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State of Connecticut Office of Attorney General

State of Connecticut Office of Health Care Access

Public Hearing on proposed reconfiguration of Acute Care Teaching Hospitals,

Waterbury, Connecticut

As a previous customer of the Waterbury Hospital, during a different era, I would like to start by pointing out, as a point of departure, contemporaneous evidence, how convincing is a matter of judgement, and a accepted peer review fact, respectively. Your review panel may draw any number of implications from the former, and may also do the same with respect to the latter upon further examination of the evidence in this case. My overall thoughts concerning the matter at hand, here in Waterbury, follow and are inspired by a long study of the work of one of the great pro bono attorneys the American Bar Association have ever witnessed in the modern era. And this taken together with the work of several of his peers nationally and even here in Waterbury.

#1 Evidently, The Texas Health Presbyterian Hospital and Texas Health Resources' administrative, clinical operations, and Corporate Governance is a shared responsibility with LHP, Plano Texas.

2 At a time when hospital mergers are occurring at a quickening pace, exponentially more so than the last wave of hospital mergers in the late 1990's, it is accepted that, generally, hospital mergers have resulted in price increases with no counter benefit to balance these increases. (Robert Wood Johnson Foundation, 2012.

A Cautionary Note

The right to adequate, quality health care and the provision and accessibility to generally accepted clinical practices patterns, without disparagement, is protected by the federal government and the state government. This appeal to your review panel and the State of Connecticut Attorney General is based on still higher authority, the principle of equality set forth in the 14th Amendment of the Constitution of the United States of America. The principle of equality of man which is held so deeply in the conscience and morals of our people.

Today, one way in which this right is invaded, diluted,reduced, or even rendered worthless-or practically so- is through a manipulatory scheme combined together with a particular business model designed to devalue, reduce this right to access the full panoply of care provisions enjoyed by certain demographic groups.This is now seen in many health care delivery systems all over the country. This model and scheme takes advantage of the very thin operating margins of certain financially troubled Acute Care Teaching Hospitals. Now the basic thrust of these business schemes, first adopted during the 1990's, is to gain market share, thereby widening margins. Removal and liquidation of equity, while minimal at first, initially satisfies the venture capital counter-parties. This "equity grab" begins immediately; both service, facility, and human. In the extreme cases this liquidation ramps up as counter parties demand. More fully developed and used since the complete implementation of the Patient Protection and Affordable Care Act, this type of cost shifting, inadvertently supported by existing statues

in many states, is as shocking as it is purpose-full and successful. This type of healthcare financing system not only could violate the intent of the relied upon statutes of the State of Connecticut, not only violate the requirement of equality in the 14th Amendment of the Constitution of the United States of America , but it flies directly in the teeth of and could openly and flagrantly violate the intended provisions of the Emergency Treatment and Active Labor Act and the measurable rights enforced by the Federal Trade Commission antitrust mission.

Now under these and similar circumstances district courts often pass on the complaints from those affected saying that they entirely agree that rights are violated, and that these are serious problems which should be corrected without delay. But often times these courts find that they do not have the power or should not exercise it under their referring precedent.

Our concern here are the local multi-entity consolidations; the so called horizontal hospital mergers. This type of takeover, takeovers which acquire by one corporate entity any number of healthcare providers which offer similar clinical or therapeutic services within geographic proximity are legally problematic and also deeply troubling.

Now with regard to the facts in this case it seems that the situation is growing worse instead of better all the time. No one can doubt that the operating margins of Waterbury Hospital are very thin as compared to historical standards, margins which were utilized in the past for refinement and advancement of the service lines. But your review panel must take into account, and no doubt you have taken into account, that when the State of Connecticut in a number of ways creates a non-disparaged right to healthcare it must give it in equality to to all who qualify. And no one can say that all of the customers will be treated equally, impartially and uniformly in this "merger". For our courts have said many time that the 14th Amendment strikes down discriminations whether they are sophisticated or simple minded, and cloaking it under the terms of horizontal merger, debt leveraged joint venture, hospital consolidation or any other cloaks, no matter how ingeniously or geniously contrived, is is a discrimination which will become clear from the facts in any future complain and under those facts these patients have a constitutional right that is invaded and will have standing to maintain their suit.

For a patient right to access is personal to him, it is not shared with anyone. And as Waterbury Attorney John B.Greco's collaborator ABA President Charles Rhyne said ,"When these people have their right invaded, diluted, rendered worthless, or practically so, it is a personal wrong to them to have there right so affected.*

Sincerely, david greco

*369 U.S. 186

Now true it is Mr. Attorney General, ABA President Rhyne's second argument before the Warren Court in 1962, along with the Solicitor General of the United States of America, was a famous voting rights case. And there is a very interesting back story here. But, to paraphrase Mr. Cox, if I may for this case in Waterbury, " is in principle very similar to us", he was referring to 364 U.S.339, "I do not see why a case should be more justiciable because it arose under the 15th Amendment rather than the 14th Amendment. And it does not seem to me that the principle should be limited to racial discrimination. There are other forms of discrimination that may be equally invidious."