinger as permanent Liquidating Receiver provides as follows:

> That said Liquidating Receiver is authorized and directed:
>
> (a) to be substituted for and act as trustee of all of the claims, rights and interests against or in Prospect CharterCare, LLC that CharterCARE Community Board received in connection with the AMENDED & RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF PROSPECT CHARTERCARE, LLC (a Rhode Island Limited Liability Company) or subsequently obtained, including but not limited to the membership interest of at least 15% in Prospect CharterCare, LLC, and any rights or interests that St. Joseph Health Services of Rhode Island or Roger Williams Hospital may have in connection therewith (collectively the "Hospital Interests") which Petitioners have been holding in trust for Stephen Del Sesto solely in his capacity as the Permanent Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan ("Plan Receiver") pursuant to that certain Settlement Agreement dated as of August 3 1, 2018 between and among the Plan Receiver, the Petitioners, and others[44] ("the Settlement A Agreement"); and
>
> (b) to hold and administer the Hospital Interests in trust solely for the benefit of the Plan Receiver according to and subject to the terms of the Settlement Agreement, **including but not limited to prosecution of CharterCARE Community Board v. Samuel Lee, et al., PC-2019-3654**.[45]

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[41] The Petition is attached hereto as Exhibit 8.

[42] The Order appointing Thomas Hemmendinger temporary receiver is attached hereto as Exhibit 9.

[43] The Order appointing Thomas Hemmendinger permanent receiver is attached hereto as Exhibit 10.

[44] The seven representative Plan participants.

[45] Emphasis supplied.

ARGUMENT

I. SUMMARY OF ARGUMENT

The Change in Effective Control applications were filed without notice to the Liquidating Receiver or Plan Receiver, and without their approval.[46] They are materially incomplete and they contain material misrepresentations and omissions. Each of these deficiencies standing alone would be good cause for denial of the applications. Taken together they compel that result.

II. THE APPLICATIONS ARE MATERIALLY INCOMPLETE

The applications are materially incomplete, because they all fail to make the disclosure required by Question 20(B), of all civil litigation involving "the applicant and/or its affiliates and/or any officers, directors, trustees, members, managing or general partners, or other senior management of the applicant and/or its affiliate." [47]

Specifically, Tab 20B of the applications fails to disclose at least[48] the following litigations:

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[46] They learned only recently, and by chance, of the filing.

[47] The Applicants have a statutory obligation to provide the requested information, See R.I. Gen. Laws § 23-17-5 ("An application for a license shall be made to the licensing agency upon forms provided by it and **shall contain any information that the licensing agency reasonably requires**, which may include affirmative evidence of ability to comply with reasonable standards, rules, and regulations that are lawfully prescribed under this chapter.") (emphasis supplied).

[48] Notably the response to Question 20 neither identifies nor describes any litigations involving Prospect CharterCARE's affiliates or the individual officers and directors of Prospect CharterCARE and its affiliates. That omission is false. While there is insufficient time to search the dockets of state courts, just in the federal courts alone we have found numerous omitted cases. See, e.g., *Sylvester J. Britto, Jr. v. St. Joseph Health Services of Rhode Island, Prospect Chartercare SJHSRI, LLC, Prospect Chartercare, LLC, et al.*, C.A. No. 17-cv-00234 (D.R.I.); *George P.* Conduragis v. Prospect Chartercare, LLC, et al., C.A. No. 17-cv-00272 (D.R.I.); *Doreen Elnitsky v. Prospect Medical Holdings, Inc., et al.*, C.A. No. 17-cv-06357 (C.D. Cal.); *Marsha Fittro v. Prospect Chartercare Elmhurst, LLC, Prospect Chartercare, LLC, et al.*, C.A. No. 18-cv-00123 (D.R.I.); *Nancy Gauzza et al. v. Prospect Medical Holdings, Inc. et al.*, C.A. No. 17-cv-03599 (E.D. Pa.); *Sallie Holly v. Alta Newport Hospital, Inc., Prospect Medical Holdings, Inc., et al.*, C.A. No. 19-cv-07496 (C.D. Cal.); *In re: EOGH Liquidation, Inc.*, C.A. No. 17-cv-01595 (D.N.J.); *Richard Lupo v. John D. Prinscott, M.D., Associates in Anesthesia, Inc., and Prospect Chartercare SJHSRI, LLC*, C.A. No. 20-cv-00080 (D.R.I.); *National Labor Relations Board v. Prospect Chartercare, LLC*, C.A. No. 19-2289 (1st Cir.); *Demetra C. Ouellette v. Prospect Chartercare RWMC, LLC*, C.A.

1. CHARTERCARE COMMUNITY BOARD, individually and derivatively, as member of PROSPECT CHARTERCARE, LLC and as trustee of the beneficial interest of its membership interest in PROSPECT CHARTERCARE, LLC, Plaintiff, v. SAMUEL LEE; DAVID TOPPER; THOMAS REARDON; VON CROCKETT; EDWIN SANTOS; EDWARD QUINLAN; JOSEPH DISTEFANO; ANDREA DOYLE; PROSPECT EAST HOSPITAL ADVISORY SERVICES, LLC; PROSPECT CHARTERCARE, LLC; PROSPECT EAST HOLDINGS, INC.; PROSPECT MEDICAL HOLDINGS, INC.; JOHN DOE 1 – 10, AND JANE DOE 1 – 10, Defendants, Rhode Island Superior Court, C.A. No.: PC-2019-3654, filed March 11, 2019 ("CCCB v. Lee");

2. PROSPECT MEDICAL HOLDINGS, INC. and PROVIDENCE EAST ADVISORY SERVICES, INC., Plaintiffs, v. CHARTERCARE COMMUNITY BOARD, Defendant, Delaware Court of Chancery, Case No. 2019-1018, filed December 19, 2019 ("PMH v. CCCB"); and

3. PROSPECT MEDICAL HOLDINGS, INC., PROSPECT EAST HOLDINGS, INC., PROSPECT CHARTERCARE, LLC, PROSPECT CHARTERCARE SJHSRI, LLC, and PROSPECT CHARTERCARE RWMC, LLC, Plaintiffs, v. MICHAEL E. CONKLIN, JR and DOES 1-10, Inclusive, Defendants, Los Angeles Superior Court C.A. No. BC7722629, filed September 24, 2018, removed to the Central District of California, C.A. No. 18-cv-09131, transferred to the District of Rhode Island, C.A. No. 19-cv-00108.[49]

A copy of the Complaint in each of these cases is attached as Exhibits 6, 7, and 11.

Disclosure and description of these litigations was mandatory, since, as alleged in the Complaints, all of the Defendants in CCCB v. Lee and all of the Plaintiffs in PMH

No. 19-cv-00426 (D.R.I.); *Prospect East Holdings, Inc. and Prospect Chartercare, LLC v. United Nurses & Allied Professionals, Inc.*, C.A. No. 18-cv-00671 (D.R.I.); *Prospect Medical Holdings, Inc. v. Sylvia Burwell*, C.A. No. 14-cv-01310 (D.D.C.); *Prospect Medical Holdings, Inc. v. Unit #10, CHCA NUHHCE AFSCME AFL-CIO*, C.A. No. 19-cv-01462 (D. Conn.); *Tameka Rivers v. Crozer-Keystone Health System and Prospect Medical Holdings, Inc.*, C.A. No. 18-cv-04972 (E.D. Pa.); *Sara Elizabeth Siegler v. Sorrento Therapeutics, Inc., Prospect Chartercare RWMC, LLC, et al.*, C.A. No. 18-cv-01681 (S.D. Cal.); *Kevin Soares v. Prospect Chartercare SJHSRI, LLC, et al.*, C.A. No. 17-cv-00306 (D.R.I.); *Solola v. Prospect Chartercare RWMC*, LLC, C.A. No. 19-1415 (1st Cir.); *Karen Thompkins v. Crozer-Keystone Health System and Prospect Medical Holdings, Inc.*, C.A. No. 19-cv-02269 (E.D. Pa.); *United States ex rel. Susan Painter v. Prospect Medical Holdings, et al.*, C.A. No. 11-cv-04260 (C.D. Cal.); *Jonathan VanLoan v. The Nation of Islam, Prospect Medical Holdings, Inc., Samuel Lee, Leonard Green & Partners, et al.*, C.A. No. 19-cv-00197 (C.D. Cal.); *Jonathan VanLoan v. The Nation of Islam, Prospect Medical Holdings, Inc., Samuel Lee, Leonard Green & Partners, et al.*, C.A. No. 20-cv-00127 (C.D. Cal.).

[49] The suit *Prospect Medical Holdings, Inc. et al. v Conklin* attached the Plan Receiver's federal and state complaints as exhibits and sought indemnity from Mr. Conklin for the Prospect entities' liability to the Plan Receiver. This suit is different from the suit that the applicants have captioned in Tab 20B as "Conklin v. Prospect CharterCARE, Case No. 01-14-0001-9064)".

v. CCCB are affiliates and/or any officers, directors, trustees, members, managing or general partners, or other senior management of the applicants or the affiliates of those applicants.[50]

Failure to disclose CCCB v. Lee is particularly inexcusable, since one of the defendants in that suit is Joseph DiStefano, Esq., who is a Senior Counsel at the law firm which represents the applicants here.[51]

This along with other facts also demonstrates that the same law firm, Adler, Pollock & Sheehan, P.C., has a disqualifying conflict of interest in the matter before the Department, and the Department should not consider the applications until the applicants engage substitute counsel.

Adler Pollock formerly represented CCCB, SJHSRI, and RWH in the negotiations and consummation of the 2014 Asset Sale, in which those entities sold all of their operating assets to Prospect entities (including Prospect CharterCARE, Prospect SJHSRI, Prospect RWMC, and PMH),[52] a transaction in which the Prospect entities were represented by their own counsel, and the interests of CCCB and its subsidiaries and the interests of the Prospect entities were clearly adverse. These negotiations

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[50] Indeed, the Verified Complaint alleges that the individual defendants in the Rhode Island proceeding (Samuel Lee, David Topper, Thomas Reardon, Von Crockett, Edwin Santo, Edward Quinlan, Joseph Distefano, and Andrea Doyle) are the current directors of Prospect Chartercare, LLC, and that Prospect Chartercare, LLC, Prospect East Hospital Advisory Services, LLC, Prospect East Holdings, Inc., and Prospect Medical Holdings, Inc. are all affiliates of Prospect Chartercare RWMC, LLC and Prospect Chartercare SJHSRI, LLC. See Exhibit (Verified Complaint) ¶¶ 4-15. See also R.I. Gen. Laws § 23-17-2(1) (which defines "Affiliate" as "a legal entity that is in control of, is controlled by, or is in common control with another legal entity").

[51] See https://www.apslaw.com/attorney/joseph-r-distefano, accessed on April 3, 2020 (listing "Joseph R. DiStefano Senior Counsel" for Adler, Pollock & Sheehan, P.C.).

[52] See, e.g., May 6, 2014 Project Review Committee transcript at 2 ("APPEARANCES: . . . FOR CHARTERCARE HEALTH PARTNERS [i.e. CharterCARE Community Board]: ADLER POLLOCK & SHEEHAN, P.C.").

included negotiating the terms of the LLC Agreement between CCCB and Prospect East Holdings, Inc.

Since then the interests of CCCB and those Prospect Entities has become even more adverse. For example, in CCCB v. Lee, CCCB seeks specific performance, injunctive relief, and millions of dollars in damages against the Prospect defendants and the directors, including Mr. DiStefano. Some of CCCB's claims are based on its rights under the LLC Agreement and the Asset Purchase Agreement executed in connection with the 2014 Asset Sale, including Prospect East Holdings, Inc.'s $50 million long term capital commitment, and the increase in CCCB's 15% ownership of Prospect CharterCARE resulting from a failure to fully fund the commitment. The pending CECAs expressly contend that CCCB's interests is only 15% of Prospect CharterCARE. CCCB claims that it owns at least 27.14% (almost twice 15%) of Prospect CharterCARE.[53]

Now, Adler Pollock represents the Prospect entities in seeking this Department's approval for the proposed change of effective control, in which the $50 million commitment is clearly an issue. The Prospect entities want the change in effective control applications to be approved, and CCCB, SJHSRI, and RWH all want the applications to be rejected, or, if not rejected, withdrawn, because they contend that the proposed transfer of funds from PMH to the "private equity investors" and holders of stock options[54] will make it more difficult if not impossible for CCCB to recover on its guaranty from PMH. The proposed CECAs may also facilitate fraudulent transfers

[53] Exhibit 6 (Verified Complaint) ¶42.

[54] As discussed below, at 20.

complained of in both the federal case and CCCB v. Lee. This adversity presents a disqualifying conflict of interest for Adler Pollock, and the applications should not be considered until the applicants engage substitute counsel.

The applicants also fail to provide any detail whatsoever concerning the lawsuit brought by the Plan Receiver against them in the United States District Court, which makes allegations regarding their (lack of) character and fitness, not to mention alleging they committed fraud upon the Department of Health and the Office of the Attorney General in connection with the 2014 CECA.

Since the Applications are materially incomplete, the Department of Health should not consider the Applications, but rather require a resubmission fully disclosing the litigations.

Moreover, as discussed below, the allegations in the Complaint[55] that CCCB filed in CCCB v. Lee contradict key representations in the Applications, demonstrate that the Applications contain material omissions, and, most importantly, raise serious concerns that the Applications do not satisfy the substantive criteria set forth in 216-CR-40-10-4, and, therefore, should be denied.

III. THE APPLICATIONS CONTAIN MATERIAL MISREPRESENTATIONS AND OMISSIONS

Unless the Applications are promptly withdrawn, the undersigned request that the Department of Health schedule a public hearing at which they will make a full submission, including testimony under oath, which will confirm that the Applications

[55] Which as a Verified Complaint was filed under oath.

cannot carry the applicants' burden[56] of satisfying the substantive criteria set forth in 216-RICR-40-10-4. Accordingly, the undersigned submit this Objection without prejudice to their right to make further submissions at or in connection with such public hearing. The undersigned further reserve their rights to cross-examine any witnesses submitted in support of the Applications.

The Applications and supporting materials are 1,197 pages, such that it is not possible for this Objection to address each issue raised thereby. Instead we focus on certain key factual issues.

A. The Applications misstate and fail to disclose the true consideration for the transaction

The Applications seek approval for a transaction in which Prospect Medical Holdings, Inc. will buy-out certain "private equity investors" (and their affiliates) in a company called Ivy Holdings, Inc. ("Ivy").[57] The financial impact on the Licensed Hospitals and Medical Facilities of that transaction is a key issue in determining whether the Applications should be approve or denied. See 216-RICR-40-10-4.4.3(E) (setting forth relevant considerations including, *inter alia* to "[t]he extent to which the facility will continue, without material effect on its viability at the time of change of owner, operator, or lessee, to provide safe and adequate treatment for individual's receiving the facility's services as evidenced by: a. The immediate and long-term financial feasibility of the proposed financing plan....").

