

Hearing date: October 9, 2020 at 11:00 a.m.

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF
RHODE ISLAND, INC

v.

ST. JOSEPH'S HEALTH SERVICES OF
RHODE ISLAND RETIREMENT PLAN, as
amended

C.A. No. PC-2017-3856

**LIQUIDATING RECEIVER'S OBJECTION TO THE PROSPECT ENTITIES' MOTION
TO ADJUDGE PLAN RECEIVER IN CONTEMPT**

Thomas S. Hemmendinger (the "Liquidating Receiver") hereby objects to the motion (the "Contempt Motion") by Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., and Prospect CharterCARE, LLC (collectively, the "Prospect Entities") to adjudge Stephen Del Sesto (the "Plan Receiver"), the permanent receiver of the St. Joseph Health Services of Rhode Island Retirement Plan, in contempt.

The Contempt Motion not only seeks to hold the Plan Receiver in contempt, but it also seeks an order requiring the Liquidating Receiver to (1) withdraw his objection to the Prospect Entities' pending application to the R.I. Department of Health for approval of an effective change in control and (2) "cease instructing the Category A Directors to supply [the Receivers] with documents and information relevant to the pending litigation[.]" Contempt Motion, p. 9.

The Contempt Motion has no basis in fact or law, and counsel for the Prospect Entities must have known that when they signed and filed the Contempt Motion.

Statement of Facts

On January 17, 2020, this Court appointed the Liquidating Receiver as permanent

liquidating receiver of CharterCARE Community Board (“CCCB”), St. Joseph Health Services of Rhode Island (“SJHSRI”), and Roger Williams Hospital (“RWH”) (collectively, the “Legacy Hospital Entities”).

CCCB is the parent of SJHSRI and RWH. Until June 20, 2014, SJHSRI owned and operated Our Lady of Fatima Hospital in North Providence, Rhode Island, and RWH owned and operated Roger Williams Medical Center in Providence, Rhode Island (the “Local Safety-Net Hospitals”).

On June 20, 2014, the Legacy Hospital Entities closed on a transaction involving the sale of the Local Safety Net Hospitals to subsidiaries of Prospect CharterCARE, LLC. In connection with the transaction, among other things, CCCB received a 15% membership interest in Prospect CharterCARE, LLC and certain additional rights (collectively, the “Hospital Interests”).

Prospect CharterCARE, LLC’s June 20, 2014 operating agreement (the “LLC Agreement”) provides for an eight-member board of directors, CCCB has the right to appoint four (the “Category A Directors”), and Prospect East Holdings, Inc., the majority member, has the right to appoint four (the “Category B Directors”). Therefore, each director is a “constituency director” for the member who appointed him or her.¹

The LLC Agreement also contains a conflict of interest policy (the “LLC Conflict Policy”) and obligated Prospect CharterCARE, LLC to adopt it for its directors and certain employees. Exhibit A hereto. This is the only operative conflict of interest policy for Prospect CharterCARE. Prospect CharterCARE, LLC has not identified any other applicable conflict policy, nor has it identified any confidentiality requirement other than what is contained in the

¹ A “constituency director” is one who is appointed by a particular owner of the company. E. Norman Veasey and Christine T. Di Guglielmo, “How Many Masters Can a Director Serve? A Look at the Tensions Facing Constituency Directors,” 63 Bus. Law. 761 (May 2008) (hereinafter, “Veasey”).

LLC Conflict Policy.

In 2017, at the request of SJHSRI, this Court appointed Stephen Del Sesto (the “Plan Receiver”) as receiver of the Plan. On June 18, 2018, after an investigation by Wistow, Sheehan & Loveley, PC (“Special Counsel”), special counsel to the Plan Receiver, the Plan Receiver and certain Plan participants as putative class representatives sued the Legacy Hospital Entities, various Prospect entities, various Roman Catholic organizations, and others to recover damages for the benefit of the Plan and its participants. (*Del Sesto et al. v. Prospect CharterCARE, LLC et al.*, C.A. No. 18-cv-00328-WES (D. R.I.), and *Del Sesto et al. v. Prospect CharterCARE, LLC et al.*, C.A. No. PC-2018-4386 (R.I. Super.)).

In 2018, subject to approval by this Court and the U.S. District Court for the District of Rhode Island, the Legacy Hospital Entities, and the Plan Receiver, and the putative class-action representatives entered into a Settlement Agreement dated as of August 31, 2018 (the “Settlement Agreement”), under which, among other things, CCCB agreed to hold the Hospital Interests in trust for the Plan Receiver on account of the Plan Receiver’s claims against the Prospect Entities and others in the litigation described above.

This Court and the U.S. District Court each approved the Settlement Agreement. This Court’s November 16, 2018 order approving the Settlement Agreement states as follows:

The Petition for Settlement Instructions is granted, and the PSA [Proposed Settlement Agreement] may be filed with the Federal Court at an appropriate time for approval. The PSA is approved for purposes of this proceeding, subject to the following two conditions: (1) the Receiver refrains from exercising any rights under the PSA prior to the federal court’s determination of whether to approve the PSA; and (2) until such time as the determination in condition 1 is made, then, prior to implementing, or directing that CCCB implement, any rights, whatsoever, in favor of the [Plan] Receiver (or the Plan) derivative of CCCB’s rights in CCF [CharterCARE Foundation] or PCC [Prospect CharterCARE,

LLC], the [Plan] Receiver must provide all parties, including but not limited to the Objectors, with twenty (20) days written notice. All prior Orders remain in full force and effect.

This Court's permanent order appointing the Liquidating Receiver authorized and directed the Liquidating Receiver "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." The permanent order also directed the Liquidating Receiver to perform the Legacy Hospital Entities' obligations under the Settlement Agreement:

7. That the Liquidating Receiver on behalf of the Petitioners shall perform and continue to perform their obligations under the Settlement Agreement, . . .

Without having assumed the Settlement Agreement, the Liquidating Receiver has been performing all of the Legacy Hospital Entities' current obligations under it.

The permanent order appointing the Liquidating Receiver also contains the following injunction:

9. That . . . the interference with the Liquidating Receiver's taking possession of or retaining possession of any such property [i.e., property of the Legacy Hospital Entities], . . ., by any of such parties aforesaid, other than the Liquidating Receiver designated as aforesaid, or the termination of services relating to the [Legacy Hospital Entities], without obtaining prior approval thereof from this Honorable Court, in which connection said Liquidating Receiver shall be entitled to prior notice and an opportunity to be heard, is hereby restrained and enjoined until further Order of this Court. However, (1) this injunction shall neither restrain nor enjoin the Plan Receiver and his attorneys and agents in any way concerning Hospital Interests, and the Plan Receiver and his attorneys and agents are authorized to take such steps as they deem

appropriate to protect such Hospital Interests . . .

On March 11, 2019, CCCB commenced a civil action in this Court (C.A. No. PC-2019-3654, hereafter “*CCCB v. Lee*”) against Prospect East Hospital Advisory Services, Prospect CharterCARE, LLC, the directors of Prospect CharterCARE, LLC, Prospect East Holdings, Inc., Prospect Medical Holdings, Inc., various affiliates of theirs, and a number of individual and entity John Does, seeking, among other things:

(a) Specific performance of the entity defendants’ obligations to fund the Long Term Capital commitment, both derivatively and non-derivatively.

(b) Specific performance of the entity defendants’ contractual and statutory obligations to provide access to the business and financial records of Prospect CharterCARE, and information concerning the funding of the Long Term Capital Commitment, including sufficient information for CCCB and the Plan Receiver to evaluate the put option and determine whether to exercise it.

(c) Specific performance and damages against the individual defendants, Prospect East, and Prospect Advisory for breach of fiduciary duty and for aiding and abetting the breach of fiduciary duty, both derivatively and non-derivatively.

(d) Damages and other relief under the Uniform Fraudulent Transfer Act (now the Uniform Voidable Transactions Act) for transfers related to distributions from various Prospect entities and related to obligations incurred to secure the financing that funded those distributions.

(e) Declaratory relief, including the reformation of the LLC Agreement to give CCCB sufficient time to decide whether to exercise the put option.

In November 2019, various Prospect entities applied to the Rhode Island Department of Health for approval of an effective change in control of the Prospect CharterCARE subsidiaries that operate the Our Lady of Fatima Hospital and Roger Williams Medical Center. As of February 19, 2020, the Prospect entities resubmitted their applications. These Prospect entities also applied to the Rhode Island Attorney General for approval of the effective change in control under Rhode Island’s Hospital Conversion Act.

The Liquidating Receiver and the Plan Receiver learned of these applications only in March 2020.

According to all of these applications, the current owners of the local Prospect entities' ultimate parent company are Samuel Lee, David Topper (through a family trust), and various private equity funds and investors.² The applications seek approval of transactions that would result in Messrs. Lee and Topper owning 100% of the ultimate parent company in exchange for Prospect Medical Holdings—not Lee or Topper—paying the private equity investors almost \$12 million plus an undisclosed amount required to buy out certain options.

After the receivers and Special Counsel reviewed and investigated the applications on April 9, 2020 the Liquidating Receiver and the Plan Receiver timely objected and asked the Department of Health to deny the applications on several grounds, including:

(a) The applications are materially incomplete. For example, they fail to disclose material litigation, including *CCCB v. Lee*, in which Mr. Lee, Mr. Topper, and various Prospect entities are defendants.

(b) The applications misrepresent and fail to disclose material terms of the proposed change in control transactions, including the price to buy out the options referred to above.

(c) The proposed transactions fail to identify any benefit to the paying entity, Prospect Medical Holdings, Inc. This entity is also a guarantor of Prospect East's Long-Term Capital Commitment. Therefore, consummation of the change in control transactions would impair the Prospect entities' ability to fund that commitment.

(d) The applications misrepresent the financial condition of Prospect CharterCARE, Prospect Medical Holdings, and the Prospect CharterCARE subsidiaries who own Our Lady of Fatima Hospital and Roger Williams Medical Center (Prospect CharterCARE SJHSRI, LLC and Prospect CharterCARE RWMC, LLC). For example:

(1) According to financial statements submitted with the applications, these entities do not have sufficient current assets to fund their operations, much less the

² Messrs. Lee and Topper are defendants in *CCCB v. Lee*.

amounts described in the change in control transactions.

(2) These entities are guarantors of loans that were used in part to fund at least \$457 million in dividends to owners of Prospect Medical Holdings, including Lee and Topper.

On April 21, 2020, based on the Prospect applications to the regulators, the receivers' investigation thereof, and other investigations, the Liquidating Receiver and the Plan Receiver filed a First Amended and Supplemental Complaint in *CCCB v. Lee*. The amended and supplemental complaint adds facts and causes of action uncovered in these investigations.

On July 21, 2020, the Department of Health's Health Services Council commenced its hearing on the Department of Health applications on July 21, 2020. At the hearing, Special Counsel spoke on behalf of both Receivers in opposition to the applications. The Receivers were treated as members of the public as to their objections. The Health Services Council recessed its hearing and will continue it at a later date, tentatively October 13, 2020.³

As more fully set forth in the amended and supplemental complaint in *CCCB v. Lee*, the Category A Directors who were in place when this Court appointed the Liquidating Receiver had breached their fiduciary duties to Prospect CharterCARE, LLC. Therefore, the Liquidating Receiver sought, interviewed, and researched candidates to replace those existing Category A Directors. Affidavit of Thomas S. Hemmendinger, hereinafter "Liq. Receiver Aff.," ¶ 10 (Exhibit C hereto).

Once this process was completed, on July 22, 2020, the Liquidating Receiver appointed James H. Aceto, CPA, William J. Lynch, Esq., James P. Riley, and Marc Weinberg, M.D. as the

³ The Department of Health and the Attorney General have extended the deadline for their decisions on the Hospital Conversion Act application to November 5, 2020. Their decision was based on questions about the financial impact of the covid-19 pandemic on the local hospitals, the delay in the Prospect entities providing documents to the Department and to the Attorney General, the implications of certain Prospect transactions, and unanswered questions about the proposed transaction.

Category A Directors. Liq. Receiver Aff. ¶ 10. The Liquidating Receiver selected these gentlemen for their integrity, skills, commitment to supporting the long-term success of Prospect CharterCARE, LLC and the local hospitals, and commitment to the communities that these hospitals serve. Liq. Receiver Aff. ¶ 11.

In his communications the new Category A Directors, the Liquidating Receiver shared information and documents related to the governance of Prospect CharterCARE, LLC and to the Liquidating Receiver's concerns about the financial condition of Prospect CharterCARE, LLC and its subsidiaries. Liq. Receiver Aff. ¶ 12. The Liquidating Receiver also made it clear to the new directors that they should not take the Liquidating Receiver's claims on faith, but should make their own independent determinations and take such actions as they deemed consistent with their duties and rights as directors. Liq. Receiver Aff. ¶ 13.

At no time did the Liquidating Receiver ask the Category A Directors to share with the Liquidating Receiver, the Plan Receiver, or Special Counsel any confidential information or documents they obtained in the course of their service as directors. Liq. Receiver Aff. ¶ 14.

In fact, each Category A Director has acknowledged both his fiduciary duty to Prospect CharterCARE, LLC and his duty to keep certain information and documents confidential. For example, on August 25, 2020 at the Category A Directors' request, the Liquidating Receiver wrote to Prospect CharterCARE, LLC's chief executive officer Jeffrey Liebman, copied to its counsel Mark Russo, Esq. as follows:

The new directors acknowledge that they owe a fiduciary duty to Prospect CharterCARE, LLC. The same is true for the Category B Directors and for all officers.

...

The new directors understand that, subject to applicable law that

requires or permits disclosure to protect the interests of the entity, a director may not, on his or her own, disclose information that is covered by a valid (i) privilege held by the entity or (ii) obligation not to disclose confidential information. In particular, a director may not share the entity's litigation strategy with the entity's opponent in litigation.

