

State of Connecticut

GEORGE JEPSEN
ATTORNEY GENERAL



Hartford

July 29, 2013

Mr. Tom Swan
Executive Director
Connecticut Citizen's Action Group
30 Arbor Street 6N
Hartford, CT 06106

Ellen Andrews, PhD.
Executive Director
Connecticut Health Policy Inst.
The Grove
760 Chapel Street
New Haven, CT 06510

Dear Mr. Swan and Dr. Andrews:

Thank you for your letter asking me to reconsider the determination that the application for approval of the Certificate of Need for the joint venture between Greater Waterbury Health Network, Inc. ("Waterbury") and Vanguard Health Systems, Inc. ("Vanguard") is complete. For the reasons discussed herein, it would be both unnecessary and contrary to my statutory responsibilities to revoke my completeness determination.

You cite two reasons for your request: (1) that Tenet Healthcare Corporation ("Tenet") has entered into an agreement to purchase Vanguard; and (2) that the agreement between Waterbury and Vanguard provides that amendment of Connecticut's corporate practice of medicine statute, which has not occurred, is a condition precedent to the joint venture. You suggest further that my review of the proposed joint venture "start anew" so as to permit a broader discussion about the future of Connecticut's hospitals in general.

As you may know, the Attorney General is tasked by the Hospital Conversion Act, Conn. Gen. Stat. §§19a-486 *et seq.*, with reviewing each transaction in which a material amount of assets or operations of a nonprofit hospital are purchased by, or transferred to the control of, an entity organized or operated for profit. When, as here, it is determined that a transaction is subject to review under the Hospital Conversion Act, the Attorney General and to the Office of

Health Care Access (“OHCA”) require the purchaser and the nonprofit hospital to submit an application.

In this instance, we became aware after receiving an application from Vanguard and Waterbury – but prior to deeming it complete – of Tenet’s agreement to purchase Vanguard. Before making a completeness determination, we sought and received assurances both that Vanguard would continue to be the purchaser in the joint venture agreement and that the Tenet transaction did not alter the terms of the transaction as described in the application. Thus, the Tenet transaction did not provide a basis to withhold a completeness determination.

Be assured, however, that a completeness determination does not inhibit my ability to continue to gather pertinent information. Indeed, through written requests for information, public hearing and other means, my office intends to continue to compile information necessary for a full review of the Waterbury/Vanguard joint venture.

For example, we have requested – and expect to receive – further information concerning the impact, if any, of the Governor’s veto of amendments to the corporate practice of medicine statute. You are correct in pointing out that amendment of this legislation is recited as a condition precedent in the Waterbury/Vanguard joint venture contribution agreement. However, because the condition is presumably waivable by agreement of the parties, I cannot simply assume that the Governor’s veto has obviated my review and that the joint venture will not be pursued.

I am sensitive to the general concerns you raise about the future of Connecticut’s nonprofit hospitals. However, the law clearly contemplates the merger of nonprofit hospitals with for profit entities, and the statute provides prescribed standards, processes, and time frames for the evaluation. Thus, my review cannot and should not await completion of, or serve as a proxy for, the broad public policy discussion you seek. Rather, my charge under the Hospital Conversion Act is limited to reviewing the particular transaction before me – here, the Waterbury/Vanguard joint venture to determine whether Waterbury’s charitable assets are adequately protected in the joint venture.

Thank you again for your letter. I hope the foregoing information is helpful to you in better understanding the scope, purpose and limits of the review process that my office, in coordination with the OHCA, is required to undertake.

Very truly yours,

A handwritten signature in black ink, appearing to read "George Jepsen", written over a vertical dotted line.

George Jepsen
Attorney General

cc: Governor Dannel P. Malloy
Commissioner Jewell Mullen, M.D.