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[56] See 216-RICR-40-10-4.4.3(E) ("Except as otherwise provided in these regulations, a review by the Health Services Council of an application for a license, in the case of a proposed change in the owner, operator, or lessee of a licensed hospital, shall specifically consider **and it shall be the applicant's burden of proof to demonstrate**: . . .") (emphasis supplied).

[57] See CECA of Prospect RWMC at 1 and CECA of Prospect SJHSRI at 1.

According to the CECAs, Prospect Medical Holdings allegedly will use its "corporate cash" to pay $11,940,992, to buy out certain "private equity investors" in Ivy.[58] To prove that allegation, the Applicants refer to and have provided a copy of a merger agreement as Tab 14 to their Applications.[59]

However, that merger agreement provides that the buy-out price will be that amount of $11,940,992, *plus an unspecified amount required to buy-out an unspecified number of options at an unspecified price per option*. Specifically, that merger agreement defines "Total Enterprise Value" as $11,940,992, and provides that the "Aggregate Purchase Price" for the buy-out shall be "the Total Enterprise Value, **plus the aggregate exercise price of all vested In-The-Money Options**."[60] Nowhere in the 1,197 pages of their submission do the Applicant disclose the exact amount or even an estimate of the "aggregate exercise price of all vested In-The-Money Options." Similarly, the Applicants do not disclose (a) the amount of In-The-Money Options outstanding, (b) the amount by which such options are "in-the-money," or (c) who owns them. For all we know, the "aggregate exercise price of all vested In-The-Money Options" could be (a) nothing at all, (b) relatively trivial, or (c) greatly in excess of $11,940,992. We believe it must be the last. If one assumed that the total price were only $11,940,992 (or some minor addition thereto), then the agreed value of all the hospitals and health care facilities owned by the group would only be $18,081,453.[61]

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[58] See CECA of Prospect RWMC at 1 and CECA of Prospect SJHSRI at 1.

[59] Id.

[60] Applications Tab 14 (Merger Agreement) at 2 (emphasis supplied) (defining "Aggregate Purchase Price").

[61] The percentage ownership in Ivy being bought out under the proposed CECA is 66.04%. If that 66.04% interest is worth $11,940,992, then the company as a whole (100%) is worth only $18,081,453.66 ($11,940,992 is 66.04% of $18,081,453.66).

Given the fact that the group operates twenty (20) hospitals and health care facilities,[62] it is obvious that the real amount of the payment must be much more than $11,940,992.

As noted above, the financial impact on the Licensed Hospitals and Medical Facilities of the proposed transaction is a key issue in determining whether the Applications should be approved or denied. See 216-RICR-40-10-4.3(E). This omission of the actual purchase price makes it absolutely impossible to evaluate the effect the proposed transaction will have on the Licensed Hospitals and Medical Facilities. That omission is so fundamental that the Applications should be denied on that ground alone.

B. Allowing Prospect Medical Holdings, Inc. to buy-out shareholders of Ivy, to benefit Lee and Topper, is fundamentally problematic, irregular, and wrong

Neither the Applications nor the merger agreement supplied at Tab 14 identifies any value or other benefit whatsoever that Prospect Medical Holdings will receive in return for paying the Aggregate Purchase Price. Indeed, Prospect Medical Holdings is not a party to and is not even referred to in the merger agreement, so there is no legally-cognizable obligation of Prospect Medical Holdings to make the payment. Moreover, the Applications fail to describe the effect of the payment on Prospect Medical Holdings's finances.

The merger agreement certainly does not provide that Prospect Medical Holdings will receive the shares in Ivy that Prospect Medical Holdings is providing the funds to purchase. To the contrary, according to the application, those shares are to be

[62] See Tab E to the Applications.

transferred to a company called Chamber, Inc.,[63] which the Applicants describe as a "newly formed entity … which will become the parent of" Ivy, and which will be owned 100% by Topper and Lee.[64] The Applications attach at Tab 15 the "pre-transaction" organizational chart that shows that Prospect Medical Holdings is *two subsidiaries below* Ivy. Thus, the Applicants are seeking approval for a transaction in which a subsidiary two levels below a parent company will provide the funds to enable Topper and Lee to own all the entities.[65]

It is a fundamental precept of corporate law that the directors of a corporation owe a duty of absolute loyalty to the corporation. See In re Textron, Inc., 811 F. Supp. 2d 564, 575 (D.R.I. 2011) ("Loyalty is a core fiduciary obligation that directors owe to the corporation they serve."). The Applicants have made no showing whatsoever that the proposed transaction has any benefit whatsoever to Prospect Medical Holdings, much less that any benefit outweighs the expense of (at least) $11,940,992. Indeed, the Prospect entities have not even provided a resolution of the Board of Directors of Prospect Medical Holdings approving the transaction. A transaction so unsupported and so irregular cannot be approved. Because of the guarantee by Prospect Medical Holdings of Prospect East Holding's obligations to Prospect CharterCARE and CCCB, this transfer by Prospect Medical Holdings is a matter of grave concern to CCCB and the Plan Receiver for whom CCCB holds its interests in Prospect CharterCARE in trust. For the same reason it is a matter of grave concern to the Plan participants.

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[63] CECA of Prospect RWMC at 1 and CECA of Prospect SJHSRI at 1.

[64] CECA of Prospect RWMC at 1 and CECA of Prospect SJHSR at 1.

[65] Except CCCB's interest in Prospect CharterCARE.

C. Prospect East Holdings is in default of its obligation, and Prospect Medical Holdings is in default of its guaranty, to pay $50 million to Prospect CharterCARE for the benefit of Prospect RWMC and Prospect SJHSRI

The Applicants throughout their submissions allege that the proposed transaction will have no material effect on Prospect RWMC or Prospect SJHSRI.[66] That is simply false. To the contrary, as shown below, any transfer of funds out of Prospect Medical Holdings is clearly detrimental to both Prospect RWMC and Prospect SJHSRI, because it limits the assets of Propsect Medical Holdings available to fund the $50 million guaranty. In addition, it improperly transfers assets necessary to respond to any judgment that might be obtained in the federal court case or CCCB v. Lee against Prospect CharterCARE, Prospect East Holdings, and/or Prospect Medical Holdings.

In connection with the original asset purchase in 2014, and as part of the conditions imposed by the Department of Health and the Rode Island Attorney General, Prospect East Holdings became obligated, and Prospect Medical Holdings became the guarantor of that obligation,[67] to contribute $50 million in long term capital contributions to Prospect CharterCARE to enable Prospect CharterCARE to fund capital improvements at the hospitals owned by Prospect RWMC and Prospect SJHSRI.[68]

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[66] See Prospect RWMC's Application at 6 ("The Transaction does not impact RWMC's capital and operating needs. RWMC will continue to generate sufficient revenues to cover its expenses. In the event any additional revenues are required, PCC and PMH has [sic] sufficient cash to fund any additional operating needs."); Prospect SJHSRI's Application at 6 ("The Transaction does not impact OLF's [Prospect SJHSRI's] capital and operating needs. OLF [Prospect SJHSRI] will continue to generate sufficient revenues to cover its expenses. In the event any additional revenues are required, PCC and PMH has [sic] sufficient cash to fund any additional operating needs.").

[67] See Exhibit 12 (Prospect Medical Holdings's Guaranty dated May 23, 2014).

[68] See Asset Purchase Agreement (dated as of September 24, 2013) § 2.5(b).

That obligation was incorporated in the LLC Agreement between Prospect East Holdings and CharterCARE Community Board.[69]

Moreover, CharterCARE Community Board was a direct beneficiary of that obligation, because increasing the capital assets of Prospect CharterCARE would increase the value of CharterCARE Community Board's equity interest in Prospect CharterCARE at least in the amount of CharterCARE Community Board's share in Prospect CharterCARE.

As noted,[70] there is no evidence of payment of any portion of the $50 million long-term capital commitment.[71] Under those circumstances, Prospect Medical Holdings cannot be permitted to pay (for the benefit of Ivy's shareholders) millions of dollars of its "corporate cash," all of which should instead be used to pay the $50 million long-term capital commitment to Prospect CharterCARE, under its guaranty of that obligation of Prospect East Holdings, and be available to pay any judgments that may be awarded in the federal court and CCCB v. Lee against the Prospect entities, and to meet the need for operating funds of the Licensed Hospitals and Medical Facilities.

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[69] See LLC Agreement § 4.2(b).

[70] See *supra* at 5-6.

[71] The financial statements submitted in connection with the CECA claim that a debt of some $24.7 million due to Prospect Advisory for unpaid management fees was converted into a capital contribution by Prospect East Holdings. That debt does not appear to be in good faith since the same financial statements show that Prospect CharterCARE paid millions of dollars in administration expenses to its own staff and staff of Prospect SJHSRI and Prospect RWMC. Moreover, that alleged debt was owed to Prospect Advisory, and not to Prospect East Holdings, and Prospect East Holdings did not satisfy that debt to Prospect Advisory. Accordingly, even if the debt were real (which it was not), forgiveness of that debt by Prospect Advisory cannot be converted into ca capital contribution by Prospect East Holdings. Finally, the financial statements under the unhelpful heading of "other" list millions of dollars in expenses, which need to be explained.

D. The Applications misrepresent the financial condition of Prospect RWMC, Prospect SJHSRI, Prospect CharterCARE, and Prospect Medical Holdings

The Applications acknowledge, as they must, that both Prospect CharterCARE and Prospect Medical Holdings, Inc. are obligated to financially support Prospect RWMC and Prospect SJHSRI. They also claim that Prospect CharterCARE and Prospect Medical Holdings "has [sic] sufficient cash to fund any additional operating needs" in the event that Prospect RWMC and/or Prospect SJHSRI require additional revenues to cover their expenses.[72]

However, the Applications misrepresent the financial ability of Prospect CharterCARE and Prospect Medical Holdings to fulfill that obligation, by stating that "[i]In the event any additional revenues are required [by Prospect RWMC and/or Prospect SJHSRI], PCC[73] and PMH[74] has [sic] sufficient cash to fund any additional operating needs."[75]

The balance sheet in the financial statement for Prospect Medical Holdings that the Applicants provide at Tab 28 of their Applications shows only $7,694,000 in unrestricted cash or cash equivalents as of September 30, 2018 (which is the most recent statement), down from $27,109,000 as of September 30, 2017, $29,587,000 as of September 30, 2016, and $65,899,000 as of September 30, 2015. That cash would not be sufficient even to pay the "Aggregate Purchase Price" even if that were only

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[72] Applications at 23(C).

[73] Prospect CharterCARE.

[74] Prospect Medical Holdings.

[75] CECAs at 23(C).

$11,940,992, which it almost certainly is not. It certainly leaves nothing to fund the operating needs of the Licensed Hospitals and Medical Facilities.

The balance sheet in the financial statement for Prospect CharterCARE that the Applicants also provide at Tab 28 of their Applications is even worse: it shows that as of September 30, 2018, and September 30, 2017, Prospect CharterCARE had no cash whatsoever!

The Applications also misrepresent that Prospect RWMC and Prospect SJHSRI "continue to generate sufficient revenues to cover [their] expenses."[76] Shockingly this misrepresentation is made in the same Applications wherein it is revealed that the hospitals cannot pay over $24 million in management fees allegedly due to Prospect Advisory! The balance sheet in the financial statements for both Prospect RWMC and Prospect SJHSRI for the years ending September 30, 2018 and September 30, 2017, that the Applications also provide at Tab 28, states that those entities are "dependent on Prospect[77] to fund ongoing operations."[78] They also show that Prospect SJHSRI ended its fiscal years 2017 and 2018 with zero cash, and that Prospect RWMC also ended its fiscal year 2018 with zero cash, down from cash of merely $299,000 at the end of the fiscal year 2017.

The Applicants also make the misleading and completely unsupported statement that "in fact, in July of 2019, Medical Properties Trust invested $1.55 billion in PMH.

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[76] CECA at 23(C).

[77] Prospect Medical Holdings is defined as "Prospect." CECA Tab 28 (Prospect Chartercare RWMC, LLC Notes to Consolidated Financial Statements at n.1, and Prospect Chartercare SJHSRI, LLC Notes to Consolidated Financial Statements at n.1).

[78] CECA Tab 28 (Prospect Chartercare RWMC, LLC Notes to Consolidated Financial Statements at n.1 and Prospect Chartercare SJHSRI, LLC Notes to Consolidated Financial Statements at n.1).

That investment has not only strengthened PMH financially, but it also provided it with a significant and experienced potential source of funding for improvements to its facilities."[79] That statement is not included in any of the financial statements, is not supported by any documents, and certainly is not attested to by a certified public accountant. In fact, that statement is completely belied by the economics of the transaction for which the applicants seek approval. That transaction would pay the alleged "private equity investors" (and their affiliates) the sum of $11,940,992 (and some undisclosed amount) for their shares in Ivy Holdings, which in turn owns all the shares of PMH. Those "private equity investors" (and their affiliates) own 66% of the shares in Ivy Holdings.[80] It is inconceivable that $1.55 billion was invested in PMH in 2018 but the majority interest in PMH's parent company (which owns all of PMH) is only worth $11,940,992 today, less than two years later.

Publicly available information reveals that what actually happened in 2018 was that PMH sold most of its real estate (in which most of its hospitals operated) to a real estate investment trust called Medical Properties Trust, and then leased the real estate back.[81] That was an investment by that Trust in real estate formerly owned by PMH, not an investment in PMH after the properties were sold. Moreover, Prospect Medical Holdings used an undisclosed amount of the proceeds to pay down existing debt,[82] essentially substituting one creditor for another. Prospect Medical Holdings also has

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[79] CECAs at 23(C).

[80] CECA Tab G1-D at 2-3 (reciting that Samuel Lee presently owns 19.51% of Ivy Holdings, Inc. and the David & Alexa Topper Family Trust owns 14.45%, leaving 57.82% for the Green entities and 8.22% for other undisclosed shareholders).

[81] See https://www.globallegalchronicle.com/prospect-medical-holdings-1-55-billion-sale-leaseback-and-financing/, accessed April 3, 2020.

[82] Id.

not disclosed what it has done with, or the amount, if any, of cash it obtained from that sale-leaseback that was not required to pay back existing debt.

Indeed, in 2018, Prospect Medical Holdings used borrowed cash to issue $457 million in dividends to stockholders,[83] reducing the assets of Prospect Medical Holdings and leading to credit downgrades.[84] Borrowing money in order to pay dividends is certainly a questionable practice for any company. It is especially concerning when it puts hospitals at risk. Moreover, following an earlier $100 million dividend paid in 2012, the Department of Health and the Rhode Island Attorney General queried Prospect Medical Holdings in connection with the 2014 Asset Sale as to whether it had any intention of continuing such practices.[85] Prospect Medical Holdings responded that it had no such intention.[86] Nevertheless, in 2018 Prospect Medical Holdings went ahead and issued a dividend of $457 million to its shareholder Ivy, out of borrowed funds.[87]

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[83] See Prospect Medical Holdings, Inc.'s Consolidated Financial Statements as of and for the years ended September 30, 2018 and 2017, at 44 ("The proceeds of the Term B-1 Loans and the New ABL Facility (the 'New Senior Secured Credit Facilities') were used . . . to pay a dividend of $457.0 million to the Company's stockholders . . . ."); id. at 48 ("The Company distributed approximately $457.0 million in connection with the issuance of 'New Senior Secured Credit Facilities' during the year ended September 30, 2018, which was recorded against retained earnings, and was ultimately paid to the common stockholders of Ivy Holdings Inc").