Exhibit B hereto (August 25, 2020 letter from the Liquidating Receiver to Jeffrey H. Liebman).⁴

Further, last month the Category A Directors fully complied with the LLC Conflict Policy, including its confidentiality provisions, by completing, signing and submitting their conflict of interest disclosures to Prospect CharterCARE, LLC. Exhibit B hereto (September 25, 2020 email from the Liquidating Receiver to Miriam Cauley, Esq.—without attachments).

The LLC Conflict Policy includes confidentiality provisions. Exhibit A hereto, p. 1. In September 2020, each Category A Director formally accepted these by completing the disclosure form attached to the 2011 policy and submitting it to Prospect CharterCARE, LLC.

The Category A Directors sought in good faith to obtain information and documents to which they have an absolute right, that is:

- 1) Proposed dates and times for an initial meeting of the Category A Directors with CEO Jeffrey Liebman (first requested August 25, 2020).
- 2) An agenda for such initial meeting (first requested August 25, 2020).
- 3) Year-to-date financial reports on Prospect CharterCARE, LLC and its subsidiaries (first requested August 25, 2020).
- 4) The revised financial statements submitted to the R.I. Attorney General and the R.I. Department of Health on August 11 (first requested August 25, 2020).
- 5) The documents authorizing and justifying the pending Hospital Conversion Act and Change

⁴ Exhibit B hereto is, collectively, the relevant correspondence between the Liquidating Receiver or the Category A Directors, on the one hand, and Prospect CharterCARE, LLC or its counsel, on the other.

in Effective Control applications from the perspective of Prospect CharterCARE, LLC and its subsidiaries (first requested August 25, 2020), each of which applications was signed by Dr. Liebman.

- 6) The schedule for Prospect CharterCARE, LLC board meetings (first requested August 25, 2020).
- 7) Copies of any policies or codes governing all directors or officers (first requested August 25, 2020).
- 8) Confirmation that the Category A Directors are covered by Prospect CharterCARE, LLC's directors and officers liability insurance policy to the same extent as all other directors (first requested August 25, 2020).
- 9) A copy of the directors and officers liability insurance policy (first requested August 25, 2020).
- 10) Copies of the minutes of all Prospect CharterCARE, LLC board of directors meetings since June 20, 2014 (the date on which Prospect CharterCARE, LLC and its subsidiaries took ownership and management of Our Lady of Fatima Hospital and Roger Williams Medical Center—the "Local Safety-Net Hospitals"), including all minutes of any and all executive sessions during that same period, with any appropriate redactions for discussion of litigation strategy in the cases involving either the plan receiver or the liquidating receiver (first requested September 8, 2020).

Exhibit B hereto (October 5, 2020 email from the Liquidating Receiver to Mark Russo, Esq.).

Notwithstanding these facts, since shortly after the new directors were appointed, Prospect CharterCARE, LLC and its counsel have used improper and unwarranted means to prevent the Category A Directors from communicating with the Liquidating Receiver or others and from performing their duties or exercising their rights. Some of these actions are manifest attempts to intimidate the Category A Directors. All of these actions violate the stay in paragraph 9 of the order appointing the Liquidating Receiver.

For example, as of the date of this objection, despite requests dating back to August 25, 2020, Prospect CharterCARE, LLC has given the Category A Directors only item on this list: a

September 11, 2019 conflict of interest policy for “Covered Staff.” Exhibit B hereto (August 31, 2020 email from Sheila Capobianco, September 2, 2020 email from Miriam Cauley, Esq., and September 4, 2020 email from Ms. Cauley). This 2019 policy applies by its own terms only to employees and medical staff. This leaves the LLC Conflict Policy as the only possibly applicable policy.

Prospect CharterCARE, LLC has compounded its failure to provide requested and necessary information and documents by attempts to muzzle and intimidate the Category A Directors. For example:

Since August 6, 2020 Prospect CharterCARE, LLC has tried to prevent the Category A Directors from communicating with the Liquidating Receiver or his counsel.

Prospect CharterCARE, LLC has without explanation continued to insist that the Category A Directors submit to a conflict of interest policy that does not even apply to them.

Prospect CharterCARE, LLC has effectively refused to accept the Category A Directors’ tender of the required disclosures and acceptance of confidentiality provisions under the 2011 policy that does apply to them.

Prospect CharterCARE, LLC has tried to force the Category A Directors to agree to an unconscionable, unwarranted, and unnecessary confidentiality agreement.

Prospect CharterCARE, LLC, probably with the involvement of its lawyers, made demonstrably false statements to (a) the broker for the directors and officers liability policy, putting coverage in jeopardy (see September 18, 2020 letter from Lockton Insurance Brokers to Frank Castro at Prospect Medical Holdings, Inc.) and (b) the Category A Directors (see Miriam Cauley’s September 20, 2020 email to the directors).

Prospect CharterCARE, LLC, through counsel, has made demonstrably false allegations that the Category A Directors intend to seek information and documents to pass on to me as liquidating receiver.

Exhibit B hereto.

In the face of all these facts, the Prospect Entities filed the Contempt Motion.

Argument

I. The Prospect Entities have presented no evidence—because none exists—to support their allegation against the Liquidating Receiver.

B. The Plan Receiver has not directed the Liquidating Receiver to do what the Liquidating Receiver has done.

The Prospect Entities allege that “beginning in July of 2020 the Plan Receiver and Special Counsel also directed the Liquidating Receiver to replace four directors of PCC [Prospect CharterCARE, LLC] and to seek to use the newly appointed directors to obtain documents and information to benefit the Plan Receiver and the Liquidating Receiver in the various lawsuits that they filed against the Prospect Entities . . .” Contempt Motion, p. 2 and pp. 7 - 8.

However, the only evidence they produce to support this allegation is the Liquidating Receiver’s July 22, 2020 letter appointing the new Category A Directors. Contempt Motion, Exhibit E. This letter says nothing about information, documents or the Liquidating Receiver’s purposes in appointing the new directors.

In fact, neither the Plan Receiver nor Special Counsel has ever demanded, directed, or instructed the Liquidating Receiver to do or refrain from doing anything in his capacity as Liquidating Receiver. Liq. Receiver Aff. ¶ 9. Nor would the Liquidating Receiver have accepted any such instruction. Liq. Receiver Aff. ¶ 9.

B. The Category A Directors would not give confidential information or documents to the Liquidating Receiver or others, and the Liquidating Receiver has not tried to get them to.

The Prospect Entities also allege that “PCC [Prospect CharterCARE, LLC] was and

remains concerned that the newly appointed directors are using their position to obtain documents and information to benefit the Plan Receiver and the Liquidating Receiver in the various lawsuits that they have filed against the Prospect Entities.” Contempt Motion, p. 8.

This professed concern is utterly baseless, and the Prospect Entities *do not even try to cite any evidence for it*.

In truth, as shown by undisputed evidence, the Liquidating Receiver has never sought to use the Category A Directors to obtain information to which he is not entitled. Liq. Receiver Aff. *passim*. Further, the Category A Directors have acknowledged and agreed to their responsibilities.

Therefore, the Contempt Motion has no basis in fact.

II. The Liquidating Receiver may continue to exercise his rights and remedies as the minority member in Prospect CharterCARE, LLC.

A. The 20-day notice does not even apply to the Liquidating Receiver, so it imposes no restrictions on the Liquidating Receiver’s actions.

The Prospect Entities make backhanded claims that the Liquidating Receiver has violated the 20-day notice requirement in this Court’s November 16, 2018 order. Contempt Motion, pp. 2, 5 – 6, and 7.

However, by its terms, the notice requirement does not apply to the Legacy Hospital Entities. Further, the Court entered the November 2018 Order more than a year before the Liquidating Receiver’s appointment, and the Court has not made the notice requirement applicable to the Liquidating Receiver.

Moreover, as demonstrated above, the actions the Liquidating Receiver has taken have been on his own, and not at the direction of the Plan Receiver or Special Counsel. This is also the case for any actions the Liquidating Receiver has taken jointly with the Plan Receiver, such as

objecting to the CEC application and offering assistance to the regulators in their investigations of the CEC application and the Hospital Conversion Act application.

B. The Liquidating Receiver has been, and may continue to, pursue his rights and remedies.

The only relevant order governing the Liquidating Receiver's actions is the January 17, 2020 order appointing him permanent liquidating receiver. The Liquidating Receiver has acted within the scope of his authority. The Liquidating Receiver has also reported to this Court on his actions described in this objection, and the Court has approved those actions.

Therefore, the Liquidating Receiver may continue to pursue his rights and remedies as the minority member of Prospect CharterCARE, LLC.

III. The Category A Directors have the right to communicate with the Liquidating Receiver and others.

Under Rhode Island law, each manager of a limited liability company owes a fiduciary duty to the company. R.I. Gen. Laws § 7-16-17(a) (“A manager shall discharge his or her managerial duties in good faith, with the care that an ordinarily prudent person in a similar position would use under the circumstances, and in the manner the manager reasonably believes to be in the best interests of the limited-liability company.”). The manager of a limited liability company is “a person . . . designated by the members of a limited-liability company to manage the limited-liability company.” R.I. Gen. Laws § 7-16-2(19).

Under Prospect CharterCARE, LLC's 2014 LLC agreement, its affairs are in the hands of a “manager” (Prospect Medical Holdings or one of its affiliates) and of a board of directors, made up of the Category A Directors (appointed by CCCB) and the Category B Directors (appointed by Prospect East Holdings, Inc.).

Therefore, the members of Prospect CharterCARE, LLC's board of directors owe a

fiduciary duty to Prospect CharterCARE, LLC.

On entity law questions where Rhode Island courts have not ruled, they often look to Delaware case law for guidance. See, e.g., *Bove v. Community Hotel Corp. of Newport, Rhode Island*, 105 R.I. 36, 41–42, 249 A.2d 89, 93 (1969) (Delaware’s case law “are generally considered to be the leading ones in the field”).

To the best of the Liquidating Receiver’s knowledge, Rhode Island’s courts have not ruled on the rights and duties of a “constituency director” or the owner who appointed him or her. Therefore, it is appropriate for this Court to look to Delaware law on to subject.⁵

Under Delaware law, each constituency director owes his or her fiduciary duty to the LLC and to the members. Veasey, 63 Bus. Law. at 767. In the case at bar, this applies equally to the Category A Directors and the Category B Directors.

If the interests of the members and the LLC differ, the business judgment rule determines the director’s duties. *Id.* For example, if the appointing member seeks long-term profitability rather than short-term gain, its constituency directors are entitled to seek long-term value, even if the other member seeks only short-term gain. Veasey at 767-68 (quoting the American Law Institute’s PRINCIPLES OF CORPORATE GOVERNANCE).

In the case at bar, the Category A Directors are entitled to work for the long-term survival and success of Prospect CharterCARE, LLC, even though the Category B Directors may seek the opposite.⁶

⁵ While the Veasy article concentrates on corporations, shareholders, and directors, it recognizes that the principles set forth in the article apply also under “[a]lternate entity laws” such as a limited liability company act. Veasey, 63 Bus. Law. at 775.

⁶ Based on the allegations in the amended and supplemental complaint in *CharterCARE Community Board et al. v. Samuel Lee et al.*, C.A. No. PC-2019-3654 (R.I. Super.).

IV. The Category A Directors may advocate in the Board of Directors for any action that they reasonably believe is in the best long-term interests of Prospect CharterCARE, LLC, the local hospitals, and the communities they serve.

A constituency director “should be permitted to promote and vote in favor of the sponsor’s interest, so long as the board is aware of those interests and the entire board is involved in the decisionmaking process.” Veasey, 63 Bus. Law. at 771. This is especially the case where, as is the case with the Category A Directors, the constituency directors do not constitute a majority of the board. *Id.* at 773.

For such advocacy to take place, it is obviously essential that the constituency director and his or her sponsor communicate with each other—subject of course to the director’s duty to keep certain matters confidential. *Id.* at 775.

In the case at bar, the Category A Directors have acknowledged their fiduciary duty to Prospect CharterCARE, LLC, and there is no risk that they will disclose confidential information to the Liquidating Receiver. Therefore, the Liquidating Receiver may provide information and documents to the Category A Directors and ask them to make inquiries on matters of concern and to pursue such actions as the Category A Directors deem consistent with their rights and duties as directors. These actions include advocacy for policies and decisions to promote Prospect CharterCARE, LLC’s success in achieving the long-term growth and success of the company and of the Local Safety Net Hospitals.

V. Prospect CharterCARE, LLC has violated the injunction in this Court’s order appointing the Liquidating Receiver.

As noted above, on January 17, 2020, this Court issued an injunction against “ the interference with the Liquidating Receiver’s taking possession of or retaining possession of any [property of the Legacy Hospital Entities]” (January 17, 2020 appointment order, ¶ 9). All

counsel of record in the liquidating receivership, including counsel for the respective counsel of record for the Prospect Entities were served with this order when it was entered. Further, A copy of the order was included with the Liquidating Receiver's appointment of the Category A Directors on July 22, 2020, copied to Messrs. Halperin and Russo.

Therefore, Prospect CharterCARE, LLC has knowingly violated this Court's injunction.

VI. The Prospect Entities' request that the Liquidating Receiver withdraw his objection to the regulatory applications violates Rhode Island's Anti-SLAPP law.

Rhode Island's Anti-SLAPP law protects a person's legitimate exercise of his or her constitutional rights to petition the government and to speak on matters of public concern. R.I. Gen. Laws § 9-33-2.

In objecting to the regulatory applications, the Liquidating Receiver is merely exercising those rights. Because the Prospect Entities have produced no evidence to contradict this basic fact, their request that the Liquidating Receiver withdraw his objection violates the Anti-SLAPP law.⁷ Therefore, the Liquidating Receiver is entitled to reasonable attorneys' fees and appropriate damages.

VII. The Contempt Motion violates Rule 11.

Under Rule 11 of this Court's Rules of Civil Procedure,

The signature of an attorney, self-represented litigant, or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry

⁷ The Plan Receiver's objection to the Contempt Motion establishes this in greater detail from the Plan Receiver's perspective. The Plan Receiver's arguments apply equally to the Liquidating Receiver, and the Liquidating Receiver adopts them. The Liquidating Receiver also joins in the other grounds for the Plan Receiver's objection to the Contempt Motion to the extent they also apply to the Liquidating Receiver.

the pleading, motion, or other paper is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that the pleading, motion, or other paper is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. . . . If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed the pleading, motion, or other paper, a represented party, or both, any appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

R.I. SUPER. R. CIV. P. 11.

As shown above, not only does the Contempt Motion fail to be “well grounded in fact”, it does not even include basic facts to support the Prospect Entities’ requests for relief. Therefore, counsel for the Prospect Entities has violated Rule 11, and the Liquidating Receiver is entitled to reasonable attorneys’ fees.

Conclusion

For these reasons, this Court should deny the Contempt Motion, award to the Liquidating Receiver the reasonable expenses incurred because of the Contempt Motion, including reasonable attorneys’ fees, damages under the Anti-SLAPP law, and award to the Liquidating Receiver such other and further relief as this Court deems appropriate.

Respectfully submitted,

Date: October 6, 2020


/s/ Thomas S. Hemmendinger
Thomas S. Hemmendinger #3122
Liquidating Receiver
Brennan, Recupero, Cascione, Scungio &
McAllister, LLP
362 Broadway
Providence, RI 02909
Tel. (401) 453-2300
Fax (401) 453-2345

CERTIFICATE OF SERVICE

I hereby certify as follows:

- 1) On October 6, 2020, I electronically filed the foregoing document. This document is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.
- 2) The following parties received electronic notice: any parties entered to be notified through the Electronic Filing System.
- 3) The document was served by United States Postal Service, postage prepaid, on the following persons: see separate certificate of service.

/s/ Thomas S. Hemmendinger
Thomas S. Hemmendinger

CharterCARE Health Partners Policy & Procedure		Title:		Number: 4.1
Coverage: All Designated Persons as Defined in This Policy		 Conflict of Interest Disclosure Policy		Source: Board of Trustees
				Approved: Board of Trustees
Date Issued: 09/08/2011	Date Effective: 09/08/2011	Supersedes: 01/08/2009	Distribution: Designated Persons	Page 1 of 9

I. POLICY ADOPTION

CharterCARE Health Partners including its affiliates (the "Corporation"), is committed to pursuing its mission and to conducting its affairs in accordance with high professional and ethical standards which include the avoidance of detrimental conflicts of interest. The Corporation believes that avoiding such conflicts is imperative in preserving the public's trust. Persons who agree to serve the Corporation should not use their position for personal gain, or to expose the Corporation to potential harm as a result of conflict of interest.

This Conflict of Interest Policy (the "Policy") is adopted for the Corporation in order better to assure: (i) compliance with the provisions of the Bylaws of the Corporation (the "Bylaws") that pertain to Conflict of Interest and Competitor Relationships; (ii) a uniform conflict of interest policy for Designated Persons (as defined below) and (iii) effective communication and decision making regarding potential conflicts of interest. This Policy is intended to supplement, but not replace, any applicable federal or state laws governing conflicts of interest applicable to nonprofit and charitable corporations or the fiduciary duties of corporate officers and trustees.

The Policy applies to Designated Persons as defined below and deliberations by the Board of Trustees and its committees or sub-committees, the Medical Executive Committee and its committees or subcommittees, and any other committee or task force that the Board or Finance, Audit, Compliance Committee shall designate from time to time.

II. GENERAL PRINCIPLES

Any Designated Person has an obligation to: (i) protect decisions involving the Corporation against conflicts of interest; (ii) maintain the confidentiality of information obtained through service to the Corporation; (iii) assure that the Corporation acts for the benefit of the community as a whole rather than for the private benefit of a Designated Person; and (iv) fully disclose any personal business opportunities that are competitive with the Corporation or in which the Corporation would have an interest. In the furtherance of these obligations all Designated Persons shall exercise the utmost good faith in all transactions touching upon their duties to the Corporation or its property. In their dealings with and on behalf of the Corporation, they shall be held to a strict standard of honest and fair dealing. Designated Persons shall scrupulously avoid any conflict between their individual interests and the interests of the Corporation in any and all actions taken by them. They shall disclose any interests or activities in which they are involved or become involved, directly or indirectly, that could conflict with the interests or activities of the Corporation and shall obtain approval prior to commencing, continuing, or consummating any activity or transaction which raises a possible conflict of interest. Designated Persons are also obliged to disclose any potential conflict of interest arising from the interests and activities of their Immediate Family, as hereinafter defined.

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Failure to comply with this Policy may disqualify a person from serving as a Designated Person or, if already serving as a Designated Person, may, if the Designated Person is an employee of the Corporation, result in disciplinary action up to and including dismissal, subject to the terms of any applicable employment or collective bargaining agreement or, in the case of a Designated Person who is a member, either in an elected or ex officio capacity, of the Board of Trustees of the Corporation (a "Trustee," the "Board"), the Trustee shall be deemed to have resigned.

III. DEFINITIONS

A. "Designated Persons" shall include the following:

1. Members of the Board of Trustees of the Corporation;
2. Members of administration, senior management, directors, and managers of the Corporation;
3. Chief and/or President of the Medical Staff; Medical Executive Committee, Medical Staff Departmental Chairmen, Divisional Chiefs, other physicians serving as elected officers or in Medical Staff leadership positions who have the ability to influence the use of Corporation resources;
4. Members of the Medical Staff holding a medical administrative position with the Corporation or engaged by the Corporation for compensation to render professional services;
5. Physicians with the authority to select or influence the purchase of costly implant devices and/or supplies, as recommended by senior management and/or the Board or Board-delegated Committee;
6. Members of the Pharmacy and Therapeutics Committee, Value Analysis Team, and Materials Management Department with the authority to purchase, to select or to influence the purchase of goods or services on behalf of the Corporation, ; and
7. Any other person(s) and/or staff member(s) whom the Board or Board-delegated Committee may from time to time designate.

B. "Business Entity" means any publicly or privately held corporation, partnership, sole proprietorship, firm, franchise association, organization, holding company, joint stock company, receivership, business or real estate trust or any other legal entity organized on a for-profit basis or not-for-profit basis, but excluding the Corporation.

C. "Compensation" means anything of value whether in the form of salary, honoraria, forgiveness of debt, gifts, interest in real or personal property, rent or any other form of compensation in cash or in kind.

D. "Entity" shall mean any corporation, individual, partnership or other business entity.

E. "Financial Interest" includes without limitation: (1) an ownership or investment interest; (2) a compensation arrangement; or (3) a potential ownership or investment interest or a compensation arrangement with any entity or individual with which the Corporation is negotiating a transaction or arrangement. Financial Interests may be through an ownership or investment interest, or compensation arrangement, and may be held directly or indirectly, for example through an Immediate Family Member or other intermediate entity.

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An "ownership or investment interest" may be through equity, debt or other means, e.g., a right of first refusal, but shall not include (i) a combined direct and indirect interest that, when aggregated for the Designated Person and his/her Immediate Family Members, (a) does not exceed a fair market value of \$10,000, and (b) does not exceed five percent (5%) of the outstanding shares of voting stock and/or bonds of a publicly traded company; or (ii) any interest in a mutual fund, pensions or other investments over which the person has no control.

"Compensation" includes direct and indirect remuneration that, when aggregated for the Designated Person and his/her Immediate Family Members, does not exceed a fair market value of \$10,000 per year, except with respect to gifts, entertainment or other material benefits in which case the applicable annual limit is \$250 in the aggregate. Compensation includes without limitation, consulting or employment; gifts, entertainment or other material benefits; royalties or licensing fees, copyrights (whether actual or by contractual right).

A Financial Interest is not necessarily a conflict of interest. Under this Policy a Designated Person who has a Financial Interest has a conflict of interest only based on the criteria and procedures set forth in this Policy.

- F. **"Immediate Family"** of a Designated Person means spouse, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren.
- G. **"Medical Staff"** means the Medical Staff of any health care facility owned or operated by the Corporation which, for purposes of this Policy, shall include House Staff.
- H. **"Related Party"** means any Business Entity:
 - 1. in which a Designated Person or his/her Immediate Family has an Ownership Interest;
 - 2. from which the Designated Person or his/her Immediate Family derives compensation or a consulting fee;
 - 3. in which a Designated Person or his/her Immediate Family serves as an officer or director; or
 - 4. from which a Designated Person or his/her Immediate Family otherwise has a financial interest or directly or indirectly receives financial benefits.
- I. **"Staff Member"** means (1) part-time or full-time members of the Medical Staff; (2) other part-time or full-time employees of the Corporation; (3) consultants to the Corporation and (4) members of any Committee of the Corporation, whether designated by senior management or by the Board, who are in a position to influence patient outcomes or business relationships, including without limitation purchasing/contracting decisions, as determined by the Board or Board-delegated Committee.
- J. **"Interested Person"** shall mean any Designated Person or member of a Committee or Sub-Committee with Board delegated powers, who has a direct or indirect financial interest.
- K. **"Consultant, Consulting"** shall mean the performing of any service as an independent contractor for which any form of remuneration is received. This includes the rendering of advice, providing technical expertise, serving as a speaker or lecturer or evaluating existing or proposed products, etc.

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- L. "Organization Doing or Seeking to Do Business with the Corporation" shall mean any present or potential supplier of products and/or services and will include manufacturers, distributors, purchasing-related organizations or alliances, consulting or accounting firms, employment or travel agencies or any other entity which may be remunerated by the Corporation as a result of a service which it may perform for any of them.

IV. PERMITTED INTERESTED TRANSACTIONS

A. The Corporation may purchase goods or services from or otherwise contract with an Entity in which a Designated Person has a direct or indirect financial interest (a "Designated Person-affiliated entity") provided that a majority of the non-interested Trustees or committee members have determined that:

1. The terms of the transaction are fair and reasonable and competitive with what the Corporation could receive from a non-Designated Person-affiliated entity using reasonable efforts;
2. The transaction is otherwise in the best interest of the Corporation;
3. The nature of the Designated Person's involvement in the Designated Person-affiliated entity has been fully disclosed in accordance with this Policy; and
4. The interested Designated Person has not voted on the transaction at any meeting held to act on the transaction.

B. A Designated Person may take advantage of a personal business opportunity that may be of interest to, competitive with, or impact the interests of, the Corporation if:

1. The Designated Person has fully disclosed the opportunity in accordance with this Policy;
2. The opportunity has not arisen out of any impermissible use of confidential or proprietary information of the Corporation;
3. A majority of the non-interested Trustees or committee members have determined that the Corporation has no present interest in availing itself of the opportunity and that the Designated Person may take advantage of the opportunity.

V. POTENTIAL CONFLICTS

A conflict of interest exists in any instance in which a Designated Person's personal activities or interests conflict with the activities or interests of the Corporation. Although it is impossible to list every circumstance giving rise to a possible conflict of interest, the following will serve as examples of the types of activities which might give rise to such a conflict and which should be reported in a detailed and timely fashion to the President of the Corporation (the "President") or the President's designee or, with respect to Trustees, the Chairman of the Board (the "Chairman") or the Chairman's designee.

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A. OTHER HEALTHCARE AFFILIATIONS

To serve as a volunteer or paid trustee, director, officer, partner, employee, consultant, agent, or advisor of or to any hospital, medical clinic or healthcare facility or organization not affiliated with the Corporation.

B. OUTSIDE INTERESTS AND OPPORTUNITIES

1. To hold, directly or indirectly, a financial interest in any outside company, organization or concern which the Designated Person has reason to believe makes payments to or receives payments from the Corporation (whether on account of goods, loans or other transactions), or which provides services in competition with the Corporation.
2. To compete, directly or indirectly, with the Corporation in the purchase or sale of property or any property right, interest or service.
3. To accept or take advantage of a business opportunity that the Designated Person knows or has reason to know may be of interest to or competitive with the Corporation.

C. OUTSIDE ACTIVITIES

1. To render directorial, managerial, or consultative services to, or to engage in any material financial transaction with, any person or concern which does business with, or competes with the Corporation.
2. To render other services in competition with, or to the disadvantage of, the Corporation.

D. GIFTS AND ENTERTAINMENT

To accept a gift, entertainment, or other material benefit from any individual or Organization Doing or Seeking to Do Business with the Corporation or is a competitor of the Corporation, under circumstances from which it might be reasonably inferred that such gift, entertainment, or other material benefit was intended to influence or possibly would influence the Designated Person in the performance of his or her duties for the Corporation, except that, in accordance with Section III.E of this Policy, the acceptance of gifts, entertainment and other material benefits of value less than \$250 in the annual aggregate shall not be construed as creating a Financial Interest.

E. INSIDE INFORMATION

To disclose or use information relating to the Corporation's business, including but not limited to methods of operation and research and product development, for personal profit or advantage, or to divulge confidential information in advance of official authorization of its release.

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VI. PROCEDURES

As soon as any potential conflict of interest described above, or any situation as to which a Designated Person may be in doubt, comes to the attention of a Designated Person, full disclosure must be made to (i) the President or the President's designee, (ii) with respect to Trustees, the Chairman or the Chairman's designee, or (iii) with respect to committees, the committee chairman, so as to permit an impartial and objective determination of whether a real or potential conflict of interest exists. The President, Chairman, or committee chair shall consult with the disclosing Designated Person and with such other individuals as he or she may deem appropriate.