[84] See https://www.moodys.com/research/Moodys-downgrades-Prospect-Medical-Holdings-Incs-CFR-to-B3-outlook--PR_397518

[85] See Project Review Committee May 6, 2014 hearing transcript at 21-22, 42-43; Non-Confidential Responses to Fourth Supplemental Questions to the HCA Application (AGE14-136246) ("S4-22 Please confirm that Prospect does not plan to make another dividend and that the 100M dividend to the parent holding company in 2012 was limited to unique capital market situation at the time. Response: This statement is correct.").

[86] Id.

[87] See supra at n.83.

E. The Applications are fundamentally self-contradictory

The four applications for change in effective control each are fundamentally self-contradictory. They each identify the applicant as "Chamber, Inc." on page 1.[88] However, on page 2 they each identify the applicant as another entity.[89] Moreover, all four of the applications for change in effective control are signed by Jeffrey Liebman, who is identified as "President or Chief Executive Officer."[90] However, Jeffrey Liebman is listed on page 2 of each of the four applications as the "President or Chief Executive Officer" of Prospect RWMC, Prospect SJHSRI, Prospect Blackstone Valley Surgicare, LLC, or Prospect CharterCARE Home Health Care and Hospice LLC, respectively. It does not appear that Jeffrey Liebman is President or Chief Executive Officer of the applicant Chamber, Inc., and he certainly is not identified as such. Indeed, the merger agreement that the applicants attach to the CECAs applications as Tab 14 lists the "Chief Executive Officer" of Chamber, Inc. as "Samuel Lee." Jeffrey Liebman's name appears nowhere in that document.

This lack of any apparent relationship between Jeffrey Liebman and Chamber, Inc. is not some mere technical deficiency. For example, by signing the applications, Liebman certified that "the information contained therein is complete, accurate, and true." However, Liebman would have no way of making that certification for information concerning Chamber, Inc., Ivy Holdings, or the so-called "private equity investors" in Ivy Holdings, since those entities are several levels removed from the companies in which

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[88] The Department of health website also identifies the applicant as "Chamber, Inc." See https://health.ri.gov/licenses/detail.php?id=204, accessed on April 3, 2020.

[89] The four applicants identified on page 2 are Prospect RWMC, Prospect SJHSRI, Prospect Blackstone Valley Surgicare, LLC, and Prospect CharterCARE Home Health Care and Hospice LLC.

[90] See Change in Effective Control Applications at 1.

Liebman is an officer. He cannot even attest to the authenticity of the merger agreement, to which the companies Liebman works for are not even parties.

CONCLUSION

The Department of Health should not allow Prospect Medical Holdings, Inc. or any of its affiliates to be used as a private piggybank for Lee and Topper to the detriment of the people of Rhode Island. The Department of Health should withdraw its acceptance of the Applications on the grounds that they are incomplete. In the alternative that the Applications are considered on the merits, they should be denied.

The undersigned reserve all rights and remedies.

Dated: April 9, 2020

Respectfully submitted,

Thomas S. Hemmendinger, as Liquidating Receiver of CharterCARE Community Board, St. Joseph Health Services of Rhode Island, and Roger Williams Hospital

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and

Stephen Del Sesto, as Permanent Receiver for the St. Joseph Health Services of Rhode Island Retirement Plan

Stephen Del Sesto (TSH with permission)

Stephen Del Sesto, Esq.
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Tel: 401-490-3415
sdelsesto@pierceatwood.com

Exhibit 8

Peters, Jennifer

From: Rocha, Pat
Sent: Monday, May 11, 2020 2:39 PM
To: 'themmendinger@brcsm.com'
Cc: 'sdelsesto@pierceatwood.com'; 'spsheehan@wistbar.com'
Subject: RE: [External] CEC Objection

Hi, Tom. I am responding to your email below. In the Objection you filed with the Rhode Island Department of Health, you state that the purported disqualifying conflict of interest is based upon Adler Pollock & Sheehan P.C. ("AP&S") formerly representing "CCCB, SJHSRI and RWH in the negotiation and consummation of the 2014 asset sale" including "negotiating the terms of the LLC agreement between CCCB and Prospect East Holdings, Inc." As noted in my April 28, 2020 email below and as we discussed, AP&S did not serve as transaction counsel, did not represent CCCB, SJHSRI and RWH in the negotiation and consultation of the 2014 asset sale and did not negotiate the terms of the LLC agreement between CCCB and Prospect East Holdings, Inc. To the extent you are requesting invoices to confirm my statement regarding the scope of AP&S' services, let me state again that AP&S did not serve as transaction counsel. Drinker Biddle & Reath LLP (now Faegre Drinker Biddle & Reath) was transaction counsel as confirmed in the notification section of the Asset Purchase Agreement. Feel free to reach out to Keith Anderson who was the principal lawyer at Drinker Biddle to confirm same. Keith is presently at Manatt, Phelps & Phillips, LLP and his email address is kanderson@manatt.com.

With respect to your request to send copies of the legal bills AP&S issued to the three receivership entities for work in 2012-2015, you note that it would take extensive research on your part to complete due diligence. Likewise, it would take research on the part of our billing department (who are working on shifts and remotely as a result of the COVID crisis) to locate and copy legal bills for a three-year period on a variety of matters that are not the same or substantially related to the CEC Application review (and could not be the same or substantially related in light of the October 2, 2019 execution date of the Merger Agreement that is the subject of the Department of Health review). All of the invoices were forwarded to the three receivership entities monthly for work in 2012 through 2015 and they should all have copies of the invoices. Accordingly, because the invoices should be in the possession or control of the three receivership entities, my suggestion is that you obtain copies from their records. To the extent they have not maintained the records, we would need to agree upon a protocol and timetable for our billing department to take time away from its current efforts during the COVID crisis to respond to your request.

Thanks – if you have any questions, please contact me.

Pat

From: Thomas S. Hemmendinger [mailto:themmendinger@brcsm.com]
Sent: Tuesday, May 5, 2020 4:37 PM
To: Rocha, Pat <PRocha@apslaw.com>
Cc: sdelsesto@pierceatwood.com; spsheehan@wistbar.com
Subject: RE: [External] CEC Objection

Pat, it would likely take extensive research on my part to complete my due diligence on the conflict question. To speed things up, could you send me copies of the legal bills your firm issued to the three receivership entities for work in 2012 – 2015?

Thomas S. Hemmendinger
Brennan, Recupero, Cascione, Scungio & McAllister, LLP
362 Broadway | Providence, RI 02909
Tel. 401.453.2300 ext. 107 | Fax 401.453.2345 | Email themmendinger@brcsm.com | www.brcsm.com

From: Rocha, Pat <PRocha@apslaw.com>
Sent: Friday, May 1, 2020 2:17 PM
To: Thomas S. Hemmendinger <themmendinger@brcsm.com>
Cc: sdelsesto@pierceatwood.com; spsheehan@wistbar.com
Subject: RE: [External] CEC Objection

Thanks, tom
Have a good weekend and stay safe

From: Thomas S. Hemmendinger [mailto:themmendinger@brcsm.com]
Sent: Friday, May 1, 2020 1:51 PM
To: Rocha, Pat <PRocha@apslaw.com>
Cc: sdelsesto@pierceatwood.com; spsheehan@wistbar.com
Subject: Re: [External] CEC Objection

Pat, thanks for speaking with me about this and for your note. I'll look into this further and get back to you.

Sent from my iPad

On Apr 28, 2020, at 09:45, Rocha, Pat <PRocha@apslaw.com> wrote:

Hi, Tom and Steve. I hope you and your families are safe and healthy. Following up on my discussion with Tom yesterday, I am writing with respect to the Objection filed with the Department of Health to the Change in Effective Control Application on your behalf as the court-appointed permanent receiver for the Saint Joseph Health Services of Rhode Island Retirement Plan and the court-appointed permanent liquidating receiver of CharterCARE Community Board, Saint Joseph Health Services of Rhode Island and Roger Williams Hospital, respectively, and your contention that Adler Pollock & Sheehan P.C. ("AP&S") has a disqualifying conflict of interest. As I discussed with Tom, there is no such conflict. First, AP&S never represented the Saint Joseph Health Services of Rhode Island Retirement Plan. Second, AP&S never "represented CCCB, SJHSRI and RWH in the negotiations and consummation of the 2014 asset sale, in which those entities sold all of their operating assets to Prospect entities" including "negotiating the terms of the LLC Agreement between CCCB and Prospect East Holdings, Inc." CCCB, SJHSRI and RWH were represented by Drinker Biddle & Reath LLP as transaction counsel. Accordingly, we request that you correct the record and withdraw your erroneous contention that AP&S has a conflict.

We look forward to hearing from you.

Pat

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Exhibit 9

B R C S M
Brennan / Recupero / Cascione / Scungio / McAllister LLP
Attorneys at Law

Thomas S. Hemmendinger, of counsel
E-mail themmendinger@brcsm.com

June 11, 2020

By email to procha@apslaw.com

Patricia K. Rocha, Esq.
Adler Pollock & Sheehan P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903-1345

Re: *In re: Change in Effective Control Applications by Prospect CharterCARE RWMC, LLC and Prospect CharterCARE SJHSRI, LLC, et al.* and *In re: Chamber Inc.; Ivy Holdings Inc.; Ivy Intermediate Holdings, Inc.; Prospect Medical Holdings, Inc.; Prospect East Holdings, Inc.; Prospect East Hospital Advisory Services, LLC; Prospect CharterCARE, LLC; Prospect CharterCARE SJHSRI, LLC; Prospect CharterCARE RWMC, LLC Hospital Conversion Application*

Dear Pat:

Thank you for your email of June 1, 2020, forwarding copies of certain invoices identifying work performed by Adler Pollock & Sheehan P.C. ("Adler Pollock") on behalf of St. Joseph Health Services of Rhode Island ("SJHSRI") and CharterCARE Community Board ("CCCB") during 2012–2014.

Independently I have obtained copies of certain invoices Adler Pollock submitted to SJHSRI and CCCB during the period 2015-2018.

These invoices from 2012 through 2018 clearly demonstrate that Adler Pollock cannot represent any Prospect entities[1] in connection with their pending applications under the Hospital Conversions Act and the Health Care Facility Licensing Act of Rhode Island. Moreover, Adler

[1] Chamber Inc.; Ivy Holdings Inc.; Ivy Intermediate Holding Inc.; Prospect Medical Holdings, Inc.; Prospect East Holdings, Inc.; Prospect East Hospital Advisory Services, LLC; Prospect CharterCARE, LLC; Prospect CharterCARE RWMC, LLC; and Prospect CharterCARE SJHSRI, LLC.

Pollock should have informed CCCB (and me on my appointment as CCCB's Liquidating Receiver) of the pendency of these applications ("CECAs"). The CECAs directly affect CCCB's interests, and I only learned about them by chance months after they had been submitted.

As you know, CCCB objects to those applications, and those objections are based in part on allegations that these Prospect entities are in breach of obligations undertaken in connection with the 2014 asset sale. Adler Pollock's current representation of these Prospect entities involves matters that are substantially related to Adler Pollock's prior services as counsel for SJHSRI and CCCB, concerning matters in which the interests of SJHSRI and/or CCCB are adverse to the interests of these Prospect Entities.

Moreover, CCCB has brought a lawsuit in Superior Court in which the defendants include many of the entities on whose behalf the CECAs were filed, including Ivy Holdings Inc., Ivy Intermediate Holding Inc., the Leonard Green investment entities, Sam Lee, David Topper, Prospect Medical Holdings, Inc., and Prospect CharterCARE, LLC. I am enclosing a copy of the operative complaint for your review in case you have not already seen it. That lawsuit also involves many of the same issues on which CCCB's objections to the CECAs are based, as well as facts that occurred during Adler Pollock's representation of CCCB and SJHSRI. Accordingly, I direct you and your firm to cease such representation and not to provide any Prospect entities with your work product in connection with such matters.

The current adversity between the interests of CCCB and SJHSRI, on the one hand, and the Prospect entities on the other hand, is undeniable. It is fully detailed in CCCB's objection to the pending CECAs. It is also laid out if even greater detail in the case of CCCB v. Lee, C.A. No. PC-2019-3654. For example, the operative complaint alleges that

> The proposed transaction described in the CECAs confers no benefit upon Prospect Medical Holdings, and is a fraud upon Prospect Medical Holdings's creditors, including Plaintiffs pursuant to the Guaranty of May 23, 2014. Upon information and belief, the CECAs were filed with the approval or acquiescence of the board of directors of Prospect Chartercare, in breach of fiduciary duties owed to Plaintiffs, and in furtherance of the fraudulent transfers described herein.

Amended Complaint ¶ 102.

Adler Pollock's conflict also should be obvious, but I will explicate it with some examples.

An attorney cannot act for an adverse party involving factual and legal disputes arising out of events that occurred when the attorney was counsel for the other party. Two sets of invoices expressly state that Adler Pollock acted as general counsel for both SJHSRI and CCCB. Adler Pollock billed at least $41,281.75 for its services as SJHSRI's general counsel from the

beginning of 2012 until the asset sale to Prospect in June of 2014, and billed at least $31,847.50 for its services as CCCB's general counsel from 2012 through the end of 2014 (in addition to other amounts Adler Pollock billed on various matters for SJHSRI and CCCB). During this period SJHSRI and CCCB negotiated and entered into those agreements with Prospect entities that SJHSRI and CCCB now allege were breached by the Prospect entities, and Adler Pollock represented SJHSRI and CCCB in connection with their performance of their obligations under those agreements. Moreover, Adler Pollock represented SJHSRI and CCCB in obtaining regulatory approvals, in which the Prospect entities participated and with respect to which SJHSRI and CCCB allege the Prospect entities committed fraud.

Given Adler Pollock's role as general counsel, it is not necessary to demonstrate that Adler Pollock was involved in or advised SJHSRI and/or CCCB concerning specific matters involving the Prospect entities. However, the invoices concerning Adler Pollock's services as general counsel prove that Adler Pollock in its capacity as SJHSRI and CCCB's general counsel was directly involved with those matters, beginning at least on August 27, 2012, when you and Richard Beretta met with Ken Belcher concerning Prospect. Moreover, you and other attorneys at Adler Pollock were directly involved in advising SJHSRI and CCCB concerning pension issues involved in the proposed sale to Prospect. For example, in late December 2012, Hans Lundsten analyzed those issues. On January 2, 2013 you reviewed his analysis and met with representatives of SJHSRI, CCCB, Angell, and Prospect to discuss those issues. On March 14, 2013, Hans Lundsten conducted "[r]esearch on plan issues in connection with possible sale." On March 19, 2013, he "[d]iscuss[ed] issues on church plans with firm attorney (J. DiStefano) and possible sale."