A. The Board or committee shall utilize the following procedures regarding any Board or committee discussion or decision of a transaction that may involve or affect a firm, entity or arrangement in which a Designated Person has a Financial Interest or organizational affiliation:

1. Prior to the Board's or committee's consideration of any matter that may involve or affect a firm, entity or arrangement in which a Designated Person has a Financial Interest or organizational affiliation, the Designated Person shall raise with the Board or committee the issue of a potential conflict of interest, and if such Financial Interest has not yet been disclosed pursuant to this Policy, the Designated Person shall provide the Board or committee with sufficient information about the Financial Interest or affiliation to enable the Board or committee to consider fully whether a conflict exists.
2. The Board or committee, in its reasonable discretion, may request of such Designated Person additional details regarding the nature of the Financial Interest or organizational affiliation if the Board or committee determines that such additional information will assist it in the deliberation of whether a conflict of interest exists.
3. If a Designated Person believes that providing a full disclosure as provided in Sections VI.A.1 and/or VI.A.2 above may breach a confidentiality provision to which the Designated Person is bound, such Financial Interest or organizational affiliation shall be deemed automatically to be a conflict of interest.
4. The Designated Person with the potential conflict shall leave the meeting while the remaining members of the Board or committee discuss and vote upon whether a conflict of interest exists. The interested Designated Person(s) may be counted for purposes of a quorum, however.
5. If a conflict of interest is determined to exist, the interested Designated Person shall continue to absent himself/herself from the meeting during the discussion and any vote on the transaction or arrangement; provided, however, that the Board or committee may, by a 2/3 vote of its members (excluding the interested person), waive this requirement, except with respect to a Financial Interest or organizational affiliation that is deemed a conflict pursuant to Section VI.A.3.
6. Approval of the transaction or arrangement shall require a majority of disinterested members of the Board or committee present to determine that the transaction or arrangement is in the Corporation's best interest and for its own benefit, and that it is fair and reasonable to the Corporation.

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7. The minutes of Board or committee meetings in which a conflict of interest transaction or arrangement is addressed shall include:
 - a. Names of any persons who disclosed or otherwise were found to have a financial interest, the general nature of such, and whether the Board or committee determined there was, in fact, a conflict of interest; and
 - b. Names of those present for discussions and votes relating to the transaction or arrangement, the general nature of the discussions (specifically including whether any alternatives existed to the proposed transaction or arrangement and the general nature of such alternatives) and a record of the vote.

B. In addition to making ongoing disclosures of potential conflicts of interest as described above, Designated Persons must make any and all potential conflicts of interest a matter of record through an initial and annual procedure that are outlined below:

1. Within thirty (30) days from the date of becoming a Designated Person, Designated Persons are affirmatively required to disclose all Financial Interests and organizational affiliations that may give rise to an actual or potential conflict of interest, or indicate that no such conflicts of interest exist, using the Conflict of Interest Disclosure Form (the "Disclosure Form") attached hereto and incorporated by reference. The Board or Audit Committee may from time-to-time designate appropriate individuals to receive such Disclosure Forms.
2. Annually, (i) the President or the Chairman of the Board or their designees shall advise each Designated Person in writing of this Policy, provide to the Designated Person a copy of this Policy, and request that each Designated Person complete and submit the completed Disclosure Form.
3. Each Designated Person shall submit the completed Disclosure Forms *within twenty (20) days of receipt* to:

Kimberly A. O'Connell, Esq.
Vice President and General Counsel
CharterCARE Health Partners
825 Chalkstone Avenue
Providence, RI 02908
4. The President or the Chairman, or their respective designee, with consultation from the Corporate Compliance Officer, shall review all Disclosure Forms. The Corporation may seek advice from legal counsel on any issue associated with the administration of this Policy. It is understood that these Disclosure Forms shall be maintained by the Corporate Compliance Officer and any request for release of a Disclosure Form shall be made directly to the Corporate Compliance Officer. Disclosure Forms will be used only to the extent necessary for the administration and verification of this Policy and will be kept confidential to the extent allowed by law.
5. At least annually the Board or a designated committee shall review standard relationships with local banks, insurance firms, and other entities serving the Corporation to assure that the relationship is in the best interests of the Corporation and is otherwise consistent with the terms of this Policy.

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6. This Policy shall be reviewed annually by the Audit Committee of the Board and each new Designated Person shall be advised of the policy prior to employment or selection as a Designated Person and, prior to assuming a position as a Designated Person, shall be required to file the Disclosure Form in accordance with Section V.B.1 of this Policy.

VII. DESIGNATED PERSON-AFFILIATED VENDORS — RELATIONSHIPS WITH THE CORPORATION

A Designated Person-affiliated vendor providing goods or services to the Corporation, as a condition for doing business with the Corporation, will be advised in writing of its obligation to conduct all business relating to the contract or arrangement whereby it provides such goods or services through the usual channels for administration of the Corporation's contracts, and the Interested Designated Person will scrupulously refrain from utilizing his/her position as a Designated Person to negotiate, conduct or arbitrate contractual matters. Infractions of this policy may subject the Designated Person-affiliated vendor with termination of its relationship with the Corporation.

VIII. NOTIFICATION OF VIOLATIONS/ENFORCEMENT

A. If a Designated Person has reasonable cause to believe that another Designated Person has failed to disclose an actual or potential conflict of interest, he/she shall inform the President (or in the case of a non-disclosure relating to the President, to the Treasurer, or, in the case of a Designated Person who is a member of the Board to the Chairman of the Board (or, in the case of a non-disclosure relating to the Chairman, to the Vice-Chairman) of the basis for the belief.

B. Upon receipt of such an allegation, as described in Section VIII.A, a committee of the Board shall be convened to review the matter, with such committee being either a newly established committee or an existing Board committee, such as the Finance, Audit, Compliance Committee, with the authority given to it to review such matter in accordance with this provision. The Committee shall afford the Designated Person the opportunity to explain the alleged failure to disclose and, if appropriate to update his/her Disclosure Form. If after hearing the response of the Designated Person and making such further investigation as may be warranted in the circumstances, the Committee determines that a Designated Person has, in fact, failed to disclose an actual or potential conflict of interest, it shall make such recommendations to the full Board for appropriate disciplinary and corrective action.

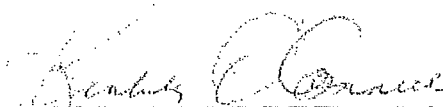
C. Failure to comply with this Policy may disqualify a person from serving as a Designated Person or, if already serving as a Designated Person, the Designated Person shall, if an employee, be subject to disciplinary action up to and including dismissal, subject to and in accordance with the terms of any applicable employment or collective bargaining agreement or, if a Trustee, the Trustee shall be subject to removal pursuant to the Bylaws.

APPROVED BY:
DATE:

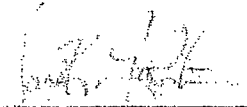
Board of Trustees
September 8, 2011

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APPROVED BY:



Kimberly A. O'Connell, Esq.
Senior Vice President & General Counsel



Joel K. Golasie, Esq.
Deputy General Counsel
Director of Compliance,
Privacy & Ethics

Attachment A:

Conflict of Interest Questionnaire and Disclosure Form

Attachment A

CONFLICT OF INTEREST QUESTIONNAIRE
AND
DISCLOSURE FORM
FISCAL YEAR

Please Return to: Kimberly A. O'Connell, Esq., Vice President and General Counsel

I hereby affirm that I have received a copy of the Conflict of Interest Policy ("Policy") of CharterCARE Health Partners and its affiliates (the "Corporation") requiring disclosure of certain interests, that I have read and understand the Policy, and that I agree to comply with its terms. In addition I hereby affirm my understanding that the Corporation is a charitable organization and that, in order for it to maintain its federal tax exemption, it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

Consistent with the purposes and intentions of the Policy, I hereby state that I or members of my immediate family (spouse, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren) have the following affiliations or interests and have taken part in or are now taking part in the following transactions that, considered in conjunction with my position with or relation to the Corporation, might possibly constitute a conflict of interest (*state "none" where applicable*):

1. **Business Affiliations.** Please list below any affiliations you, or any member of your immediate family have as a trustee, director, officer, partner, employee, consultant, agent, or advisor of any person, firm or organization which, to the best of your information and belief, is a supplier of goods or services to the Corporation, and briefly describe the type of goods or services so supplied. *If none, so state:*

2. **Other Healthcare Affiliations.** Please list below the name and address of any healthcare company or facility which you or any member of your immediate family serve as a volunteer or paid director, trustee, officer, partner, employee, consultant, employee or agent or advisor and the capacity in which you so serve. *If none, so state:*

3. **Outside Interests:**

A. Identify any interest or investment, of yourself or your immediate family, that might be deemed a position of financial interest in any outside concern, as described in Section V.B.1 of the Policy. ***If none, so state:***

B. Identify any purchase or sale of property or property right, interest or service, made or proposed to be made by yourself or your immediate family, that might be deemed to have been made in competition with the Corporation, as described in Section V.B.2 of the Policy. ***If none, so state:***

C. Identify any business opportunity that you or your immediate family know or have reason to know may be of interest to or competitive with the Corporation as described in Section V.B.3 of the Policy. ***If none, so state:***

D. Identify any relationship, through family or business, you have with any officers, directors, trustees, or employees of the Corporation. ***If none, so state:***

E. Identify any relationship, through family or business, you have with any independent contractors who received over \$50,000 for the year from the Corporation. ***If none, so state:***

4. **Outside Activities:**

A. Identify any instance in which you or any member of your immediate family has rendered or are rendering directive, managerial, or consultative services to any outside concern that does business with, or competes with, the services of the Corporation as described in Section V.A of the Policy. ***If none, so state:***

B. Identify any instance in which you or any member of your immediate family has rendered or may render services that might be deemed to be in competition with, or to the disadvantage of, the Corporation, as described in Section V.C.2 of the Policy. ***If none, so state:***

5. **Gifts, Gratuities and Entertainment:**

I hereby certify that neither I nor any member of my immediate family has accepted, are accepting or will accept any gift, gratuity, or entertainment from any outside concern that does, or is seeking to do business with or is a competitor of, the Corporation, except as listed below. ***If none, so state:***

6. **Inside Information:**

I hereby certify that neither I, nor any member of my immediate family, has disclosed or used, is disclosing or using, or will disclose or use information relating to the Corporation's business, except as listed below. ***If none, so state:***

7. Other:

List any other activities in which you or your immediate family are engaged that might be regarded as constituting a potential conflict of interest with the Corporation. *If none, so state:*

I hereby agree to report promptly to the President, or the President's designee or, if I am a member of the Board of Trustees of the Corporation, to the Chairman of the Board or the Chairman's designee, any situation or transaction that may arise during the forthcoming year that constitutes a potential conflict of interest.

Printed Name: _____

Signature: _____

Date: _____

Please return *within twenty (20) days* of receipt to:

Kimberly A. O'Connell, Esq.
Vice President and General Counsel
CharterCARE Health Partners
825 Chalkstone Avenue
Providence, RI 02908

Exhibit B

Correspondence between the Liquidating Receiver or the Category A Directors, on the one hand, and Prospect CharterCARE, LLC or its counsel, on the other (attached)

Exhibit B

Date	From	To
07/22/20	Liquidating Receiver	Prospect CharterCARE, LLC and Prospect East Holdings, Inc.
08/06/20	Mark Russo	Category A Directors
08/25/20	Liquidating Receiver	Jeffrey Liebman
08/31/20	Sheila Capobianco	Category A Directors
09/02/20	Miriam Cauley	Category A Directors
09/04/20	Miriam Cauley	Category A Directors
09/08/20	William Lynch	Jeffrey Liebman and Miriam Cauley
09/14/20	William Lynch	Jeffrey Liebman
09/15/20	Mark Russo	Category A Directors
09/15/20	Mark Russo	Liquidating Receiver
09/16/20	William Lynch	Jeffrey Liebman
09/16/20	Mark Russo	William Lynch
09/19/20	Miriam Cauley	Category A Directors
09/18/20	D&O broker	Frank Castro
09/20/20	William Lynch	Miriam Cauley
09/22/20	Liquidating Receiver	Mark Russo
09/22/20	William Lynch	Miriam Cauley
09/23/20	Mark Russo	Liquidating Receiver
09/25/20	Liquidating Receiver	Miriam Cauley
09/25/20	Liquidating Receiver	Mark Russo
09/30/20	Mark Russo	Category A Directors
10/05/20	Liquidating Receiver	Mark Russo



Thomas S. Hemmendinger, of counsel
E-mail themmendinger@brasm.com

BY OVERNIGHT COURIER

July 22, 2020

Prospect CharterCARE, LLC
Attn: Chief Executive Officer
825 Chalkstone Avenue
Providence, RI 02908

Prospect East Holdings, Inc.
Attn: President or Chief Executive Officer
10780 Santa Monica Boulevard, Suite 400
Los Angeles, CA 90025

Prospect CharterCARE, LLC
Attn: Chief Executive Officer
3415 South Sepulveda Blvd., 9th Floor
Los Angeles, CA 90034

Prospect East Holdings, Inc.
Attn: President or Chief Executive Officer
3415 South Sepulveda Blvd., 9th Floor
Los Angeles, CA 90034

Re: Category A Directors of Prospect CharterCARE, LLC ("Prospect CharterCARE")

Ladies and Gentlemen:

As you know, the Rhode Island Superior Court has appointed me permanent liquidating receiver of CharterCARE Community Board, f/k/a CharterCARE Health Partners. Enclosed is a copy of the appointment order.

Pursuant to Section 12.1 of the June 20, 2014 Amended and Restated Limited Liability Company Agreement of Prospect CharterCARE, I hereby appoint the following individuals as Category A Directors (also referred to as Class A Directors) each for a three-year term starting today:

James H. Aceto, CPA
Ward Fisher & Company, LLP
250C Centerville Road
Warwick, RI 02886-4353
Tel. 401.384.6464
Email jaceto@wardfisher.com

William J. Lynch, Esq.
WJ Lynch Law
320 Newport Ave
Rumford, RI 02916
Tel. 401.648.2100
Email bill@wjlynchlaw.com

James P. Riley
38 Captain John Jacobs Road, #411
East Providence, RI 02914
Tel. 401.640.5293
Email jimriley011150@gmail.com

Marc Weinberg, M.D.
Marc Weinberg MD Personal HealthCare, Ltd.
One Randall Square, Suite 304
Providence, RI 02904
Tel. 401.228.4444
Email mweinberg@marcweinbergmd.com

These individuals replace the existing Category A Directors, Edwin Santos, Joseph DiStefano, Esq, Ed Quinlan, and Andrea Doyle, M.D., each of whom is hereby removed as a director effective today.

Cordially,

/s/ Thomas S. Hemmendinger

Thomas S. Hemmendinger, permanent liquidating receiver of CharterCARE Community Board, f/k/a CharterCARE Health Partners, both individually and as trustee for the Plan Receiver

TSH:jl

Encl.

cc: James H. Aceto, CPA (by email)
Ronald F. Cascione, Esq. (by email)
Sean J. Clough, Esq. (by email)
Stephen Del Sesto, Esq. (by email)
Christopher Fragomeni, Esq. (by email)
Preston Halperin, Esq. (by email)
Vincent Indeglia, Esq. (by email)
Lisa M. Kresge, Esq. (by email)
Benjamin Ledsham, Esq. (by email)
Christopher Lee, Esq. (by email)
William J . Lynch, Esq. (by email)
James P. Riley (by email)
Stephen Sheehan, Esq. (by email)
Thomas Reichert, Esq. (by email)
Ekwan Rhow, Esq. (by email)
Mark Russo, Esq. (by email)
Marc Weinberg, M.D. (by email)
Max Wistow, Esq. (by email)

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In Re:

CharterCARE Community Board, St. Joseph
Health Services of Rhode Island, and Roger
Williams Hospital

C.A. No. PC-2019-11756

ORDER APPOINTING PERMANENT LIQUIDATING RECEIVER

This cause came on to be heard before Justice Stern, on January 17, 2020, on the Petition for the Judicial Dissolution and Liquidation of Assets and Affairs Pursuant to R.I. Gen. Laws § 7-6-60(a)(8) and § 7-6-61 (the "Petition"), and it appearing that the notice provided by the Order of this Court previously entered herein has been given, and on consideration thereof, it is hereby ORDERED:

1. That pursuant to R.I. Gen. Laws §7-6-61, Thomas S. Hemmendinger of Providence, Rhode Island, be and is hereby appointed Permanent Liquidating Receiver (the "Liquidating Receiver") of CharterCARE Community Board, St. Joseph Health Services of Rhode Island, and Roger Williams Hospital (collectively, the "Petitioners"), and of all real property and all tangible and intangible personal property of each Petitioner with the powers and duties specifically set forth herein, which may be modified or supplemental by further order of this Court.

2. The Liquidating Receiver shall continue in effect the Liquidating Receiver's bond for the faithful performance of the Liquidating Receiver's duties as Liquidating Receiver in the sum of Ten Thousand Dollars (\$10,000.00) with surety of a surety company authorized to do business in the State of Rhode Island, conditioned that the Liquidating Receiver will well and truly perform the duties of the Liquidating Receiver's said office.

3. That said Liquidating Receiver is authorized to take control of the Petitioners as described in the Petition for the purpose of accomplishing the dissolution and liquidation pursuant to R.I. Gen. Laws § 7-6-60(a)(3) and § 7-6-61.

4. That said Liquidating Receiver is authorized, until further Order of this Court, in the Liquidating Receiver's discretion and as said Liquidating Receiver deems appropriate and advisable, to the extent necessary to accomplish said dissolution and liquidation, to continue

Filed in Open Court *PSC*
Date 1/17/2020
Carin Miley *Deputy* Clerk

administration of the Petitioners, to engage employees and assistants, clerical or otherwise, and other professionals necessary or appropriate for the efficient administration of the Petitioners, and to pay all such individuals and entities in the usual course of business.

5. 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 31, 2018 between and among the Plan Receiver, the Petitioners, and others ("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.

6. That said Liquidating Receiver is authorized and directed to hold the funds that Roger Williams Hospital has been holding pursuant to paragraph 4 of the Order of April 20, 2015 in In re: CharterCARE Health Partners Foundation, Roger Williams Hospital and St. Joseph Health Services of Rhode Island, C.A. No. KM-2015-0035, pending further order of this Court.

7. That the Liquidating Receiver on behalf of the Petitioners shall perform and continue to perform their obligations under the Settlement Agreement, including, but not limited to paragraph 24 of the Settlement A Agreement and that the Liquidating Receiver on behalf of the Petitioners shall perform and continue to perform their obligations under that certain Settlement Agreement dated as of November 21, 2018 between and among the Plan Receiver, the Petitioners, and others;

8. That, pursuant to and in compliance with Rhode Island Supreme Court Executive Order No. 2000-2, this Court finds that the designation of the aforescribed person for appointment as Liquidating Receiver herein is warranted and required because of the Liquidating Receiver's specialized expertise and experience in operating businesses in Receivership and in administrating nonroutine Receiverships which involve unusual or complex legal, financial, or business issues.

9. That the commencement, prosecution, or continuance of the prosecution, of any action, suit, arbitration proceeding, hearing, or any foreclosure, reclamation or repossession proceeding, both judicial and non-judicial, or any other proceeding, in law, or in equity or under any statute, or otherwise, against said Petitioners or any of their property, in any Court, agency, tribunal, or elsewhere, or before any arbitrator, or otherwise by any creditor, stockholder, corporation, partnership or any other person, or the levy of any attachment, execution or other process upon Petitioners or against any property of said Petitioners, or the taking or attempting to take into possession any property in the possession of the Petitioners or of which the Petitioners have the right to possession or legal title thereto, or the interference with the Liquidating Receiver's taking possession of or retaining possession of any such property, or the cancellation at any time during the Receivership proceeding herein of any insurance policy, lease or other contract relating to the Petitioners, by any of such parties aforesaid, other than the Liquidating Receiver designated as aforesaid, or the termination of services relating to the Petitioners, without obtaining prior approval thereof from this Honorable Court, in which connection said Liquidating Receiver shall be entitled to prior notice and an opportunity to be heard, is hereby restrained and enjoined until further Order of this Court. However, (1) this injunction shall neither restrain nor enjoin the Plan Receiver and his attorneys and agents in any way concerning Hospital Interests, and the Plan Receiver and his attorneys and agents are authorized to take such steps as they deem appropriate to protect such Hospital Interests; and (2) this injunction shall neither restrain nor enjoin the continuation of the prosecution of the suit *Stephen Del Sesto, et al. v. Prospect ChaterCare, LLC, et al.*, C.A. No.:1:18-CV-00328-WES-LDA against any of the defendants therein other than the Petitioners.

10. The Liquidating Receiver shall continue to discharge the Liquidating Receiver's duties and trusts hereunder until further Order of this Court and from time to time make reports of the Liquidating Receiver's doings in the premises as directed by this Court; and that the right is reserved to the Liquidating Receiver and to the parties hereto to apply to this Court for any other or further instructions to the Liquidating Receiver; and that this Court reserves the right, on such notice, if any, as it shall deem proper, to make such further orders herein as may be proper, and to modify this Order from time to time.

11. All creditors of Petitioners in order to be entitled to be paid from the assets of Petitioners are required to file with the Liquidating Receiver at the Liquidating Receiver's office at 362 Broadway, Providence, RI 02909, on or before MAY 18, 2020 statements showing the amount of indebtedness claimed by them to be due, the consideration therefor, and the security or lien or priority, if any, which any creditor claims to be entitled to.

12. Notice of the entry of this Order be given (a) by the Clerk of this Court by publication of a copy of the annexed Liquidating Receivership Notice in the Providence Journal on or before JANUARY 31, 2020, and (b) by the Liquidating Receiver by mailing on or before JANUARY 31, 2020 a copy of the said Liquidating Receivership Notice to each creditor

and stockholder of Petitioners as shown on the books and records of Petitioners, addressed to such creditor or stockholder at his, her or its last known address.

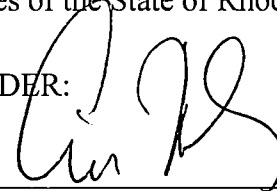
13. This Order is entered by virtue of and pursuant to this Court's equity powers and pursuant to its powers as authorized by the laws and statutes of the State of Rhode Island.

ENTER:



Stern, J.

PER ORDER:



Deputy Clerk I 1/17/2020

Date: January 17, 2020

Presented by: Lisa M. Kresge #8707, Brennan, Recupero, Cascione, Scungio & McAllister, LLP, 362 Broadway, Providence, RI 02909, tel. (401) 453-2300, fax (401) 453-2345, e-mail lkresge@brasm.com



55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 WWW.FRLAWRI.COM

W. Mark Russo
mrusso@frlawri.com

August 6, 2020

Via E-mail: jaceto@wardfisher.com

James H. Aceto, CPA
Ward Fisher & Company, LLP
250C Centerville Road
Warwick, RI 02886-4353

RE: Category A Directors of Prospect CharterCARE, LLC

Dear Mr. Aceto:

This office represents Prospect CharterCARE, LLC. The Amended and Restated Limited Liability Company Agreement of Prospect CharterCARE, LLC was entered into in June of 2014 by and between CharterCare Health Partners ("CCHP"), Prospect East Holdings, Inc. and Prospect CharterCARE, LLC.

Under the Amended and Restated Limited Liability Company Agreement, there are Category A Directors to be elected or appointed from time to time by CCHP. CCHP's successor-in-interest is now a Receiver that has been appointed by the Rhode Island Superior Court. Moreover, we find ourselves in a unique situation in which Prospect CharterCARE, LLC is an adverse party in litigation with CCHP's successor-in-interest, as well another Court-appointed Receiver, which purportedly controls CCHP's membership interest in and to Prospect CharterCARE, LLC.

With that background, I am writing you to emphasize that as an appointed Category A Director, you will have a fiduciary duty and obligation to Prospect CharterCARE, LLC to partake in such directorship activities as evaluations of the Chief Executive Officer, review and evaluation of strategic plans and operating capital budgets, review and evaluation of compliance with Joint Commission criteria, and fostering community relationships and opportunities.

In addition, you will have to complete a Conflict of Interest Disclosure. Under the general principles of the Conflict of Interest Disclosure Policy, as an appointed director, you have obligations to protect decisions involving Prospect CharterCARE, LLC against conflicts of interest, maintain the confidentiality of information obtained through service to Prospect CharterCARE, LLC, and assure that Prospect CharterCARE, LLC acts for the benefit of the community as a healthcare provider as a whole, rather than for the private benefit of a designated person or for that matter, the benefit of a specific member of Prospect CharterCARE, LLC. With that said, a Conflict of Interest Questionnaire and Disclosure form will be provided.

James H. Aceto, CPA
August 6, 2020
Page 2

However, in the meantime, it is important to put you on notice that any communications that you may have with Attorney Hemmendinger, or his office, Attorney Del Sesto, or his office, or Attorney Wistow, or his office be conducted by and through my office due to the fact that we are adverse parties in various litigation matters at this time.

Should you have any questions, please feel free to contact me.

Sincerely,



W. MARK RUSSO

WMR/was

Cc: Thomas S. Hemmendinger, Esq. (via e-mail themmendinger@brscsm.com)
Max Wistow, Esq. (via e-mail mw@wistbar.com)



55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 WWW.FRLAWRI.COM

W. Mark Russo
mrusso@frlawri.com

August 6, 2020

Via E-mail: mweinberg@marcweinbergmd.com

Marc Weinberg, M.D.
Marc Weinberg MD Personal HealthCare, Ltd.
One Randall Square, Suite 304
Providence, RI 02904

RE: Category A Directors of Prospect CharterCARE, LLC

Dear Dr. Weinberg:

This office represents Prospect CharterCARE, LLC. The Amended and Restated Limited Liability Company Agreement of Prospect CharterCARE, LLC was entered into in June of 2014 by and between CharterCare Health Partners (“CCHP”), Prospect East Holdings, Inc. and Prospect CharterCARE, LLC.

Under the Amended and Restated Limited Liability Company Agreement, there are Category A Directors to be elected or appointed from time to time by CCHP. CCHP’s successor-in-interest is now a Receiver that has been appointed by the Rhode Island Superior Court. Moreover, we find ourselves in a unique situation in which Prospect CharterCARE, LLC is an adverse party in litigation with CCHP’s successor-in-interest, as well another Court-appointed Receiver, which purportedly controls CCHP’s membership interest in and to Prospect CharterCARE, LLC.

With that background, I am writing you to emphasize that as an appointed Category A Director, you will have a fiduciary duty and obligation to Prospect CharterCARE, LLC to partake in such directorship activities as evaluations of the Chief Executive Officer, review and evaluation of strategic plans and operating capital budgets, review and evaluation of compliance with Joint Commission criteria, and fostering community relationships and opportunities.

In addition, you will have to complete a Conflict of Interest Disclosure. Under the general principles of the Conflict of Interest Disclosure Policy, as an appointed director, you have obligations to protect decisions involving Prospect CharterCARE, LLC against conflicts of interest, maintain the confidentiality of information obtained through service to Prospect CharterCARE, LLC, and assure that Prospect CharterCARE, LLC acts for the benefit of the community as a healthcare provider as a whole, rather than for the private benefit of a designated person or for that matter, the benefit of a specific member of Prospect CharterCARE, LLC. With that said, a Conflict of Interest Questionnaire and Disclosure form will be provided.

Marc Weinberg, M.D.

August 6, 2020

Page 2

However, in the meantime, it is important to put you on notice that any communications that you may have with Attorney Hemmendinger, or his office, Attorney Del Sesto, or his office, or Attorney Wistow, or his office be conducted by and through my office due to the fact that we are adverse parties in various litigation matters at this time.

Should you have any questions, please feel free to contact me.