Separate and apart from its representation of CCCB and SJHSRI as general counsel, Adler Pollock's ongoing direct involvement in matters concerning Prospect entities is shown in the bills that Adler Pollock submitted to CCCB under the heading "005 Prospect." These bills cover the period from May 7, 2013 through June 27, 2014 and demonstrate that Adler Pollock treated this representation as a special matter. Indeed, Adler Pollock billed CCCB over $480,000 in legal fees for its services involving "Prospect" during the period from May 7, 2013 through June 27, 2014. This establishes a clear and very substantial relationship between Adler Pollock's current representation of Prospect entities and its prior representation of SJHSRI and CCCB, because that prior representation directly concerned Prospect.

These time charges include many instances in which Adler Pollock had dealings with representatives of SJHSRI and/or CCCB in which no representatives of any Prospect entity were included.

Moreover, they are not limited to the regulatory aspects of the HCA/CEC applications. Rather, they also involve substantive aspects of the 2014 Asset Sale. On May 16, 2013, you personally reviewed the letter of intent that Prospect gave to SJHSRI and CCCB concerning the proposed

transaction and communicated with Kim O'Connell concerning that matter. On May 21, 2013, you personally reviewed the draft Asset Purchase Agreement ("APA") and the draft agreement for Prospect Advisory to manage the venture between CCCB and Prospect East. You were certainly acting in your capacity as CCCB and SJHSRI's counsel when you conducted that review.

On August 1, 2013 you had a private conference with Ken Belcher concerning the "status of negotiations and execution of APA." In other words, in your capacity as SJHSRI's counsel you had a private conference with your client concerning a transaction your client was considering with Prospect entities.

On September 12, 2013 Hans Lundsten "discuss[ed] pension issues on sale with firm attorney (J. DiStefano)." On December 3, 2013, you had a "meeting with firm attorneys (J. DiStefano, E.H. Lundsten) re CCHP Foundation and pension issues." On December 6, 2013, Attorney Force "reviewed and analyzed contract regarding allocation of $14 million for pension deficiencies." On December 9, 2013, Hans Lundsten participated in "[c]alls from firm attorney (J. DiStefano) and to P. Karlesen on pension issues." On December 10, 2013, you participated in a "meeting with firm attorneys (J. DiStefano, E.H. Lundsten) re pension and charitable asset issues." As you may already know, Joseph DiStefano is one of the defendants in CCCB v. Lee. based on allegations that are relevant to Adler Pollock's prior representation of CCCB and SJHSRI.

Moreover, even if (*arguendo*) it were correct Adler Pollock's representation of CCCB and SJHSRI was limited to the HCA/CECA applications (which it was not), even that representation involved issues that are currently in dispute between and among the Plan Receiver and CCCB, on the one hand, and Prospect entities, on the other. Indeed, the dispute is set forth at length both in CCCB's objection to the CECAs and in CCCB v. Lee. For example, you and other attorneys at Adler Pollock prepared witnesses who testified in support of the application and debriefed those witnesses. On February 11, 2014, you billed five hours for "[m]eeting with Ken Belcher, Sam Lee, Von Crockett, David Topper, Chris Vitale, Mark Russo and Moshe Berman re PRC meeting preparation." Messrs. Lee, Von Crockett, and Topper are also defendants being sued by CCCB in CCCB v. Lee. On March 13 and March 18, 2014, you billed for a "[c]onference call with CharterCARE and Prospect teams re meeting preparation" and a "[m]eeting with CharterCARE and Prospect teams re PRC [Project Review Committee at the Department of Health] meeting preparation," respectively.

Moreover, the actual submissions in which Adler Pollock participated in connection with the 2013/2014 Hospital Conversions Act applications and Change in Effective Control applications directly bear on CCCB and SJHSRI's objections to the pending CECAs and in the case of CCCB v. Lee, such that you and other members of Adler Pollock will likely be called as witnesses, either to support the Prospect entities against CCCB, or to support the Plan Receiver and

CCCB's objections against Prospect. This is another reason why Adler Pollock cannot represent the Prospect entities. For example:

The October 18, 2013 Hospital Conversion Act Applications, which you submitted to the Attorney General (and which listed you as a contact for CharterCARE Community Board), in response to question 55, recited the terms of the March 18, 2013 term letter, including "PMH's commitment to capital expenditures of $50 million over four years, in addition to the commitment to fully fund depreciation expenses at spending levels consistent with CCHP's recent history" and "CCHP's right to appoint 50% of the members of the board of directors of Prospect CharterCARE, LLC" and stated that "Taken in the aggregate, these terms were the best available to CCHP among the proposals from the remaining interested parties . . .." Prospect's failure to fund the long-term capital commitment is one of the grounds on which SJHSRI and CCCB object to the pending CECAs, and is a central allegation in CCCB v. Lee. You will likely be called to testify regarding SJHSRI and CCCB's contentions concerning the long term capital commitment.

Similarly, the January 2, 2014 resubmitted Hospital Conversion Act Applications, which Adler Pollock submitted to the Attorney General (and which listed you as a contact for CharterCARE Community Board), in response to question 67, stated: "In this transaction, PMH has committed to $50M in capital expenditure over four (4) years, post-conversion. The specific uses of the capital expenditure funds will be determined post conversion after appropriate studies and analyses are undertaken."

On March 18, 2014, you personally wrote to Messrs. Kilmartin and Fine on behalf of CharterCARE Community Board and stated that "over the next four (4) years, PMH will provide an additional, capital investment of $50M, which will benefit the communities served by the local Hospitals" and that "with regard to the proposed joint venture, the long term interests of PMH and CCHP are perfectly aligned."

On April 16, 2014, you submitted the Non-Confidential Responses to the Third Supplemental Questions to the HCA Application to the Department of Health and the Attorney General, including these responses to questions S3-6 and S3-26:

> S3-6 Has there been discussion of the commitment being spread evenly throughout the PCC system, or apportioned with minimums devoted to the hospital facilities and any other specified projects or affiliates?
>
> Response: In addition to a routine capital investment of at least $10M per year to be reinvested by Prospect CharterCARE, PMH has committed to future capital contributions of $50M within four (4) years of the closing on the transaction ("Long-Term Funding Commitment"). The specific goals of the Long-Term

Funding Commitment will be determined, post-conversion, after appropriate studies and analyses are undertaken. However, under the APA, the use of the Long-Term Funding Commitment may include (i) the development and implementation of physician engagement strategies, and (ii) projects related to facilities and equipment, including but not limited to:

- expansion of the cancer center at RWMC,
- expansion of the emergency department at RWMC,
- renovation/reconfiguration of the emergency department at Fatima,
- renovation of the operating rooms at RWMC,
- conversion of all patient rooms to private rooms at both Hospitals,
- renovation and expansion of the ambulatory care center at Fatima,
- new windows at both Hospitals,
- a new generator at Fatima,
- a facelift for the facades at both Hospitals,
- access for the handicapped at the front entrances of both Hospitals.

The specific capital projects to be funded will be determined by Prospect CharterCARE's Board of Directors. Beyond what is listed above, there have been no discussions of commitments with regard to the capital investment as these are decisions that will be left to Prospect CharterCARE's Board of Directors after the appropriate studies and analysis are undertaken.

* * *

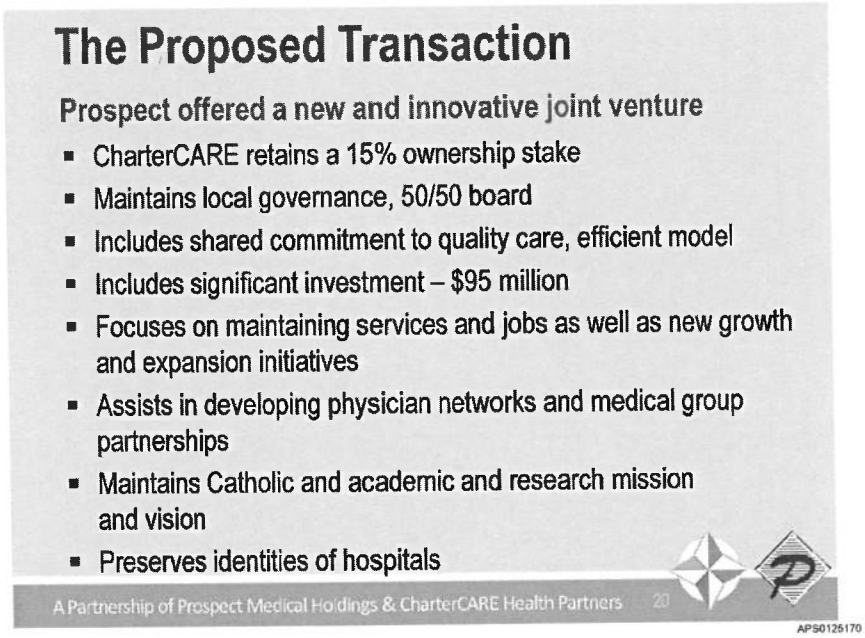
S3-26 Please confirm that Prospect's commitments under transaction documents are consistent with its financing structure (the referenced credit agreement/trust indenture), and that its finance obligations will not impact joint venture hospital operations or Prospect's commitments as represented in connection with this application.

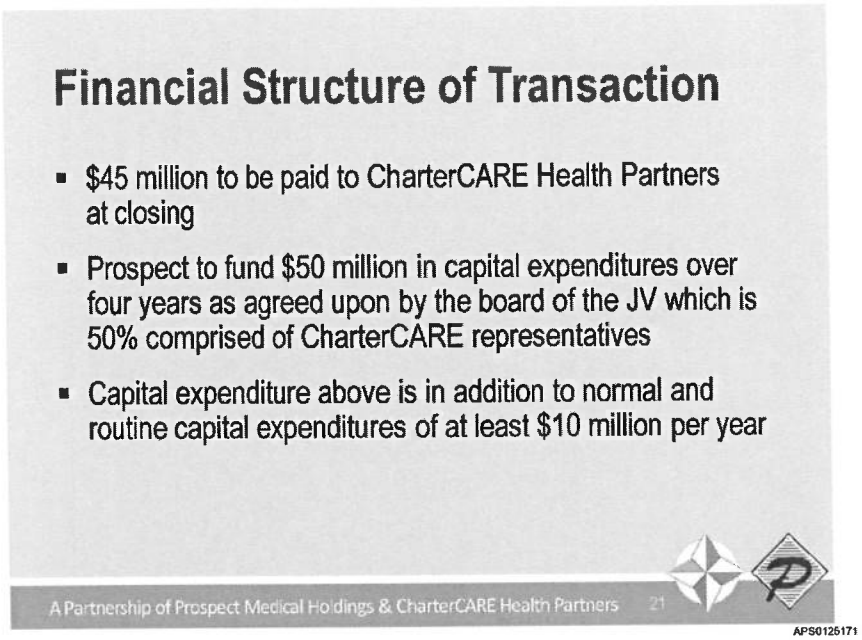
Response: Confirmed.

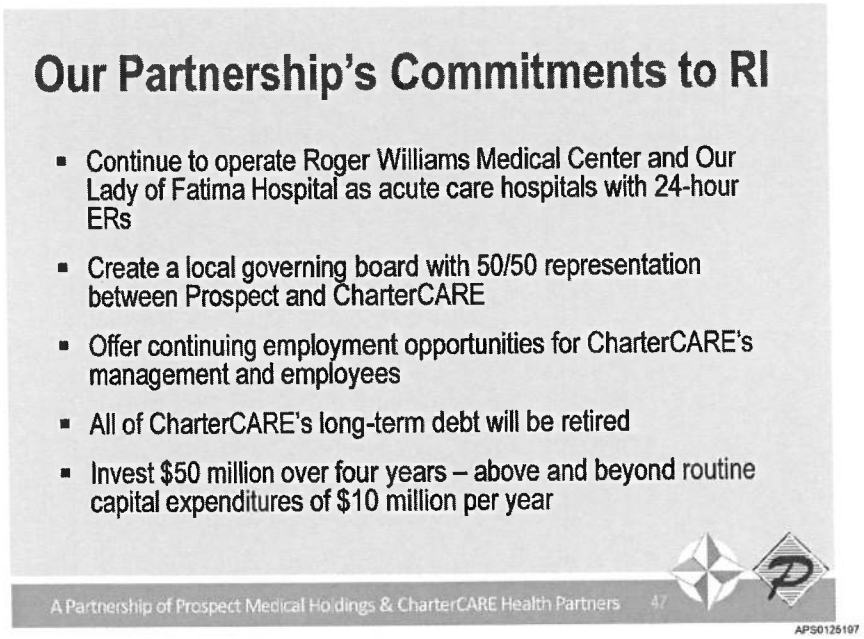
In addition, you were present at and participated throughout the February 11, 2014 hearing before the Project Review Committee ("PRC"). You told the PRC:

> And the CharterCARE Prospect one that's before you this afternoon is truly unique. With your approval, it will be the first of its kind, including joint ownership between CharterCARE and Prospect Medical and shared governance at the Board level. That will allow Roger Williams Medical Center and Our Lady of Fatima to continue to provide high-quality, cost-effective services but with the added resources of Prospect Medical which is a health care services company with experience with hospitals, physician networks and managed care in California and Texas.

You helped present a PowerPoint slide deck which contained (inter alia) the following three slides:







This PowerPoint slide deck contained statements which we believe to be at least materially misleading (either by affirmative misstatements or material omissions), and which are directly relevant both to CCCB's opposition to the CECAs and to the receivers' claims in CCCB v. Lee.

You and the other participants also distributed an "Executive Summary" of the transaction which *inter alia* stated:

Some of the key details regarding the proposed transaction are as follows:

- PMH will pay $45 million in cash at closing.
- CCHP will retain a 15% interest in Prospect CharterCARE.
- PMH has committed to capital expenditures of $50 million over four years. Said funds are in addition to normal and routine capital expenditures by Prospect CharterCARE of at least $10 million per year.
- CCHP will have the right to appoint 50% of the members of the board of directors of Prospect CharterCARE.

* * *

Long-Term Capital Commitments

In addition to a routine capital investment of at least $1 OM per year to be reinvested by Prospect CharterCARE, PMH has committed to future capital contributions of $50M within four (4) years of the closing on the transaction ("Long-Term Funding Commitment"). The specific goals of the Long-Term Funding Commitment will be determined, post-approval, after appropriate studies and analyses are undertaken. However, under the AP A, the use of the Long-Term Funding Commitment may include (i) the development and implementation of physician engagement strategies, and (ii) projects related to facilities and equipment, including but not limited to:

- expansion of the cancer center at RWMC,
- expansion of the emergency department at RWMC,
- renovation/reconfiguration of the emergency department at Fatima,
- renovation of the operating rooms at RWMC,
- conversion of all patient rooms to private rooms at both Hospitals,
- renovation and expansion of the ambulatory care center at Fatima,
- new windows at both Hospitals,
- a new generator at Fatima,
- a facelift for the facades at both Hospitals,

• access for the handicapped at the front entrances of both Hospitals.