Sincerely,



W. MARK RUSSO

WMR/was

Cc: Thomas S. Hemmendinger, Esq. (via e-mail themmendinger@brcsm.com)
Max Wistow, Esq. (via e-mail mw@wistbar.com)



55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 WWW.FRLAWRI.COM

W. Mark Russo
mrusso@frlawri.com

August 6, 2020

Via E-mail: jimriley011150@gmail.com

James P. Riley
38 Captain John Jacobs Road, #411
East Providence, RI 02914

RE: Category A Directors of Prospect CharterCARE, LLC

Dear Mr. Riley:

This office represents Prospect CharterCARE, LLC. The Amended and Restated Limited Liability Company Agreement of Prospect CharterCARE, LLC was entered into in June of 2014 by and between CharterCare Health Partners (“CCHP”), Prospect East Holdings, Inc. and Prospect CharterCARE, LLC.

Under the Amended and Restated Limited Liability Company Agreement, there are Category A Directors to be elected or appointed from time to time by CCHP. CCHP’s successor-in-interest is now a Receiver that has been appointed by the Rhode Island Superior Court. Moreover, we find ourselves in a unique situation in which Prospect CharterCARE, LLC is an adverse party in litigation with CCHP’s successor-in-interest, as well another Court-appointed Receiver, which purportedly controls CCHP’s membership interest in and to Prospect CharterCARE, LLC.

With that background, I am writing you to emphasize that as an appointed Category A Director, you will have a fiduciary duty and obligation to Prospect CharterCARE, LLC to partake in such directorship activities as evaluations of the Chief Executive Officer, review and evaluation of strategic plans and operating capital budgets, review and evaluation of compliance with Joint Commission criteria, and fostering community relationships and opportunities.

In addition, you will have to complete a Conflict of Interest Disclosure. Under the general principles of the Conflict of Interest Disclosure Policy, as an appointed director, you have obligations to protect decisions involving Prospect CharterCARE, LLC against conflicts of interest, maintain the confidentiality of information obtained through service to Prospect CharterCARE, LLC, and assure that Prospect CharterCARE, LLC acts for the benefit of the community as a healthcare provider as a whole, rather than for the private benefit of a designated person or for that matter, the benefit of a specific member of Prospect CharterCARE, LLC. With that said, a Conflict of Interest Questionnaire and Disclosure form will be provided.

James P. Riley
August 6, 2020
Page 2

However, in the meantime, it is important to put you on notice that any communications that you may have with Attorney Hemmendinger, or his office, Attorney Del Sesto, or his office, or Attorney Wistow, or his office be conducted by and through my office due to the fact that we are adverse parties in various litigation matters at this time.

Should you have any questions, please feel free to contact me.

Sincerely,



W. MARK RUSSO

WMR/was

Cc: Thomas S. Hemmendinger, Esq. (via e-mail themmendinger@brcsm.com)
Max Wistow, Esq. (via e-mail mw@wistbar.com)



55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 www.FRLAWRI.COM

W. Mark Russo
mrusso@frlawri.com

August 6, 2020

Via E-mail: bill@wjlynchlaw.com

William J. Lynch, Esq.
WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916

RE: Category A Directors of Prospect CharterCARE, LLC

Dear Bill;

This office represents Prospect CharterCARE, LLC. The Amended and Restated Limited Liability Company Agreement of Prospect CharterCARE, LLC was entered into in June of 2014 by and between CharterCare Health Partners (“CCHP”), Prospect East Holdings, Inc. and Prospect CharterCARE, LLC.

Under the Amended and Restated Limited Liability Company Agreement, there are Category A Directors to be elected or appointed from time to time by CCHP. CCHP’s successor-in-interest is now a Receiver that has been appointed by the Rhode Island Superior Court. Moreover, we find ourselves in a unique situation in which Prospect CharterCARE, LLC is an adverse party in litigation with CCHP’s successor-in-interest, as well another Court-appointed Receiver, which purportedly controls CCHP’s membership interest in and to Prospect CharterCARE, LLC.

With that background, I am writing you to emphasize that as an appointed Category A Director, you will have a fiduciary duty and obligation to Prospect CharterCARE, LLC to partake in such directorship activities as evaluations of the Chief Executive Officer, review and evaluation of strategic plans and operating capital budgets, review and evaluation of compliance with Joint Commission criteria, and fostering community relationships and opportunities.

In addition, you will have to complete a Conflict of Interest Disclosure. Under the general principles of the Conflict of Interest Disclosure Policy, as an appointed director, you have obligations to protect decisions involving Prospect CharterCARE, LLC against conflicts of interest, maintain the confidentiality of information obtained through service to Prospect CharterCARE, LLC, and assure that Prospect CharterCARE, LLC acts for the benefit of the community as a healthcare provider as a whole, rather than for the private benefit of a designated person or for that matter, the benefit of a specific member of Prospect CharterCARE, LLC. With that said, a Conflict of Interest Questionnaire and Disclosure form will be provided.

William J. Lynch, Esq.
August 6, 2020
Page 2

However, in the meantime, it is important to put you on notice that any communications that you may have with Attorney Hemmendinger, or his office, Attorney Del Sesto, or his office, or Attorney Wistow, or his office be conducted by and through my office due to the fact that we are adverse parties in various litigation matters at this time.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Mark Russo".

W. MARK RUSSO

WMR/was

Cc: Thomas S. Hemmendinger, Esq. (via e-mail themmendinger@brcsm.com)
Max Wistow, Esq. (via e-mail mw@wistbar.com)



Thomas S. Hemmendinger, of counsel
E-mail themmendinger@brcsm.com

By email jeffrey.liebman@chartercare.org

August 25, 2020

Jeffrey H. Liebman. DMD
Chief Executive Officer
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Providence, RI 02908

Re: Prospect CharterCARE, LLC

Dear Dr. Liebman:

I write to you in my capacity as permanent liquidating receiver of CharterCARE Community Board, f/k/a CharterCARE Health Partners and at the request of James H. Aceto, CPA, William J. Lynch, Esq., James P. Riley, and Marc Weinberg, M.D., the four new Category A Directors of Prospect CharterCARE, LLC.

You have kindly reached out to the new directors to arrange initial meetings with them. The new directors appreciate this and look forward to serving the interests of Prospect CharterCARE, LLC and the communities served by its local healthcare facilities, together with you, the rest of management, and their colleagues on the board of directors.

The new directors would be glad to meet with you, and they suggest that you all meet together—probably through Zoom or WebEx for health reasons. Please circulate directly to them some proposed dates and times. They also would like to see the following ahead of time so they can prepare for the meeting:

- ❖ An agenda for the meeting.
- ❖ Year-to-date financial reports on Prospect CharterCARE, LLC and its subsidiaries.

362 Broadway
Providence, RI 02909
401.453.2300

One Church Green
PO Box 488
Taunton, MA 02780
508.822.0178

www.brcsm.com

August 25, 2020

- ❖ The revised financial statements submitted to the R.I. Attorney General and the R.I. Department of Health on August 11.
- ❖ The documents authorizing and justifying the pending Hospital Conversion Act and Change in Effective Control applications from the perspective of Prospect CharterCARE, LLC and its subsidiaries.

In housekeeping matters, the new directors would like to know the schedule for board meetings, get copies of any policies or codes governing all directors or officers, get confirmation that they are covered by Prospect CharterCARE, LLC's directors and officers liability insurance policy to the same extent as all other directors, and get a copy of the policy.

However, the new directors have grave concerns that Mark Russo's August 6 letters to each of them will impair their ability to do their job as directors.

One point in Mr. Russo's letter is not controversial. The new directors acknowledge that they owe a fiduciary duty to Prospect CharterCARE, LLC. The same is true for the Category B Directors and for all officers.

On the other hand, the new directors read other points in Mr. Russo's letter as an improper attempt to hobble their ability to do their jobs. For example, without justification he demands that the new directors not communicate at all with me, my counsel, the pension plan receiver, or his counsel, except through Mr. Russo himself.

The new directors understand that, subject to applicable law that requires or permits disclosure to protect the interests of the entity, a director may not, on his or her own, disclose information that is covered by a valid (i) privilege held by the entity or (ii) obligation not to disclose confidential information. In particular, a director may not share the entity's litigation strategy with the entity's opponent in litigation.

But outside of those limited situations, there is no basis for Mr. Russo's demand. A director must otherwise have the freedom to communicate with the minority member who appointed him or her and with the beneficial owner of the minority member's interest. This is especially important where the majority member and the directors appointed by the majority member have been accused of breaching their own duties to the entity and to the minority member.

Therefore, the Category A Directors have asked me to convey to you their request that Mr. Russo retract his letter or clarify it consistent with the law.

Cordially,

/s/ Thomas S. Hemmendinger

Thomas S. Hemmendinger, permanent
liquidating receiver of CharterCARE
Community Board, f/k/a CharterCARE Health
Partners, both individually and as trustee for
the Plan Receiver

TSH:jl

Encl.

cc: James H. Aceto, CPA (by email)
William J . Lynch, Esq. (by email)
James P. Riley (by email)
Marc Weinberg, M.D. (by email)
Mark Russo, Esq. (by email)

From: "Capobianco, Sheila M" <scapobianco@chartercare.org>
Date: August 31, 2020 at 4:56:13 PM EDT
To: Bill Lynch <Bill@wjlynchlaw.com>, Jim Aceto <jaceto@wardfisher.com>, "jimriley011150@gmail.com" <jimriley011150@gmail.com>, "Marc S. Weinberg" <mweinberg@marcweinbergmd.com>, "marcsweinberg@gmail.com" <marcsweinberg@gmail.com>
Subject: Prospect CharterCARE, LLC 2020 COI disclosure form Exhibit A - annual disclosure form



Dear CharterCARE Board Members;

Attached please find the Prospect CharterCARE, LLC 2020 Conflict of Interest Disclosure Form.

Please complete the document and return it to:

Miriam G. Cauley
Hospital Operations Counsel, RI
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Simpson Bldg., 3rd Floor, Room 319
Providence, RI 02908

If you have any questions, please contact Miriam (Mimsey) at 401-456-2498.

Thanks very much.

Sheila



Attachment A

**PROSPECT CHARTERCARE LLC CONFLICT OF INTEREST
DISCLOSURE FORM
FISCAL YEAR 2020**

A “**Conflict of Interest**” is a financial, personal, employment or other relationship or arrangement by a Covered Staff or Family Member that compromises or has the appearance of compromising a Covered Staff’s judgment and/or ability to perform his or her duties for Prospect CharterCARE, LLC.

A “**Family Member**” means spouse, domestic partner, parent, child, grandchild, sibling and each of their respective spouses or domestic partners.

1. Business Affiliations.

To the best of your knowledge, do you or your Family Member have a relationship/arrangement with a Prospect CharterCARE, LLC vendor, supplier, consultant, or other third-party conducting business or seeking to conduct business with Prospect CharterCARE, LLC? Please check yes or no below.

Yes (If Yes, proceed to 1.A)

No (If No, proceed to question 2)

A. What is the name of the entity and what relationship does it have with Prospect CharterCARE, LLC?

B. What is your financial interest or the financial interest of your Family Member?

Compensation for services performed (e.g., consulting, advisory)

Private equity interest (stock, options, warrants)

Public equity interest (stock, options, warrants)

Management Role (director, officer, or other role with decision making authority)

Board or Advisory Committee (director, trustee, etc.)

Other (please describe) _____



C. Briefly describe your relationship or your Family Member's relationship with the third-party entity, including title, responsibilities, annual compensation received or expected, percent and value of ownership interest, and total hours spent providing services to the entity over the past year.

2. **Other Healthcare Affiliations.**

To the best of your knowledge, do you or your Family Member serve as a volunteer or paid director, officer, partner, consultant, employee, agent or advisor of any healthcare company or facility not otherwise identified in question 1?

- Yes (If Yes, proceed to 2.A)
- No (If No, proceed to question 3)

A. What is the name and address of the entity and in what capacity do you and/or your Family Member(s) serve?

3. **Personal Relationships**

To the best of your knowledge, is a Family Member seeking employment or has a Family Member been employed or otherwise engaged by Prospect CharterCARE, LLC within the last 12 months?

- Yes (Proceed to Question 3.A)
- No (proceed to Question 4)

A. Provide the name, title and Prospect CharterCARE, LLC facility/entity and department where the Family Member is seeking employment or was employed or engaged.



B. Do or did you directly or indirectly supervise the Family Member or does the Family Member directly or indirectly supervise you in performing your job duties? Do or did you participate in decisions to hire or provide compensation to a Family Member in connection with their employment with Prospect CharterCARE, LLC? If yes, please describe below.

Yes (If Yes, please describe below)

No (If No, proceed to question 4)

4. Other Possible Conflicts: List and describe any other relationships or arrangements for you or your Family Member that could raise a possible or actual conflict as described in the Prospect CharterCARE, LLC Conflict of Interest policy and Prospect CharterCARE, LLC Code of Conduct.

If none, so state.



I have received and read the Prospect CharterCARE, LLC Conflict of Interest policy and agree to comply with its provisions. I agree to report promptly to the Facility/Entity Hospital Operations Counsel, RI any change in the responses to the above questions or any situation or transaction that may arise during the forthcoming year that constitutes a potential conflict of interest.

Printed Name: _____

Signature: _____

Date: _____

Title: _____

Hospital/Entity: _____

Email Address: _____

Return to:

Miriam G. Cauley
Hospital Operations Counsel, RI
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Simpson Bldg., 3rd Floor, Room 319
Providence, RI 02908

Thomas S. Hemmendinger

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Friday, September 4, 2020 12:09 PM
To: Thomas S. Hemmendinger
Subject: [External] FW: Prospect CCHP Conflict of Interest Policy
Attachments: Mimecast Attachment Protection Instructions; CCHP 2020 COI Policy.docx

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Tom, We received this Policy.

From: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>
Sent: Wednesday, September 2, 2020 3:23 PM
To: Jim Aceto <jaceto@wardfisher.com>; jimriley011150@gmail.com; Marc S. Weinberg <mweinberg@marcweinbergmd.com>; marcsweinberg@gmail.com; Bill Lynch <Bill@WJLYNCHLAW.COM>
Cc: Liebman, Jeffrey <jeffrey.liebman@chartercare.org>; Capobianco, Sheila M <scapobianco@chartercare.org>
Subject: Prospect CCHP Conflict of Interest Policy

All,


Please find attached the requested Prospect CCHP Conflict of Interest/Code of Conduct Policy.

Please let me know if you have any questions.

Thank you,
Mimsey

Miriam G. Cauley

Hospital Operations Counsel, RI
401.456.2498 (office)
562.253.8323 (cell)
Email: Miriam.Cauley@prospectmedical.com

	Category: *Prospect Medical Corporate	
	Title: Conflict of Interest Policy	Page: 1 Effective Date: 09/11/19

I. PURPOSE:

Prospect Medical Holdings, including its hospitals, clinics, its wholly owned subsidiaries, and affiliated entities (collectively, “Prospect”), is committed to conducting its business affairs in accordance with high professional and ethical standards. Covered Staff, as defined below, should be aware that their outside obligations, financial interests, employment and certain family or intimate relationships can affect their job responsibilities for Prospect.

The purpose of this policy is to provide Covered Staff, as defined below, with guidance regarding the identification, disclosure and management of relationships that can create actual and potential conflicts of interest and/or be impermissible under federal and state regulations relating to gifts between referral sources.


II. SCOPE:

This policy applies to all Prospect employees, regardless of employment status (full-time, part-time, per diem), physicians and other medical staff with contractual arrangements or administrative positions with Prospect and/or any person with decision making authority over purchasing, contractual or hiring relationships on behalf of Prospect (“Covered Staff”).

III. DEFINITIONS:

- A. A “**Conflict of Interest**” is a financial, personal, employment or other relationship or arrangement by a Covered Staff or Family Member that compromises or has the appearance of compromising a Covered Staff’s judgement and/or ability to perform his or her duties for Prospect.
- B. A “**Family Member**” means spouses, domestic partners, parents, children, grandchildren, siblings and each of their respective spouses or domestic partners.
- C. “**Prospect Executives**” mean Prospect officers, vice presidents, senior vice presidents and above, and hospital/facility executives, including chief executive officers, chief operating officers, chief financial officers, chief nursing officers, chief medical officers or individuals with comparable titles and responsibilities and who comprise the senior management of the facility/entity.
- D. “**Anti-Kickback Statute**” means the Federal Anti-kickback Statute, 42 U.S.C. § 1320a-7b(b), and the regulations promulgated thereunder, which prohibits offering, paying, soliciting or receiving anything of value to induce or reward referrals or generate Federal health care program business.



 PROSPECT MEDICAL	Category: *Prospect Medical Corporate	
	Title: Conflict of Interest Policy	Page: 2 Effective Date: 09/11/19


E. “**Stark Law**” means the federal physician self-referral law, 42 U.S.C. § 1395nn, and the regulations promulgated thereunder, which prohibits a Physician from referring Medicare patients for designated health services to an entity with which the Physician (or Immediate Family Member) has a financial relationship, unless an exception applies, and which also prohibits the designated health services entity from submitting claims to Medicare for those services resulting from a prohibited referral.

IV. POLICY:

It is Prospect’s policy for Covered Staff to disclose personal or professional relationships and other arrangements that could create a perceived or actual conflict of interest as described in the policy and procedure below. It is also Prospect’s policy to comply with the Stark Law and Anti-Kickback Statute, which prohibit soliciting or receiving gifts or anything of value to induce or reward referrals of items or services payable to a federal health care program.

- A. Conflict Disclosure: Covered Staff are responsible for determining whether they, or their Family Members, have a Conflict of Interest. Because no policy can anticipate all activities that give rise to a Conflict of Interest, it is the responsibility of Covered Staff to disclose any outside relationship or arrangement that may give the appearance of a conflict as soon as practicable after its discovery in accordance with the procedures below.
- B. Conflict Management: The Prospect Conflict of Interest Committee, or its designee (as described below), will review disclosed conflicts to determine how to manage, reduce or eliminate the conflict. Covered Staff may not engage in any activity that creates an actual or potential conflict before the Prospect Conflict of Interest Committee, or its designee, has determined how to manage it and has communicated that to the Covered Staff. Covered Staff must comply with all measures put in place to manage, reduce or eliminate the conflict(s) of interest.
- C. Prohibited Conflicts: If a conflict of interest cannot be managed as determined by the Conflict of Interest Committee, the arrangement or relationship will not be permitted under this policy.
- D. Documentation: All conflict disclosures as well as decisions on how to manage the conflict must be documented and maintained by the person who made the disclosure as well as the Prospect Conflict of Interest Committee.
- E. Policy Guidance: If Covered Staff have any questions about whether an outside activity must be disclosed, they should consult with their supervisor and the Facility/Entity Compliance Officer or the Prospect Medical Holdings Chief Compliance and Privacy Officer.



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F. Enforcement: Failure to comply with this policy will be subject to appropriate performance management and disciplinary action pursuant to all applicable policies and procedures, up to and including termination. Such performance management may also include modification of compensation, including any merit or discretionary compensation, as allowed by applicable law. Possible violations of this policy include but are not limited to, failure to file an appropriate disclosure or furnishing false, misleading, or incomplete information in a disclosure.

V. PROCEDURE:


A. Activities Raising Potential Conflicts of Interest that Require Disclosure: It is not possible to list all activities that could create conflicts of interest in the workplace. However, the following examples can create actual or potential conflicts of interest and must be disclosed by Covered Staff prior to engaging in any of these activities or relationships:

1. Referring, negotiating, conducting, or overseeing any contracts, agreements, or other business relationships to or with an entity:
 - i. from which a Covered Staff or Family Member receives any compensation for services performed;
 - ii. in which the Covered Staff or Family Member holds an equity interest (i.e. stocks, options, warrants), except for equity interests managed by a third party such as a mutual fund; or
 - iii. in which the Covered Staff or Family Member has a management role (director, officer, or any other position that has significant decision- making authority).

This includes physicians who contemplate an equity interest in a pharmaceutical company, biotechnology company or medical device manufacturer.

2. Maintaining a management, consulting or other employment relationship, regardless of compensation, with a Prospect vendor, competitor or supplier. This includes physicians who contemplate consulting or management relationships with pharmaceutical companies, biotechnology companies or medical device manufacturers. Consulting relationships include service on a speakers' bureau or as a paid promotional speaker for a pharmaceutical company or medical device manufacturer.
3. Serving in a management role or on a board or advisory committee of an entity that currently conducts business with Prospect, or that seeks to conduct



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business with Prospect. This includes physicians who contemplate serving on a board or advisory committee of a pharmaceutical company, biotechnology company or medical device manufacturer, regardless of compensation.

4. Seeking to participate in an employment decision that involves a direct benefit or detriment to the Covered Staff or Family Member, including hire, retention, termination, promotion, compensation, benefits or leave of absence.

B. Disclosure and Management:

1. Disclosures by Covered Staff: Covered Staff with a business, financial, personal or other relationship that creates an actual or potential conflict of interest must disclose the relationship by completing a Prospect Conflict of Interest Disclosure Form (**Exhibit A**) as soon as practicable after discovery of the actual or potential conflict. The disclosure form shall be submitted to the Facility/Entity Compliance Officer who will make an initial assessment to determine if a conflict of interest exists. If so, the Compliance Officer will forward to the Prospect Chief Compliance and Privacy Officer for further action, which could include submission to the Prospect Conflict of Interest Committee for review. Prospect Executives shall submit conflict of interest disclosure forms directly to the Prospect Chief Compliance and Privacy Officer.
2. Annual Disclosures by Prospect Executives: In addition to the above requirement, Prospect Executives also must complete an annual disclosure using the Prospect Conflict of Interest Disclosure Form and submit to the Prospect Chief Compliance and Privacy Officer no later than every October 30. The Prospect Chief Compliance and Privacy Officer will make an initial assessment to determine if a conflict of interest exists. If so, the Compliance Officer will submit the disclosure to the Prospect Conflict of Interest Committee for review and management.
3. Prospect Conflict of Interest Committee: The Prospect Conflict of Interest Committee is comprised of corporate executives agreed to by the Executive Compliance Committee and who have authority to determine if a disclosure is permitted as is, requires management or is prohibited under this policy. The Prospect Conflict of Interest Committee may consult with the Covered Staff's supervisor or others, as appropriate, to develop a plan to manage, reduce or eliminate the conflict. The Prospect Conflict of Interest Committee may select a designee, such as the Facility/Entity Compliance Officer or the Prospect Chief Compliance and Privacy Officer, to review, address and/or communicate with Covered Staff regarding a conflict disclosure.



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4. Management: Management of a conflict of interest could include, among other things:

- Appropriate disclosure to parties involved in a transaction;
- Recusal from participating in certain negotiations, decisions, or transactions;
- Recusal from managing or supervising staff, consultants, temporary agency employees, or others engaged by Prospect;
- Recusal from managing or overseeing certain business transactions;
- Severance of outside relationships that pose conflicts;
- Appropriate monitoring and oversight by management, including the Prospect Conflict of Interest Committee;
- Updating the disclosure on at least an annual basis and addressing how the conflict management plan has been implemented.

C. Prohibited Conflicts: The following conflicts are not acceptable and prohibited under this policy:

1. Receiving or giving a personal benefit of more than an annual aggregated nominal value of **\$100** from or to any vendor, supplier, consultant or other third party who does or seeks to provide goods or services to Prospect or otherwise does or seeks to do business with Prospect (See below for special rules with pharmaceutical and biotechnology companies and medical device manufacturers). Cash, checks and gift cards of any value may not be given to or received from patients, residents, clients, physicians, vendors, suppliers, consultants or any other third parties.¹
2. Receiving gifts of any value (including branded items) from pharmaceutical companies, biotechnology companies or medical device manufacturers. Occasional meals may be accepted as a business courtesy to Covered Staff attending presentations providing scientific or educational value from industry

¹ Meals, entertainment, business courtesies and other items provided by Prospect to its physicians must be tracked through Concur and may not exceed aggregated annual limits as described in the Business Courtesies Policy.

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representatives if they are modest and in accordance with Prospect policy, not part of an entertainment or recreational event and in a manner conducive to informational communication. Accepting “take-out” meals or meals to be eaten without a company representative being present (such as “dine & dash” programs) is not appropriate.

3. Providing any gifts, meals or entertainment to government officials.
4. Competing directly or indirectly with Prospect as an individual or by serving as an employee, officer, advisor, manager, board member or consultant, in the purchase or sale of property or any property right, interest or service.
5. Accepting payment or reimbursement from actual or potential suppliers, vendors or consultants for travel-related expenses, including, accommodation, registration fees and meals, except as determined in writing by the Prospect Chief Compliance and Privacy Officer.
6. Unauthorized use of confidential, privileged or proprietary information obtained in connection with a Covered Staff’s position or use of such information for a personal benefit of a Covered Staff or Family Member.
7. Using Prospect resources or supplies (except for incidental use) outside the scope of a Covered Staff’s employment (e.g., in support of personal business ventures).
8. Endorsing a product, service or political position on behalf of or appears to be on behalf of Prospect. This does not prevent Covered Staff from making solely factual representations about the quality of a good or service, provided the Covered Staff includes a disclaimer that his or her views do not represent those of Prospect.
9. Disclosures that otherwise present conflicts that the Prospect Conflict of Interest Committee determines are not manageable.

VI. REFERENCES:

- American Medical Association Amendment to Ethical Opinion E-8.061 (2013)
See www.ama-assn.org
- PhRMA Code
See http://phrma-docs.phrma.org/sites/default/files/pdf/phrma_marketing_code_2008.pdf
- AdvaMed Code
See <https://www.advamed.org/issues/code-ethics/code-ethics>



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- OIG Compliance Program Guidance for Pharmaceutical Manufacturers
See oig.hhs.gov/authorities/docs/03/050503FRCPharmac.pdf
- ACCME Standards for Commercial Support
See www.accme.org/dir_docs/doc_upload/68b2902a-fb73-44d1-8725-80a1504e520c_uploaddocument.pdf
- Medicare Anti-Kickback laws
See www.law.cornell.edu/uscode/html/uscode42/usc_sec_42_00001320--a007b.html
- Prospect Business Courtesies Policy
- Prospect Code of Conduct

VII. ATTACHMENTS:

- Attachment A: Prospect Conflict of Interest Disclosure Form



Case Number: PC-2017-3856
Filed in Providence/Bristol County Superior Court
Submitted: 10/6/2020 11:04 PM
Envelope: 2781332
Reviewer: Rachel L.



From: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>
Sent: Friday, September 4, 2020 2:57 PM
To: Bill Lynch <Bill@WJLYNCHLAW.COM>
Subject: Re: Prospect CCHP Conflict of Interest Policy

Hi Bill,

It is just the one. There is no separate code of conduct policy (I agree that the wording is a bit confusing).

Thanks!
Have a nice weekend.

Mimsey

Sent from my iPhone

On Sep 4, 2020, at 2:55 PM, Bill Lynch <Bill@wjlynchlaw.com> wrote:

Hi Miriam, Quick question : Is there a Conflict of Interest Policy AND a separate Code of Conduct ? (or is it just the one " Conflict of Interest Policy " that you sent us ?)

From: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>
Sent: Wednesday, September 2, 2020 3:23 PM
To: Jim Aceto <jaceto@wardfisher.com>; jimriley011150@gmail.com; Marc S. Weinberg <mweinberg@marcweinbergmd.com>; marcsweinberg@gmail.com; Bill Lynch <Bill@WJLYNCHLAW.COM>
Cc: Liebman, Jeffrey <jeffrey.liebman@chartercare.org>; Capobianco, Sheila M <scapobianco@chartercare.org>
Subject: Prospect CCHP Conflict of Interest Policy

All,

Please find attached the requested Prospect CCHP Conflict of Interest/Code of Conduct Policy.