The specific capital projects to be funded will be determined by Prospect CharterCARE's Board of Directors.

* * *

Post-Approval Governance

The final highlight of the transaction overview is the post-approval governance which likewise is unique in its approach to maintaining and advancing the community mission in today's challenging environment. Post-approval, there will be a Board of Directors overseeing Prospect CharterCARE. PMH's ownership interest will appoint 50% of the membership of Prospect CharterCARE's Board and CCI-IP's ownership interest will appoint 50% of the membership of the Prospect CharterCARE's Board. In turn, the Board of Directors will also form Local Boards for each of the Existing Hospitals, post-approval. The Local Boards will be comprised as follows: Fifty (50%) percent of each Board consisting of physicians on that Hospital's medical staff; and the other fifty (50%) percent of local community representatives.

* * *

In closing, CCHP and PMH respectfully submit that the proposed transaction meets the statutory criteria for approval for the following reasons:

* * *

• Prospect has demonstrated a significant financial commitment to the Partnership through its equity investment of $45M to allow the existing CharterCare health system to pay off all existing debts and a further commitment of an additional $50M over normal yearly capital commitments to improve the existing system.

You also attended the meeting while the numerous statements were made to the PRC.

For example, Ken Belcher stated:

Number 1, the Board said we want to make sure whomever we partner with, that individual group, that partnership shares the mission and the vision and the values of our organization of CharterCARE, Number 1. Number 2, the Board was very clear, as Ed [Santos] talked about a moment ago, that whatever structure we develop that it be as close to a joint venture type structure as possible because the

> Board was also very clear in not wanting this to be an acquisition but wanting this to be a partnership, ideally a joint venture where we would have a high percentage of local control, Rhode Island based local control. And thirdly, of course, to bring new capital to the system. And through this process and this review, Prospect has lined up very nicely on those three points.
>
> . . .
>
> Back in January of '13, we then engaged Cain Brothers which is a health care investment company that assists organizations to look at these opportunities. We worked with them and moving through a process, ultimately, in signing a letter of intent with Prospect which was approved by the Board and then started an extensive due diligence process which, ultimately, caused us to have definitive agreements signed this past September. So, again, a long and involved process but an important process. The transaction that -- you'll see the details in front of you in hard copy shortly. But as Ed referred to, in most of these cases, CharterCARE will retain a 50 percent ownership stake despite the 85/15 split. We will maintain a 50/50 Board, an eight member Board. Four of those members will be appointed by CharterCARE. Four members will come from Prospect. There will be a shared commitment to quality. I think that goes without saying. The investment includes a total of $95 million. The 45 million will come to the table at the time of closing should this application and process be approved. That process at closing will be used to pay off the debt across the organizations. On top of that 45 million, there will be an additional 50 million that will come to us for capital over a period of four years. You can see that we will continue to maintain our teaching mission. We will continue to maintain our research mission. We will continue to support our Catholicity and all the aspects of contacts, and the identities of hospitals will also be maintained. Again, this gets to a little bit more about the detail which I have just explained. In addition to those items, we will also internally fund capital through funded depreciation of five million dollars a year for each of the two area hospitals, so an additional ten per year. So with that four-year period, there will be -- ten times four forty million there plus the fifty million in additional capital. Ninety million dollars available in capital and then forty-five million coming to the table to offset debt. So a lot of very important steps that, again, we're very excited about.

Ed Santos stated:

> They [Prospect] understand Rhode Island, and they understand the impact of bringing $45 million to the table to help us offset debt and also to bring in an additional 50 million to the state of Rhode Island to help us with our mission

which supports overall the economic drive in a very high way of our state. So -- so we're very, very pleased to be able to bring this proposal to you in this joint venture.

Tom Reardon stated:

One thing we are partnered -- we've started a new partnership with the Union, with UNAP which we think is going to be quite interesting. We've embraced them. They've embraced us. We think that's going to be pretty cool as we move forward.

Ken Belcher further stated:

We've given you a sense of the partnership, what it is, what it's about, how it's structured, why it's important, who CharterCARE is, what we've accomplished to date, who Prospect is and what they've accomplished to date and why it's so important for us to come together. Some of the details in this last component -- obviously, our commitment to Rhode Island. I think that you know CharterCARE and know how sincerely we take our responsibilities and our obligations and health care delivery to the citizens of Rhode Island. So you can see in the bullets here -- I mean, it's very straightforward. We will continue to operate our hospitals as we are operating our hospitals, to be acute care institutions with 24-hour emergency department coverage. This will be happening under a structure, this new joint venture that we presented to you which has a 50/50 Board which will show strong representation from Rhode Island to help ensure that care is delivered in the continuous and appropriate fashion, high-quality fashion, the way it's just been described. We, obviously, will still continue to take all the steps we need to take as we described on the front end of the procedure -- of the presentation today, which will be retiring the debt that we have currently in the bonds all across CharterCARE. So that means that the $16 million worth of bonds in the Roger William campus and $15 million roughly in the Our Lady of Fatima campus will all be retired which, of course, immediately creates working capital for the organization because those interest payments go away, and that working capital can go back into the health care delivery to help us start on the steps of creating more capital available for our organizations and to renovate our facilities and to address those needs, in addition, obviously, to the $50 million over the four years that we've already described and the $10 million of working capital that would come through operation. So very exciting steps with the continued commitment to health care delivery in Rhode Island."

Tom Reardon stated:

> Sam [Lee] and David [Topper] have said many, many times that all health care is local. And you've heard the comment about all politics is local. Well, all health care is local. And they have mentioned to me on a number of occasions and I agree a hundred percent that a lot of the systems, big national and other systems get in trouble because they try to manage things from headquarters. It just can't be done. People in L.A. don't know what needs to be done in Rhode Island. It's as simple as that. And so when we talk about a joint venture and a 50/50 Board, we mean it. And when we talk about our local management team and embracing them and supporting them and providing them with capital and providing them with some expertise that we have particularly in the population management side, we mean it.
>
> . . .
>
> And then there are two -- I call them legacy -- the Heritage Hospital Boards. Really the only change if you can visualize this is that there will now be a Joint Venture Board, four of which are appointed by CharterCARE and four appointed by Prospect. And that Board is a 50/50 Board, and we mean it when we say 50/50. I mean, these -- all these decisions, it's 50/50. There are some default mechanisms, but generally, it's 50/50 on the key issues.

Ken Belcher further stated:

> As I said, we -- we are here in front of you because we know we have a responsibility. We will continue to maintain whatever health care to the citizens of Rhode Island. This is a step that we're able to take which we believe is a very innovative and appropriate step to partner with someone who has an interest to coming to Rhode Island to work with us to bring $95 million in new capital to vent in our system so that our health care program can continue and impact. And this is very exciting.
>
> . . .
>
> [A]ssuming approval from the Council, the Committee and the process, we would anticipate a closing somewhere in the neighborhood of the May window, June window, again, depending on the timing of process. At the time of close, what would happen would be that there would be a transition of $45 million that would come to the organization. That $45 million would come to retire the debt of the two organizations which is roughly $34 million. And there is an additional component that will go into the pension plan on the Our Lady of Fatima campus which is a church plan to help support the funding status of that plan that will

> bring it to a strong position of 92 percent funding. And we're very excited about having the opportunity to do that. So that is the first component. That's the 45. In addition to that 45, there will be $50 million of new money coming to the system over a period of four years to support the capital needs. So as far as new money coming into Rhode Island, new money coming to the system, $95 million, the 45 plus the 50.

All of these communications are directly relevant both to SJHSRI and CCCB's objections to the pending CECAs and the receivers' claims in CCCB v. Lee. There can be no dispute that those CECAs are substantially related to your prior representation of CCCB and SJHSRI.

Adler Pollock's impermissible conflict is exacerbated by the firm's activities in responding to the Plan Receiver's subpoena to it issued in 2018, which were billed as professional services to CCCB or SJHSRI and relate in large part to dealings they had with the Prospect entities.

Accordingly, please provide me with immediate written confirmation that Adler Pollock has withdrawn from representing any Prospect entities, in connection with the CECAs or otherwise, and will not share its work product with any such entities. *Time is of the essence because a hearing on the CECAs may be scheduled at any time.* Therefore, if I do not receive such written confirmation by Wednesday, June 17, 2020, I will have to take steps to protect and preserve CCCB's and SJHSRI's rights concerning Adler Pollock, including seeking injunctive relief.

Cordially,

/s/ Thomas S. Hemmendinger

Thomas S. Hemmendinger
Liquidating Receiver of CharterCARE Community
Board, St. Joseph Health Services of Rhode Island,
and Roger Williams Hospital

cc: Stephen Del Sesto, Esq. (by email)
Max Wistow, Esq. (by email)
Stephen Sheehan, Esq. (by email)
Benjamin Ledsham, Esq. (by email)
Lisa M. Kresge, Esq. (by email)
Ronald F. Cascione, Esq. (by email)
Sean J. Clough, Esq. (by email)

Exhibit 10

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WILLIAM CALISE, et al., Plaintiffs,	:	
v.	:	C.A. No. 18-99WES
BRADY SULLIVAN HARRIS MILLS, LLC, et al., Defendants.	:	
		Consolidated with
JOSEPH M. RACHIELE, et al., Plaintiffs,	:	
v.	:	C.A. No. 18-100WES
BRADY SULLIVAN HARRIS MILLS, LLC, et al., Defendants.	:	

REPORT AND RECOMMENDATION

PATRICIA A. SULLIVAN, United States Magistrate Judge.

> Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living.
>
> R.I. Rules of Professional Conduct, Preamble ¶ 9.

This wise precept, established by the Rhode Island Supreme Court as a guide for attorneys in discharging their competing responsibilities, supplies the motif that recurs throughout the unfortunate tale told in this report and recommendation. Pending before the Court is the motion of Defendants Brady Sullivan Harris Mill, LLC, and Brady Sullivan Properties, LLC, ("Brady Sullivan") seeking a permanent injunction.[1] ECF No. 65. The motion

[1] Brady Sullivan labeled its motion as one seeking "Protective Order and Other Relief." ECF No. 65 at 1. At the hearing on the motion, the parties and Attorneys Coloian and Calabro agreed that it is really a motion seeking a

arises in both of these consolidated cases ("the Cases"),[2] which are based on an alleged mold infestation in a renovated mill building. Brady Sullivan is the real estate development corporation that renovated and manages the building; Plaintiffs are tenants in two of the apartment units. The motion veers off course from the merits of the Cases. Its focus is on the conduct of the two attorneys – Artin Coloian and Daniel Calabro, Jr. – who filed both of the Cases but withdrew on the eve of the Court's bench decision on Brady Sullivan's motion to disqualify them. Plaintiffs are now represented by other counsel.

The pending motion is based on Brady Sullivan's well-founded assertion that Attorneys Coloian and Calabro accepted as clients two of its former employees, an engagement fraught with undisclosed and unresolved conflicts of interests, as a result of which the Attorneys came into possession of Brady Sullivan's contractually protected confidential information, attorney-client information and related attorney work product (collectively, "Confidential Information") without authorization or consent in violation of Brady Sullivan's legal rights. Having acted promptly and worked aggressively to stuff the genie back in the bottle, Brady Sullivan now seeks to bring the matter to a close for good with a permanent injunction banning Plaintiffs and Attorneys Coloian and Calabro from using, reviewing, discussing, communicating and/or forwarding the Confidential Information to anyone (including successor counsel) and prohibiting Attorneys Coloian and Calabro from receiving or otherwise participating in any attorneys' fees associated with the Cases.

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permanent injunction, which is an excepted motion pursuant to 28 U.S.C. § 636(b)(1)(A). Therefore, I must issue a report with proposed findings of fact and recommendations for disposition. Id. § 636(b)(1).

[2] Unless indicated otherwise, all ECF citations are to the first filed case, Calise v. Brady Sullivan, C.A. No. 18-99WES. The Court consolidated the cases on March 28, 2018. Text Order of Mar. 28, 2018.

The Court's task in resolving the motion is eased by the absence of any dispute over the remedy: Plaintiffs (acting through their new counsel) and Attorneys Coloian and Calabro agree that Brady Sullivan may have the requested relief. The sticking point is whether the Court will issue the permanent injunction based a reasoned decision that includes findings of fact based on violations of the Rhode Island Rules of Professional Conduct, particularly R.I. Rules 1.7, 4.3 and 4.4(a).[3]

I. FACTUAL AND PROCEDURAL BACKGROUND

The motion arises from events that occurred mostly in March 2018, which may be briefly summarized.[4] At its heart are two former management-level employees of Brady Sullivan: Julio Basabe, Maintenance Manager, and Christina Rahn, Property Manager (the "former employees").

As a condition of their employment with Brady Sullivan, both of the former employees signed confidentiality agreements barring them from, *inter alia*, disclosing certain information related to Brady Sullivan's products or services. At least one of them, Rahn, was privy to extensive confidential attorney-client communications directly related to the issues in the Cases and related matters pertaining to other tenants and former tenants of Brady Sullivan. While still employed at Brady Sullivan, Rahn surreptitiously printed, copied on thumb drives or CDs and/or emailed to her home email account Brady Sullivan documents that included substantial quantities of Brady Sullivan's confidential attorney-client information. Shortly after the Cases were filed by Attorneys Coloian and Calabro, the former employees abruptly resigned from Brady Sullivan

[3] The Rhode Island Rules of Professional Conduct are codified as Article V of the Rhode Island Supreme Court Rules; in the interest of brevity, they will be cited as "R.I. Rule __."

[4] The factual background summarized here is reiterated *infra* in the form of proposed findings of fact, together with the source of each proposed fact. The source citations are not repeated here.

and immediately engaged Attorneys Coloian and Calabro to represent them in connection with matters pertaining to Brady Sullivan. Attorneys Coloian and Calabro undertook this engagement and provided legal advice to the former employees despite the obvious conflict between the interests of the former employees and their existing clients, Plaintiffs and other tenants or former tenants of Brady Sullivan contemplating or already in litigation against it.

Over several days in March 2018, having formed an attorney-client relationship with the former employees, Attorneys Coloian and Calabro obtained information from Basabe and Rahn. They accepted documents from Rahn that she had secretly taken while employed at Brady Sullivan. Among these documents were many clearly reflecting Brady Sullivan's attorney-client communications. Attorneys Coloian and Calabro reviewed at least a handful of these documents, which constituted bulls-eye attorney-client communications between Brady Sullivan and its counsel regarding matters directly pertaining to the Cases and related matters.

There is no evidence that Attorneys Coloian and Calabro advised Basabe or Rahn about the jeopardy posed to them by breaching the confidentiality agreements or any duty of loyalty they might owe to their former employer. There is no evidence that Attorneys Coloian and Calabro advised Rahn about the jeopardy posed to her by her actions in taking and making a wholesale disclosure of Brady Sullivan's attorney-client information to the attorneys for the parties opposing it in litigation. There is no evidence that Attorneys Coloian and Calabro instructed either Rahn or Basabe not to disclose Brady Sullivan Confidential Information or took any steps to avoid an unwarranted intrusion into Brady Sullivan's privileged relationships. There is no evidence that Attorneys Coloian and Calabro advised or obtained a written waiver from Basabe or Rahn regarding limitations on the Attorneys' ability to represent the former employees in light of the Attorneys' concurrent representation of Plaintiffs and their other tenant clients.

Relatedly, Attorneys Coloian and Calabro did not advise or obtain a written waiver from Plaintiffs or any of their other tenant clients on their acceptance of a materially limiting competing engagement. Instead, despite the conflicts, in derogation of their duty to Basabe and Rahn and likely animated by the competing duty owed to Plaintiffs and the other tenant clients, the Attorneys communicated with the former employees without regard to the confidentiality of the information being provided, and accepted documents from Rahn that they knew Rahn had taken from Brady Sullivan during her employment, among which they found (and accessed) Brady Sullivan's purloined attorney-client information.

Beginning on March 5, 2018, Brady Sullivan was alerted to the possibility of the breach through comments Attorney Coloian made to one of its attorneys. After further investigation, it promptly sued the former employees, Basabe and Rahn, in a separate action filed on March 15, 2018, and removed to this Court on March 22, 2018. Brady Sullivan v. Rahn, C.A. No. 18-133WES ("18-133").[5] On April 12, 2018, the Court entered an injunction mandating that Basabe and Rahn comply with the confidentiality agreements, as well as that they and their attorneys (Attorneys Coloian and Calabro, and Attorney Sean Doherty, who briefly entered an appearance on behalf of Basabe and Rahn) must return all of the Brady Sullivan Confidential Information, including the attorney-client privilege information, to Brady Sullivan. 18-133 ECF No. 20.

Because the Confidential Information taken by Rahn had been delivered in various electronic formats and in hard copy, the Court's April 12, 2018, Order included specific requirements to ensure its return. This triggered a flurry of collateral activity in 18-133, as Brady Sullivan worked diligently to recover all of the Confidential Information. However, through no fault of Basabe, Rahn or Attorneys Coloian and Calabro, all of whom cooperated in good faith to

[5] To distinguish it from citations to the Cases, this report and recommendation uses "18-133 ECF No. __," for citations to the case against the former employees.

comply with the Court's April 12, 2018, Order, this effort was not entirely successful. Most recently, at the hearing of February 28, 2019, it was revealed that two thumb drives containing thousands of documents taken by Rahn appear to be irretrievably lost. Transcript Feb. 28, 2019, at 24, 26, 34 (18-133 ECF No. 69).[6] Meanwhile, Basabe and Rahn are no longer actively defending themselves in 18-133; as a result, the clerk has entered default against them. 18-133 ECF No. 66.

Returning to the Cases, on April 13, 2018, based on R.I. Rules 4.4(a) and 1.7(a), Brady Sullivan moved to disqualify Attorneys Coloian and Calabro from representing Plaintiffs; the motion was supported by the depositions of Rahn and Basabe and the affidavits of one of Brady Sullivan's attorneys and its Information Technology ("IT") Manager. Following a hearing at which both parties declined the Court's offer to hear testimony, the Court scheduled the motion to disqualify for a bench decision to be delivered on July 25, 2018; this date was extended to September 25, 2018, at the request of the parties. Less than one week before the bench decision, Attorneys Coloian and Calabro filed notices of their withdrawals and substitute counsel entered for Plaintiffs. At the September 25 hearing, the Court found that the motion to disqualify had become moot but that serious issues remained to be resolved. To allow Brady Sullivan time to consider its options and with no objection from Plaintiffs, the Court entered a non-disclosure order barring Attorneys Coloian and Calabro from using or forwarding any of the Confidential Information to successor counsel or any other person, with a deadline of October 25, 2018, for

[6] The transcripts for this and other hearings are cited as: "Transcript Feb. 28, 2019, at __." The first time each transcript is cited, the ECF number is included.

Brady Sullivan to file a motion seeking an injunction or sanctions for permanent relief.[7] Text Order of Sept. 26, 2018.

On October 25, 2018, the current motion was filed. As directed by the Court, Brady Sullivan supplemented the motion with proposed findings of fact and conclusions of law. In response, Plaintiffs and Attorneys Coloian and Calabro made clear that they did not object to entry of the permanent injunction sought by Brady Sullivan. However, Attorneys Coloian and Calabro objected vigorously to the Court's issuance of a reasoned decision, arguing that there is no Article III case or controversy because Brady Sullivan's injury is speculative and hypothetical and that the motion amounts to an improper interference with the contractual agreement between Attorneys Coloian and Calabro and their former clients, Plaintiffs and the other tenants and former tenants. The Court offered the parties the opportunity to have an evidentiary hearing; Attorneys Coloian and Calabro declined, while Brady Sullivan reserved the right to present testimony on any material fact as to which the Court was inclined to sustain an objection asserted by Attorneys Coloian and Calabro. For the reasons stated *infra*, no evidentiary hearing was deemed necessary.

II. STANDARD OF REVIEW

"[T]he district court has the duty and responsibility of supervising the conduct of attorneys who appear before it." Kevlik v. Goldstein, 724 F.2d 844, 847 (1st Cir. 1984). This power continues "after that lawyer is no longer representing a party in the proceedings." SPV-LS, LLC v. Transamerica Life Ins. Co., CIV 14-4092, 2017 WL 3668765, at *4 (D.S.D. Aug. 23, 2017), aff'd in relevant part, reversed in part on separate issue, 912 F.3d 1106 (8th Cir. 2019); Andrew, Merritt, Reilly & Smith, LLP v. Remote Accounting Sols., Inc., 626 S.E.2d 204, 206

[7] Because they had withdrawn, Attorneys Coloian and Calabro did not attend the September 25, 2018, proceedings. However, they were served with the non-disclosure order electronically.

(Ga. Ct. App. 2006). The Court's inherent authority extends to addressing the consequences of improper *ex parte* contact with a party's former employee. Zachair, Ltd. v. Driggs, 965 F. Supp. 741, 755 (D. Md. 1997) (finding "wrongly obtained knowledge 'can never be erased from [counsel's] mind'" and ordering disqualification and exclusion of information). It extends to prohibiting predecessor counsel from communicating with successor counsel with respect to the subject litigation when such a restriction is necessary to protect confidential information. Levi Strauss & Co. v. Abercrombie & Fitch Trading Co., No. C 07-03752 JSW, 2007 WL 3203056, at *5 (N.D. Cal. Oct. 29, 2007) ("[Disqualified attorney] also is prohibited from communicating or forwarding to successor counsel any work product created in the course of this action or in matters related to this action that is based upon or derived from [the company's] confidential information possessed by [disqualified attorney]."). It is also clear that the need for protection against turning over to successor counsel the "tainted" work product of disqualified or withdrawn counsel is a separate and distinct question from whether the attorney should have been disqualified in the first place. Milford Power Ltd. P'ship by Milford Power Assocs., Inc. v. New England Power Co., 896 F. Supp. 53, 57 (D. Mass. 1995).

"An injunction is an exercise of a court's equitable authority, to be ordered only after taking into account all of the circumstances that bear on the need for prospective relief." KG Urban Enters., LLC v. Patrick, 693 F.3d 1, 27 (1st Cir. 2012) (citing Salazar v. Buono, 559 U.S. 700, 714 (2010)). A party "seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. [The party] must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the [parties], a remedy in equity is warranted; and (4) that the public interest would not be disserved by a

permanent injunction." Monsanto Co. v. Geertson Seed Farms, 561 U.S. 139, 156-57 (2010). Equitable relief is not granted as a matter of course, and injunctions in particular should be used sparingly due to their potential scope and duration. Hekking v. Hekking, C.A. No. 14-295JJM, 2018 WL 6583845, at *2 (D.R.I. Dec. 14, 2018); see Me. Educ. Ass'n Benefits Tr. v. Cioppa, 842 F. Supp. 2d 386, 388 (D. Me. 2012), aff'd, 695 F.3d 145 (1st Cir. 2012) ("[T]he Court must bear constantly in mind that an [i]njunction is an equitable remedy which should not be lightly indulged in, but used sparingly and only in a clear and plain case.").

Rule 65 of the Federal Rules of Civil Procedure governs the issuance of injunctions.[8] It mandates that the contents of an order granting an injunction must "state the reasons why it issued," "state its terms specifically," and "describe in reasonable detail – and not by referring to the complaint or other document – the act or acts restrained or required." Fed. R. Civ. P. 65(d)(1)(A-C). "Rule 65(d)(1)(A) must be given a commonsense construction, not a hypertechnical one." Watchtower Bible & Tract Soc'y of N.Y., Inc. v. Municipality of San Juan, 773 F.3d 1, 10 (1st Cir. 2014). It is sufficient if a court makes "the essence of its reasoning plain before ordering injunctive relief." Id.

When a motion for an injunction is referred to a magistrate judge under the Federal Magistrates Act, 28 U.S.C. § 631, *et seq.*, the magistrate judge must address it through the issuance of a report and recommendation. See 28 U.S.C. § 636(b)(1)(B-C). In so doing, the magistrate judge must "submit to a [district] judge of the court proposed findings of fact and recommendations for the disposition." Id. § 636(b)(1)(B). And the district judge "shall make a de novo determination of those portions of the report or specified proposed findings or

[8] Attorneys Coloian and Calabro argue that the Court should eschew the making of findings in reliance on Fed. R. Civ. P. 52(a)(3). However, Fed. R. Civ. P. 52(a)(3) permits an abbreviated approach only for motions under Fed. R. Civ. P. 12 and 56 and other motions, "unless these rules provide otherwise." This motion arises under Rule 65, which specifically requires a statement of reasons.

recommendations to which objection is made." Id. § 636(b)(1)(C). In this context, the magistrate judge "does not rule directly on such a motion, but rather must file a report containing findings of fact and recommendations for the assistance of the district judge who makes the ruling." Brown v. Wesley's Quaker Maid, Inc., 771 F.2d 952, 954 (6th Cir. 1985).

Based on the foregoing, it is clear that Fed. R. Civ. P. 65(d)(1)(A-C) and 28 U.S.C. § 636(b)(1)(A-C) require more than the undeveloped statement that Attorneys Coloian and Calabro came into possession of Confidential Information and that Brady Sullivan has proffered enough to meet the legal standard for an injunction. Such a truncated approach would not adequately "state the reasons why [the injunction should be] issued." Fed. R. Civ. P. 65(d)(1)(A); see Watchtower Bible, 773 F.3d at 10 ("essence" of court's reasoning must be "plain"). Nor would it fulfill my statutory obligation to provide the district judge with "proposed findings of fact and recommendations for the disposition." 28 U.S.C. § 636(b)(1)(B). Accordingly, I find that a more fulsome set of proposed facts is required, well beyond what Attorneys Coloian and Calabro contend is sufficient.

III. APPLICABLE ETHICAL STANDARDS

The Rhode Island Rules of Professional Conduct implicated by the motion may be briefly summarized.

First, R.I. Rule 1.7(a), titled, "Conflict of interest: Current clients," governs conflicts of interest and provides that "a lawyer shall not represent a client if the representation involves a concurrent conflict of interest." A conflict is presented not only when there is direct adversity, but also if the concurrent representation of a client gives rise to a significant risk that the representation of another client will materially limit the lawyer's ability to represent either or both clients. Id. 1.7(a)(1-2). In the latter circumstance, the Rule carves out an exception if the

lawyer believes that she will be able to provide competent and diligent representation of each affected client; nevertheless, such an engagement is permitted only if each affected client gives informed consent, which must be confirmed in writing. Id. 1.7(b)(4). Related to R.I. Rule 1.7 is R.I. Rule 4.3, which bars a lawyer from giving legal advice to an unrepresented person (other than the advice to secure counsel) if the lawyer knows that it is reasonably possible that the interests of such a person are in conflict with the interests of an existing client.

The most significant of the Rules implicated by the events in issue is R.I. Rule 4.4, titled, "Respect for rights of third persons." Subsection (a) of R.I. Rule 4.4 provides:

> In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

The Rhode Island Rules of Professional Conduct permit a lawyer to communicate with the former employee of a represented party-opponent. R.I. Rule 4.2, comment [7]. However, the relevant comment warns that such communications must be done with due regard for R.I. Rule 4.4(a). R.I. Rule 4.2, comment [7] ("In communicating with a current or former constituent of an organization, a lawyer must not use methods of obtaining evidence that violate the legal rights of the organization.") (citing R.I. Rule 4.4). The comment to R.I. Rule 4.4 echoes this caution, providing that the lawyer may not willfully disregard the rights of a third party, such as the former employer of a witness, including the right to be free from "unwarranted intrusions into privileged relationships, such as the client-lawyer relationship." See R.I. Rule 4.4, comment [1].

While Rhode Island courts have not interpreted R.I. Rule 4.4(a), at the time of the initial adoption of the Rules, it was noted that the Rules of Professional Conduct should be read consistently with the American Bar Association ("ABA") Model Rules of Professional Conduct, "unless there was a good reason for not doing so." See § 11.2 Authority for Ethics

Considerations, 2011 WL 5027363 (quoting Memorandum of Transmittal of Proposed Rules of Professional Conduct to the Rhode Island Supreme Court (Jan. 6, 2006)). Therefore, it is appropriate for the Court to look to the interpretations by other states of analogous rules derived from the ABA Model Rules. For example, the Bar Association for the District of Columbia has interpreted its analog to R.I. Rule 4.4:

> The most significant concern in [communication with former employees of a party opponent] is the possibility that the former employees were privy to privileged information and that, without counsel present, they might be inclined to reveal this information to the opposing lawyer. This concern is serious and a lawyer may not solicit information when communicating with former employees of a party-opponent that is reasonably known or which reasonably should be known to the lawyer to be protected from disclosure . . . by an established evidentiary privilege. We based this conclusion on Rule 4.4, which requires lawyers to refrain from using "methods of obtaining evidence that violate the legal rights of [third parties]." These rights include the former employer's right to protect its privileged information from disclosure.

Ex Parte Contact With Former Employees of Party-Opponents, D.C. Bar Ethics Opin. 287, available at https://www.dcbar.org.bar-resources/legal-ethiscs/opinions/opinions287.cfm. (internal citations omitted). Similarly, cases from other jurisdictions with an analogous rule emphasize that an attorney who communicates with the former employees of a party-opponent must affirmatively "take care not to seek to induce or listen to disclosures by former employees of privileged communications." Aiken v. Bus. & Indus. Health Grp., Inc., 885 F. Supp. 1474, 1480 (D. Kan. 1995); see, e.g., Chamberlain Grp., Inc. v. Lear Corp., 270 F.R.D. 392, 398 (N.D. Ill. 2010) ("[I]t is generally 'an improper litigation tactic to use a disgruntled employee to secretly obtain non-public internal business documents from an opposing party.'"); Arnold v. Cargill Inc., No. 01-2086 (DWF/AJB), 2004 WL 2203410, at *7-9 (D. Minn. Sept. 24, 2004) (to comply with Rule 4.4, before communicating with former employee of adverse party, attorneys have affirmative duty to advise former employee that he cannot disclose privileged

communications; without such warning, court may conclude from circumstances that privileged and confidential information was disclosed despite denials by attorneys); In re Grievance Proceeding, No. 3:01GP6(SRU), 2002 WL 31106389, at *3 (D. Conn. July 19, 2002) (during *ex parte* contact, "plaintiff's counsel must take care not to seek to induce or listen to disclosures by the former employees of any privileged attorney-client communications to which the employee was privy") (quoting Dubois v. Gradco Sys., 136 F.R.D. 341, 347 (D. Conn. 1991)).

In summary, while there is no barrier to an attorney interviewing or developing evidence from the former employee of a party-opponent, it is a clear violation of R.I. Rule 1.7(a) for an attorney to form an attorney-client relationship with the former employee of a party-opponent without carefully considering and appropriately addressing all conflicts of interest, including all limitations on the attorneys' ability to simultaneously represent a litigant and the former employee of the party opposing the litigant. It also is a clear violation of R.I. Rule 4.3 for an attorney to give any legal advice to an unrepresented former employee of an opposing party if there is a reasonable possibility of a conflict arising from the attorney's existing attorney-client relationship with the litigant opposing the former employer. And if an attorney communicates with the former employee of an opposing party, R.I. Rule 4.4(a) mandates that the attorney undertaking such communications has an affirmative duty to proceed with due care to ensure that the former employee does not inadvertently or intentionally disclose privileged attorney-client or other confidential information in violation of the legal rights of the opposing party.

IV. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The proposed factual findings that follow are drawn from an array of sources. I relied on the facts proposed by Brady Sullivan, ECF No. 65-2 ("BS Proposed Facts ¶ __"), focusing on those to which Attorneys Coloian and Calabro did not interpose any objection, apart from their

vague assertion that all of the Brady Sullivan facts lack the support of sufficient evidence.[9] Mindful of the latter plaint, I also reexamined various sources of evidence to ensure that each of the facts that follow is grounded in an adequate evidentiary foundation. In so doing, I relied, first, on prior findings made at hearings held on June 27, 2018 (ECF No. 54), and on December 21, 2018 (ECF No. 71), in the Cases, as well as on the representations made during colloquy with Attorneys Coloian and Calabro at those hearings. Second, for the limited purpose of supporting the finding that some of the Confidential Information has not been recovered, I relied on the representations of counsel made during colloquy with Attorney Alberto Cardona[10] at the hearing in 18-133 held on February 28, 2019. Third, I relied on my *in camera* review of a subset[11] of the documents taken by Rahn; the findings based on the *in camera* review were announced on the record during the hearing on June 27, 2018, at which Attorneys Coloian and Calabro were present. Transcript June 27, 2018, at 6-8 (*in camera* review). Fourth, I relied on the depositions of Basabe and Rahn.[12] ECF No. 34-3 ("Rahn Dep."); ECF No. 34-4 ("Basabe

[9] After Attorneys Coloian and Calabro acknowledged at the hearing on December 21, 2018, that at least some of the Brady Sullivan proposed facts were undisputed, the Court directed them to specify which are factually disputed and why. Transcript Dec. 21, 2018, at 33 (ECF No. 71). They complied. Their specific objections to Brady Sullivan's proposed facts are found at ECF No. 72-7 at 2-4. Plaintiffs did not object separately to any of Brady Sullivan's proposed facts, relying instead on whatever objections Attorneys Coloian and Calabro might assert. Transcript Dec. 21, 2018, at 31.

[10] Attorney Cardona entered his appearance after Attorneys Coloian, Calabro and Doherty all withdrew as counsel for Basabe and Rahn in 18-133.

[11] The documents that were reviewed *in camera* were returned to Brady Sullivan at the September 25, 2018, hearing (ECF No. 64), with instructions for them to be filed on a sealed *ex parte* basis if Brady Sullivan wished to make them part of the record. Transcript Sept. 25, 2018, at 18-19. Together with other documents taken by Rahn, Brady Sullivan subsequently filed them *ex parte* under seal. The *in camera* review set is filed at 18-133 ECF No. 62-3.

[12] These depositions were taken in 18-133 on March 30 and April 2, 2018. Subsequently, the transcripts were filed in the Cases and the Court ruled that, although they had been taken in 18-133, they may be considered when resolving a motion in the Cases. See Text Order of June 28, 2018 (citing Alexander v. Casino Queen, 739 F.3d 972, 978 (7th Cir. 2014)). Each deposition is sealed because they contain the substance of Brady Sullivan's Confidential Information, including information relating to attorney-client communications. The references to them in this report and recommendation are crafted to avoid disclosure of these secrets. In addition, Brady Sullivan cites to a second Rahn deposition, taken on September 6, 2018. That transcript was not filed so neither the Court nor Plaintiffs nor

Dep.").[13] Fifth, I relied on the affidavits of Todd Romano, counsel for Brady Sullivan, and Mark Schneider, Brady Sullivan's IT Manager. ECF No. 17-2 ("Romano Aff."); ECF No. 17-3 ("Schneider Aff."). Finally, I used some of the proposed findings proffered by Attorneys Coloian and Calabro. ECF No. 72-7 at 5 ("C+C Proposed Facts ¶ __").[14]

It is important to note that none of the attorneys involved in these matters testified, leaving me to rely instead on their representations made in filings and during hearings; relatedly, I relied on transcripts of the testimony of Basabe and Rahn and did not hear them live. This approach to the issues was partly informed by my reluctance to put an officer of the court in the witness box. I also was mindful of the need to avoid placing Brady Sullivan's attorney-client confidences at further risk of disclosure. In any event, no party or attorney asked for an evidentiary hearing.[15] See, e.g., Transcript June 27, 2018, at 120. Most importantly, however, there did not appear to be material factual disputes that could be resolved only by the assessment of credibility. Rather, the disagreements seemed to derive from differing characterizations of the facts and differing perspectives on events.[16] In general, I found that all counsel, including

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Attorneys Coloian and Calabro had access to it. As a result, I relied on none of Brady Sullivan's proposed facts sourced to that transcript.

[13] The pinpoint citations for the depositions correspond to the page number on the ECF header.

[14] The C+C Proposed Facts were presented "for the Court's consideration should this Court determine findings are necessary to grant stipulated injunctive relief." ECF No. 72-7 at 5. Because my recommendation is not based on "stipulated injunctive relief," I limited reliance on the C+C Proposed Facts to circumstances where there was other evidence to support the finding.

[15] There is one exception: Brady Sullivan asked the Court to afford it an opportunity to present evidence in the event that the post-hearing objections presented by Attorneys Coloian and Calabro created a material factual dispute. Because the Coloian/Calabro objections left untarnished a more-than-adequate factual foundation for the permanent injunction that I am recommending, I found that no such hearing was necessary.

[16] To illustrate, the evidence established that Brady Sullivan has first-hand knowledge of the attorney-client communications its counsel had with Basabe and Rahn, while Attorneys Coloian and Calabro know only what they recall of what they were told by Basabe and Rahn. This difference of perspective explains, for example, the discrepancy between the representation of Attorneys Coloian and Calabro that Basabe had never met with counsel for Brady Sullivan, ECF No. 72-7 at 2, and Brady Sullivan's insistence that he did. The absence of a genuine factual

Attorneys Coloian and Calabro, conducted themselves throughout these proceedings with due regard for their duty of candor towards the tribunal. See R.I. Rule 3.3 ("Candor toward the tribunal"). In the end, I concluded that the relief requested by Brady Sullivan is well supported by the largely undisputed version of events on which the following proposed facts are based, and I found that a time-consuming evidentiary hearing, which would have been required if the Court had to resolve credibility issues, was unnecessary.

My proposed findings of fact and related conclusions of law[17] are as follows:

1. After the Cases were filed by Attorneys Coloian and Calabro in the Rhode Island Superior Court on January 25, 2018, and removed to this Court, two management-level employees of Brady Sullivan (Basabe, the Maintenance Manager, and Rahn, the Property Manager) abruptly resigned on March 2 and 7, 2018, respectively. Basabe Dep. at 12; Rahn Dep. at 47-49; BS Proposed Facts ¶¶ 6, 11, 13, 33, 37.

2. Prior to their resignations, both of the former employees had interacted with Brady Sullivan's attorneys in connection with the Cases and/or related matters. Basabe Dep. at 145-46, 156-62; Rahn Dep. at 44-46, 81-82, 122-23. Both of the former employees understood that these communications with Brady Sullivan's attorneys were protected by the attorney-client privilege. Basabe Dep. at 158, 167, 171-72; Rahn Dep. at 123-24. During her employment, Rahn was specifically advised that any communications with Brady Sullivan's counsel were confidential at its discretion. Rahn Dep. at 131-33. At least as to Rahn, the privileged

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dispute is clinched by Basabe's unimpeached testimony that he did have such a meeting. E.g., Basabe Dep. at 156-58.

[17] These findings of fact and conclusions of law are presented together because, unlike Fed. R. Civ. P. 52(a), § 636 does not require that they be stated separately. Compare Fed. R. Civ. P. 52(a) (for bench trial, "court must find the facts specially and state its conclusions of law separately"), with 28 U.S.C. § 636(b)(1)(B) (magistrate judge shall submit "proposed findings of fact and recommendations for the disposition, by the judge of the court, of any motion").

communications to which she was privy referenced Brady Sullivan's litigation strategy for the Cases and related matters. Transcript June 27, 2018, at 7 (*in camera* review).

3. As a condition of their employment with Brady Sullivan, both of the former employees had signed confidentiality agreements barring, *inter alia*, the disclosure of certain confidential information related to Brady Sullivan's products or services; the agreement defined "confidential information" as any business data or information not generally known outside the company.[18] Basabe Dep. at 141-43; Rahn Dep. at 128-30; BS Proposed Facts ¶¶ 14-15. The contractual obligations of Basabe and Rahn under the confidentiality agreements survived the termination of employment with Brady Sullivan. BS Proposed Facts ¶ 16. Rahn was also aware that her employment was subject to the provisions in Brady Sullivan's employee handbook, which strictly prohibited the unauthorized disclosure of Brady Sullivan's confidential information. Rahn Dep. at 125-30.

4. Upon resigning, the former employees immediately engaged Attorneys Coloian and Calabro to represent them in connection with matters pertaining to Brady Sullivan. Basabe Dep. at 176-78; Rahn Dep. at 47-48; BS Proposed Facts ¶¶ 32-33, 37-38. At the time of these engagements, Attorneys Coloian and Calabro were actively engaged to represent Plaintiffs and other tenants or former tenants of Brady Sullivan contemplating or already in litigation against it. BS Proposed Facts ¶¶ 26-27, 29; Transcript June 27, 2018, at 84-85, 108.

5. In violation of R.I. Rule 1.7(a) and R.I. Rule 4.3, Attorneys Coloian and Calabro undertook the engagements to represent, and provided legal advice to, the former employees

[18] It is important to note that the Court has not directly addressed either the enforceability of the confidentiality agreements or what specific factual information known to Basabe and Rahn those agreements rendered confidential. This contrasts with the information taken by Rahn that is protected by the attorney-client privilege. Based on the Court's *in camera* review, I find that Rahn wrongly took privileged information protected by Brady Sullivan's attorney-client privilege and wrongly disclosed privileged information to the attorneys for the directly adverse party.

despite conflicts between the interests of the former employees and the concurrent clients of Attorneys Coloian and Calabro, Plaintiffs and the other tenant clients. These conflicts created a significant risk that the representation of the former employees would be materially limited by Attorneys Coloian and Calabro's representation of Plaintiffs and their other tenant clients,[19] as well as that the representation of Plaintiffs and their other tenant clients would be materially limited by Attorneys Coloian and Calabro's representation of the former employees.[20] Transcript June 27, 2018, at 11-12; Transcript Dec. 21, 2018, at 5, 11.

6. Notwithstanding the requirements of R.I. Rule 1.7(b)(4), Attorneys Coloian and Calabro did not obtain written informed consent from the former employees to the limitations on the Attorneys' ability to represent the former employees in light of the Attorneys' concurrent representation of Plaintiffs and their other tenant clients. See BS Proposed Facts ¶¶ 27, 29. Attorneys Coloian and Calabro also did not obtain written informed consent from Plaintiffs and their other tenant clients to the limitations on the Attorneys' ability to represent Plaintiffs and their other tenant clients in light of the Attorneys' concurrent representation of the former employees. Transcript June 27, 2018, at 86.

7. After they were engaged to represent him, and aware that he was a former employee of Brady Sullivan, Attorneys Coloian and Calabro met with and obtained information from Basabe. Basabe Dep. at 15, 176, 181-86. While the content of those oral communications is not known,[21] there is no evidence that Attorneys Coloian and Calabro advised Basabe of his

[19] By way of one example only, the duty Attorneys Coloian and Calabro owed to Plaintiffs to uncover information to aid in prosecution of the Cases limited their ability to properly advise the former employees regarding the risk of breaching their legal duties to Brady Sullivan.

[20] One significant limitation is the inability of Attorneys Coloian and Calabro to aggressively cross examine the former employees on behalf of Plaintiffs and the other tenant clients. See Transcript June 27, 2018, at 108, 113.

[21] Basabe was instructed not to answer all questions regarding the content of his privileged communications with Attorneys Coloian and Calabro. E.g., Basabe Dep. at 185-86. Therefore, I make no finding with respect to whether

duty not to disclose the content of attorney-client communications with Brady Sullivan's attorneys during his employment with Brady Sullivan as its Maintenance Manager, or of any other duties not to disclose Brady Sullivan's confidential information. Immediately after the meeting with Basabe, Attorney Coloian told an attorney for Brady Sullivan that Basabe had provided certain information; the Brady Sullivan attorney, who had met at least once with Basabe, immediately recognized the information as what he had discussed with Basabe in the course of a privileged communication on behalf of Brady Sullivan. Romano Aff. ¶¶ 12-14; Basabe Dep. at 156-58 (acknowledging that he knew his communications while meeting with Attorney Romano were privileged). As a result of Attorney Coloian's statements regarding his communications with Basabe, Brady Sullivan was placed in fear that its attorney-client relationship had been breached, as well as that its contractually protected secrets had been revealed.

8. During their communications with Basabe, who was relying on them to advise him, Attorneys Coloian and Calabro acted with disregard for the legal rights of Brady Sullivan, particularly its right to unwarranted intrusion into privileged communications, such as the client-lawyer relationship. This conduct violated R.I. Rule 4.4(a).

9. During her employment with Brady Sullivan as its Property Manager, Rahn was privy to Brady Sullivan's privileged attorney-client communications and attorney work product (including litigation strategy) directly related to the matters in issue in the Cases. See Transcript June 27, 2018, at 6-8 (*in camera* review). While still employed at Brady Sullivan, Rahn surreptitiously printed, copied to thumb drives or CDs and/or emailed to her home email account substantial quantities of Brady Sullivan's privileged attorney-client communications and attorney

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Basabe actually disclosed Confidential Information. Rather, I find that Brady Sullivan's fear that he did is well founded.

work-product, as well as what may be non-privileged Confidential Information. Transcript June 27, 2018, at 6-7, 27-28, 87-93, 101-02; Rahn Dep. at 140-42, 155-57; Schneider Aff. ¶¶ 11-12; BS Proposed Facts ¶¶ 45-47, 52-53. Rahn's taking of such material was a breach of her duty of loyalty to Brady Sullivan, a breach of Brady Sullivan's contractual rights under the confidentiality agreement and in derogation of Brady Sullivan's legal right to the protection of its privileged attorney-client communications and attorney work product. See Rahn Dep. at 131-32.

10. After they had formed an attorney-client relationship with Rahn, and knowing that she had just resigned as Property Manager of Brady Sullivan, a party opponent, Attorneys Coloian and Calabro met with Rahn twice and obtained information from her. Rahn Dep. at 28. While the content of the oral communications that she had with the Attorneys is unknown,[22] there is no evidence that Attorneys Coloian and Calabro advised Rahn of her duty not to disclose the content of attorney-client communications with Brady Sullivan's attorneys during her employment with Brady Sullivan as its Property Manager, or of any other duties not to disclose Brady Sullivan confidential information. There is no evidence that Attorneys Coloian and Calabro took care not to seek, to induce or to listen to disclosures of privileged communications or other protected Confidential Information in violation of their duty to abjure the use of a method of obtaining evidence that amounts to "unwarranted intrusions into privileged relationships, such as the client-lawyer relationship." R.I. Rule 4.4, comment [1].

11. Because Rahn understood that Attorneys Coloian and Calabro, whom she had engaged to act as her attorneys, had requested that she provide them with all of the documents

[22] Rahn was instructed not to answer all questions regarding the content of her privileged communications with Attorneys Coloian and Calabro. E.g., Rahn Dep. at 75-77.

that she had surreptitiously taken during her employment with Brady Sullivan,[23] she provided the documents to Attorneys Coloian and Calabro over a period of several days in email and hard copy and on thumb drives. Rahn Dep. at 144-46. The documents that she provided to Attorneys Coloian and Calabro contained what may be Brady Sullivan's non-privileged Confidential Information and included many documents that were obviously Brady Sullivan's privileged attorney-client communications and attorney work product directly related to the matters in issue in the Cases. Transcript June 27, 2018, at 6-7, 27-28 (*in camera* review); C+C Proposed Facts ¶ 3; BS Proposed Facts ¶¶ 47-48, 50-54, 56.

12. While most of the material provided by Rahn was not read or accessed, Attorneys Coloian and Calabro read at least some of Brady Sullivan's privileged attorney-client information contained in the documents provided by Rahn. Transcript June 27, 2018, at 87, 99-100, 102; BS Proposed Facts ¶¶ 50-51; see ECF No. 26-1 at 3 ("Counsel read a total of 7 emails, not all of which contained attorney-client communications.").

13. Based on their review of at least some of Brady Sullivan's privileged attorney-client information contained in the documents provided by Rahn, Attorneys Coloian and Calabro notified Brady Sullivan that they had received Brady Sullivan's purloined attorney-client and attorney work product information.[24] After that, they accepted more documents from Rahn,

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[23] My finding is based on Rahn's testimony regarding her understanding of what she was told by Attorneys Coloian and Calabro – "they asked for them." Rahn Dep. at 144. In their objection to Brady Sullivan's reliance on this aspect of Rahn's testimony, the Attorneys used carefully cabined language, asserting that, "[n]either Coloian or Calabro asked for 'those' emails as neither Coloian or Calabro knew the contents of the emails prior to them being sent." ECF No. 72-7 at 4. Mindful of this limited denial, I make no finding regarding what the Attorneys actually said to Rahn. Rather, I find that, in the setting of an attorney-client communication, the Attorneys said enough to cause Rahn to understand that they wanted her to give them all of the documents that she had surreptitiously taken during the period of her employment and they took no steps to advise her to avoid the transmission of attorney-client documents or other Confidential Information.

[24] To justify their conduct, Attorneys Coloian and Calabro make the *ex post* argument that they provided Brady Sullivan with the notice contemplated by R.I. Rule 4.4(b). However, R.I. Rule 4.4(b) applies to the circumstance of inadvertent disclosure, which is not the case here. I make no finding with respect to compliance with R.I. Rule 4.4(b); rather, I find that the claim of Attorneys Coloian and Calabro that they gave notice is confirmation that they

specifically the hard copy set of documents that included significant amounts of material protected by Brady Sullivan's attorney-client privilege. Transcript June 27, 2018, at 89-91 (*in camera* review). Attorneys Coloian and Calabro read at least one email from the hard copy set of documents. ECF No. 72-7 at 4 ("Coloian and Calabro collectively read only one of the printed emails.").

14. Attorneys Coloian and Calabro accepted from Rahn the Brady Sullivan documents she had taken during the period of her employment in disregard for whether those documents constituted evidence taken in violation of the legal rights of Brady Sullivan and in disregard for whether any of the documents contained Brady Sullivan's privileged attorney-client communications and attorney work product taken in violation of Brady Sullivan's legal right to unwarranted intrusions into its privileged relationships. Attorneys Coloian and Calabro accepted these materials, knowing that Rahn relied on them as her attorneys to advise her, knowing that the material had been taken by Rahn during the course of her employment and – after they reviewed the first set – knowing that the material included documents that constituted Brady Sullivan's privileged attorney-client communications and work product.

15. By engaging in the conduct described in Paragraphs 10 and 12 to 14, *supra*, Attorneys Coloian and Calabro used a method of obtaining evidence that was in disregard for, and in violation of, the legal rights of Brady Sullivan, amounting to an unwarranted intrusion into Brady Sullivan's privileged relationships, all contrary to the obligations imposed by R.I. Rule 4.4(a). Transcript June 27, 2018, at 6-7, 101; Transcript Dec. 21, 2018, at 5, 11.

16. While it is not known what information was discussed when Attorneys Coloian and Calabro engaged in oral communications with Basabe and Rahn, and while the Attorneys

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knew that Rahn was providing information protected by Brady Sullivan's attorney-client privilege, yet they did nothing to stop the flow and continued to accept documents from her.

reviewed only a few documents protected by Brady Sullivan's attorney-client privilege, what the Attorneys did see and hear is enough to give rise to a continuing risk of further dissemination of the Confidential Information, including attorney-client communications and attorney work product.

17. Through no fault of Basabe, Rahn or Attorneys Coloian and Calabro, all of whom acted in good faith to comply with the Court's April 12, 2018, Order, the effort to recover all of the Confidential Information was not entirely successful, in that two thumb drives containing thousands of documents taken by Rahn appear to have been irretrievably lost. Transcript Feb. 28, 2019, at 36-37. This loss exacerbates the continuing risk of further dissemination of the Confidential Information, including the attorney-client communications and attorney work product.

18. Because of the nature of the Confidential Information, particularly the attorney-client communications and attorney work product, and because the Cases and related matters continue as ongoing litigation and/or disputes likely to lead to litigation, further dissemination of the Confidential Information will irreparably harm Brady Sullivan. See C+C Proposed Facts ¶ 5.

19. Brady Sullivan is also subject to ongoing harm of "nagging suspicion" to the extent that Attorneys Coloian and Calabro retain the right to seek attorneys' fees or to assert an attorney's lien in connection with the Cases, which would give rise to a financial incentive or motivation to assist successor counsel by disclosing any Confidential Information that they learned as a result of their representation of Basabe and Rahn. See MMR/Wallace Power & Indus. v. Thames Assocs., 764 F. Supp. 712, 727 (D. Conn. 1991) (litigant whose confidential information might wrongly have been disclosed to opposing counsel is harmed by ongoing "nagging suspicion").

20. An Order barring Attorneys Coloian and Calabro from receiving or participating in attorneys' fees[25] arising as a result of the Cases[26] would have no adverse impact on Attorneys Coloian and Calabro because they have expressly agreed not to seek attorneys' fees in connection with the Cases. Transcript Dec. 21, 2018, at 19.

21. Brady Sullivan acted promptly upon learning of the breach of its legal rights. See Romano Aff. ¶¶ 4-14.

22. Brady Sullivan has inadequate remedies at law due to the nature of the Confidential Information, particularly the attorney-client communications and attorney work product. C+C Proposed Facts ¶ 5.

23. Plaintiffs and Attorneys Coloian and Calabro agree that Brady Sullivan is entitled to the permanent injunction requested in the motion. C+C Proposed Facts ¶ 8; Transcript Dec. 21, 2018, at 18-19, 30-31. Neither Plaintiffs nor Attorneys Coloian and Calabro argued or presented any evidence establishing that any of them would be harmed or prejudiced by the issuance of the permanent injunction requested in the motion.

24. In light of the nature of the harm to Brady Sullivan (¶¶ 18-19, *supra*) and the lack of harm to Plaintiffs and Attorneys Coloian and Calabro (¶¶ 20, 23, *supra*), the balance of the equities favors the relief requested by Brady Sullivan. See C+C Proposed Facts ¶ 6.

25. Granting the relief requested by Brady Sullivan would be in the public interest in that the permanent injunction reduces and potentially eliminates the ongoing risk that further

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[25] Brady Sullivan does not seek, and I do not recommend, any limitation on the right of Attorneys Coloian and Calabro to recover advanced costs.

[26] Brady Sullivan asks for this relief as a sanction to deter similar conduct and as a punishment for dilatory litigation tactics. In light of my finding that non-participation in any fee earned in the Cases is justified by the equitable interest in reducing the harm to Brady Sullivan caused by "nagging suspicion," there is no need also to characterize this relief as a sanction.

proceedings in the Cases would be tainted by the use of evidence procured in violation of R.I. Rule 4.4(a). See C+C Proposed Facts ¶ 7.

26. Brady Sullivan continues to have a legally cognizable interest in the outcome of this motion because there is an ongoing risk of disclosure of its Confidential Information, particularly its attorney-client confidences. See Mangual v. Rotger-Sabat, 317 F.3d 45, 61 (1st Cir. 2003) (for matter to be moot under Article III, it must be "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur"); Martins v. Fed. Hous. Fin. Agency, 214 F. Supp. 3d 163, 167 (D.R.I. 2016) (case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome).

V. RECOMMENDED PERMANENT INJUNCTION

"[T]aking into account all of the circumstances that bear on the need for prospective relief," I find that the law entitles Brady Sullivan to a permanent injunction in this case. KG Urban Enters., 693 F.3d at 27. Accordingly, in reliance on the foregoing proposed findings of fact and conclusions of law, I recommend that the Court enter the following permanent injunction:

Until further Order of the Court, it is hereby ordered that:

(1) Plaintiffs and Attorneys Coloian and Calabro are prohibited from any use or disposition in any way of Brady Sullivan's Confidential Information, which was obtained from Rahn or Basabe during their period of engagement with Attorneys Coloian and Calabro in 2018, provided that successor counsel for Plaintiffs may seek discoverable non-privileged information from Basabe and Rahn by deposition or through other means consistent with R.I. Rule 4.4(a);[27]

(2) Plaintiffs and Attorneys Coloian and Calabro are prohibited from ever reviewing or discussing Brady Sullivan's Confidential Information obtained from Rahn or Basabe during their period of engagement with Attorneys Coloian and Calabro in 2018, with any other person or entity, including successor counsel for Plaintiffs, except as may be necessary to physically transfer client files; and

[27] This proviso was added *sua sponte* by the Court to avoid the potential for an interpretation of the Order as barring Basabe or Rahn from testifying as a fact witness.

(3) Attorneys Coloian and Calabro are prohibited from receiving or otherwise participating in any attorneys' fees associated with or arising out of the claims asserted in the Cases.

VI. CONCLUSION

Based on the foregoing analysis, I recommend that Brady Sullivan's motion for a protective order and other relief (ECF No. 65), construed as a motion for a permanent injunction, be granted and that the Court enter a permanent injunction as set forth above.

Any objection to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen (14) days after its service on the objecting party. See Fed. R. Civ. P. 72(b)(2); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision. See United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Patricia A. Sullivan
PATRICIA A. SULLIVAN
United States Magistrate Judge
March 28, 2019

Medeiros, Deborah

From: cmecf@rid.uscourts.gov
Sent: Wednesday, August 28, 2019 10:02 AM
To: cmecfnef@rid.uscourts.gov
Subject: Activity in Case 1:18-cv-00099-WES-PAS Calise et al v. Brady Sullivan Harris Mills, LLC et al Order

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U.S. District Court

District of Rhode Island

Notice of Electronic Filing

The following transaction was entered on 8/28/2019 at 10:01 AM EDT and filed on 8/28/2019
Case Name: Calise et al v. Brady Sullivan Harris Mills, LLC et al
Case Number: 1:18-cv-00099-WES-PAS
Filer:
Document Number: No document attached

Docket Text:
TEXT ORDER: TEXT ORDER: Having heard no objection, the Court accepts Magistrate Judge Sullivan's Report and Recommendation ("R. & R.") (ECF 75) and adopts its rationale and conclusions. Accordingly, the Court GRANTS Defendant's Motion for Protective Order and Other Relief (ECF 65), construed as a motion for permanent injunction. The Court hereby permanently enjoins the following activities: 1) Plaintiffs and Attorneys Coloian and Calabro are prohibited from any use or disposition in any way of Brady Sullivans Confidential Information, which was obtained from Rahn or Basabe during their period of engagement with Attorneys Coloian and Calabro in 2018, provided that successor counsel for Plaintiffs may seek discoverable non-privileged information from Basabe and Rahn by deposition or through other means consistent with Rule 4.4(a) of the Rhode Island Rules of Professional Conduct; (2) Plaintiffs and Attorneys Coloian and Calabro are prohibited from ever reviewing or discussing Brady Sullivans Confidential Information obtained from Rahn or Basabe during their period of engagement with Attorneys Coloian and Calabro in 2018, with any other person or entity, including successor counsel for Plaintiffs, except as may be necessary to physically transfer client files; and (3) Attorneys Coloian and Calabro are prohibited from receiving or otherwise participating in any attorneys fees associated with or arising out of the claims asserted in the consolidated cases. So Ordered by Chief Judge William E. Smith on 5/8/2019. (Jackson, Ryan)

1:18-cv-00099-WES-PAS Notice has been electronically mailed to:

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