Please let me know if you have any questions.

Thank you,
Mimsey

Miriam G. Cauley

Hospital Operations Counsel, RI
401.456.2498 (office)
562.253.8323 (cell)
Email: Miriam.Cauley@prospectmedical.com

WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916
401.648.2100 (Office) / 401.648.2103 (Fax)
bill@wjlynchlaw.com / www.wjlynchlaw.com

September 8, 2020

Dr. Jeffrey H. Liebman
CEO
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Providence, RI 02908

Ms. Miriam G. Cauley
Hospital Operations Counsel RI
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Providence, RI 02908

Re: CharterCARE Category A Directors

Dear Jeff and Mimsey:

I hope that this letter finds you well.

On August 25, 2020, at the request of myself and the other three Category A Directors, Tom Hemmendinger wrote Jeff to ask for certain information and documents that we wish to receive and review. Two weeks have now passed, and we have received a Conflict of Interest Policy dated September 11, 2019, including a Disclosure Form, but not the information and documents requested.

Therefore, I have been instructed by the Category A Directors to again request that we be provided with all of the information and items previously requested in Tom's letter and that we receive all such information and documents no later than Friday, September 11, 2020.

Interestingly enough, we (the Category A Directors) did receive one item that had not previously been requested and which came as somewhat of a surprise to all of us: the Rhode Island Attorney's General Conflict of Interest Statement Form apparently regarding the proposed pending transaction for which Prospect seeks regulatory approvals. Obviously, without the necessary documents we (the Category A Directors) have no ability to comment on, support or oppose the pending proposed transaction. If required, we are going to submit our Conflict of Interest Statement Forms to the Attorney General's Office. However, without the requested information and documents, we do not intend to do anything that would give the regulators the impression that we approve, ratify or support the proposed transaction. We will, of course, make clear to the Attorney General in our submissions, that we are presently without sufficient documents and information to approve, ratify or support the proposed transaction so that it is

Dr. Jeffrey H. Liebman
Ms. Miriam G. Cauley
September 8, 2020
Page 2

abundantly clear that the act of submitting the completed Attorney General's Conflict of Interest Statement Forms does not in any way suggest that we (the Category A Directors) approve, ratify or support the proposed transaction.

Therefore, we urge you in the strongest terms possible to provide us with all of the requested information immediately and in any case, no later than Friday, September 11, 2020.

In addition to the requested items previously listed in Mr. Hemmendinger's letter, we are also requesting copies of the minutes of all Prospect CharterCARE, LLC Board of Directors meetings since June 20, 2014 to the present, including all minutes of any and all Executive Committee sessions during that same time period. We understand and appreciate that you may need to redact any discussion of litigation strategy with either Steve DelSesto or Tom Hemmendinger. We also appreciate that, since this is a new request, you may not be able to provide the additional requested documentation by this Friday, so please provide the minutes to us by next Tuesday, September 15, 2020.

As Category A Directors, we all intend to fulfill our fiduciary obligation to Prospect CharterCARE, LLC. However, we cannot do so without access to all of the information previously requested which we consider relevant to our review.

If necessary, we will need to inform the Attorney General that we have not received the information we have requested and consequently, we will have no choice but to advise the Attorney General that the proposed transaction should not be approved at least until such time as we have received and reviewed the requested documentation.

Thank you very much.

Very truly yours,

Category A Directors
By and through Director,
William J. Lynch



William J. Lynch

WJL/djc

cc: Tom Hemmendinger

WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916
401.648.2100 (Office) / 401.648.2103 (Fax)
bill@wjlynchlaw.com / www.wjlynchlaw.com

September 14, 2020

Dr. Jeffrey H. Liebman
CEO
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Providence, RI 02908

Re: Prospect CharterCARE Board of Directors

Dear Dr. Liebman:

As one of the four recently appointed Category A Board members, I have been asked to send this follow-up letter to you.

On July 22, 2020, the four of us were appointed to the Board by the permanent liquidating receiver, Thomas Hemmendinger. Subsequent to our appointment, we have conferred with Mr. Hemmendinger in our concerted attempts to be able to best perform our fiduciary duties as Category A Board Members.

In this regard, we were (and remain) very concerned at Prospect CharterCARE's (PCC's) apparent refusal to provide the permanent liquidating receiver with documentation he requested previous to our appointment.

On September 8, 2020 (by agreement of all four Category A Board members), I wrote to you to expressly inform PCC of our concerns regarding PCC's refusal to provide the previously requested documentation and to reiterate our (the new Board members) desire to receive this documentation by September 11, 2020.

As the writing of this letter (September 14, 2020), we have not even received an acknowledgement of our September 8, 2020 letter much less received the requested information.

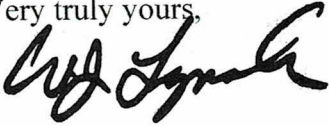
This is not acceptable to us and in our estimation, prevents us from adequately fulfilling our fiduciary duties.

Consequently, we have enclosed herein a copy of the letter that we intend to send to the RI Attorney General and the RI Department of Health if we do not receive all of the documentation previously requested by Friday, September 18, 2020. PCC's ongoing refusal to comply with what we consider to be a very reasonable request for crucial documents leaves us no alternative.

Dr. Jeffrey H. Liebman
September 14, 2020
Page 2

It is our understanding that as Category A Directors, we make up fifty percent (50%) of the Board for the express purpose of having local control of these hospitals and yet we are unable to even get the requested documents without which we are unable to protect the future viability of these hospitals.

Very truly yours,



William J. Lynch (on behalf of the
Category A Board Members)

Enclosure
WJL/djc

cc: Tom Hemmendinger
James Riley
James Aceto
Dr. Marc Weinberg
Mark Russo, Esq.
Preston Halperin, Esq.

WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916
401.648.2100 (Office) / 401.648.2103 (Fax)
bill@wjlynchlaw.com / www.wjlynchlaw.com

September __, 2020

The Honorable Peter Neronha
RI Attorney General
150 South Main Street
Providence, RI 02903

Re: Prospect CharterCARE, LLC

Dear General Neronha:

On July 22, 2020, the permanent liquidating receiver appointed by the RI Superior Court appointed four new Category A Directors to the Board of Prospect CharterCARE, LLC ("PCC"). The four new directors are myself, Dr. Marc Weinberg, James Riley and James Aceto.

I write to you today on behalf of all four directors regarding certain grave concerns that we have with PCC and more particularly with the application for a change of effective control presently pending before the RI Department of Health.

Since our appointment, we have learned that the permanent receiver previously requested certain documentation from PCC which PCC has either refused or been unable to provide. As new Board members, we consider the requested documentation to be both reasonable in scope and critical to our ability to perform our fiduciary duty to PCC.

Because we consider the requested documentation to be of vital importance, we (the four Board Members) addressed our concerns to PCC in a letter dated September 8, 2020 (copy attached).

Despite our reiterated request for this documentation from PCC, we have received none of the requested documentation. We believe that the refusal to provide the requested documents makes it impossible for us to perform our fiduciary duty and, actually threatens the future viability of these hospitals.

Since our appointment in July, Mr. Hemmendinger (the permanent liquidating receiver) has made a determined effort to educate us as to all issues within our purview as Category A Directors. Despite his best efforts to do so, we are absolutely unable to adequately perform our fiduciary duties without being able to receive and review the long requested documentation from PCC.

The Honorable Peter Neronha
September __, 2020
Page 2

Our preliminary discussions with the Mr. Hemmendinger have in many instances resulted in questions from us that cannot be answered without the requested documents:

- a) Why is almost \$12 million dollars proposed to be paid from Prospect Medical Holdings, Inc. (our guarantor) to Leonard Green & Partners (Leonard Green) to purchase Leonard Green's sixty percent (60%) ownership interest in all of Prospect's hospitals when that sixty percent (60%) ownership interest will actually be owned by two (2) private individuals (David Topper and Sam Lee)?
- b) Why is the amount of \$12 million dollars now being paid for sixty percent (60%) of all of the hospitals owned by Prospect? It is our understanding that Prospect presently owns twenty (20) hospitals and that when Leonard Green purchased Prospect in December 2010, for \$363 million dollars Prospect owned by five (5) hospitals.
- c) Why is Leonard Green now poised to sell its majority interest in Prospect to Mr. Topper and Mr. Lee for \$12 million dollars (to be paid by Prospect Medical Holdings, Inc. and not by Mr. Topper and/or Mr. Lee individually) when the Wall Street Journal in 2016 valued the same ownership interest at \$1 billion dollars?
- d) What is the actual status of the required \$50 million dollar capital contribution that was to be invested in Prospect CharterCARE?

These are but a few of the many questions that remain unanswered and the reason that we (in addition to Mr. Hemmendinger) have requested the aforementioned documentations from PCC.

As you know, we (the four (4) new Category A Directors) have received a conflict of interest statement from your office with a request that each of us fill in the form and return it to your office. These conflict of interest forms are entitled "In re: Proposed Affiliation of Chamber, Inc. and Ivy Holding, Inc." As previously set forth herein, we (the four Category A Directors) have very limited information with respect to this application as a result of PCC's refusal to provide us (and the receiver) with the requested documents.

It is, of course, our intention to complete your office's Conflict of Interest forms and submit them to you accordingly. However, we do want to expressly state that our completion and filing of the Conflict of Interest forms does not imply that we endorse, support or in any way ratify the pending application before the Health Department.

To the contrary, as Category A Directors, it is our confirmed position that the pending application should not be approved but rather opposed at least until such time as PCC provides us with the requested documentation and sufficient time to diligently review the same.

The Honorable Peter Neronha
September __, 2020
Page 2

Please feel free to contact us at any time.

Best regards,

William J. Lynch (on behalf of
The Category A Directors)

Enclosure
WJL/djc

*cc: Thomas Hemmendinger
Dr. Marc Weinberg
James Aceto
James Riley
Mark Russo, Esq.
Preston Halperin, Esq.*



W. Mark Russo
mrusso@frlawri.com

55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 WWW.FRLAWRI.COM

September 15, 2020

James H. Aceto, CPA
Ward Fisher & Company, LLP
250C Centerville Road
Warwick, RI 02886-4353
jaceto@wardfisher.com

William J. Lynch, Esq.
WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916
bill@wjlynchlaw.com

James P. Riley
38 Captain John Jacobs Road, #411
East Providence, RI 02914
jimriley011150@gmail.com

Marc Weinberg, M.D.
Marc Weinberg MD Personal HealthCare, Ltd.
One Randall Square, Suite 304
Providence, RI 02904
mweinberg@marcweinbergmd.com

**RE: Prospect CharterCARE, LLC – Category A Director Nominees
Request for Documents**

To all:

I am responding to Attorney Hemmendinger's correspondence dated August 25, 2020 and Bill Lynch's most recent correspondence dated September 14, 2020. You were all copied on both pieces of correspondence.

I responded directly to Attorney Hemmendinger and that response is attached hereto for your convenience.

As I stated to Attorney Hemmendinger, we are prepared to provide copies of the documents requested. However, we would require conflict of interest and disclosure policy documents that were delivered to you on August 31, 2020, be completed and returned to:

Miriam G. Cauley
Hospital Operations Counsel, RI
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Simpson Bldg., 3rd Floor, Room 319
Providence, RI 02908

If you could also e-mail a copy of the transmittal to me, so that I know that it has been provided, it would be greatly appreciated. In turn, if you need additional copies of any forms, just let me know.

September 15, 2020

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In addition, as I referenced in my correspondence to Attorney Hemmendinger, we will also require execution and return to Ms. Cauley of the attached Confidentiality and Non-Disclosure Agreements.

Once we have these forms completed, we will produce the requested documents.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Mark Russo".

W. MARK RUSSO

WMR/was

Enclosure

Cc: Dr. Jeffrey H. Liebman, CEO (via e-mail jeffrey.liebman@chartercare.org)



DIRECTOR CONFIDENTIALITY AND PROPRIETARY INFORMATION AGREEMENT

This Confidentiality and Proprietary Information Agreement (this "Agreement") is entered into between Prospect CharterCARE, LLC and its subsidiaries and affiliates (collectively, the "Company") and the member of the Company's Board of Directors designated on the signature page hereto (the "Director").

I. PROPRIETARY INFORMATION

1.1. Proprietary Information.

1.1.1. For the purposes of this Agreement, "Proprietary Information means the whole or any portion of the property of the Company consisting of any information, pattern, compilation, data, list, document, memorandum, documentary or software file, process, program, device, method, technique, formula or improvement, whether patentable or not, relating to the Company, the Company's business: (a)(i) of which the Director becomes aware as a consequence of his or her relationship with the Company; (ii) which derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (iii) which is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (collectively referred to as "Trade Secrets"); or (b) which is either marked or designated by the Company as "confidential" or "proprietary", or which, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as confidential ("Confidential Information," and together with "Trade Secrets," shall constitute "Proprietary Information").

1.1.2. Proprietary Information includes, by way of illustration, but without limitation, information relating to the Company's patients and patient lists, including identity, contracts, requirements, needs and preferences; patient files and records; customized techniques and methods; information regarding the abilities and expertise of Company's employees and their compensation; research, designs and development pertaining to existing and future services; assets; real estate holdings; financial statements and records and other historical and existing financial and legal affairs; material, non-public information of a publicly-trade company; operations; marketing strategy and activities whether past, current or projected, including, but not limited to, proposals to joint venturers, physicians and prospects; strategies and strategic data, including marketing and development plans; forecasts and forecast assumptions; future plans and potential strategies of the Company which have been or are being discussed; computer technology, systems, programs and database (including, but not limited to computer software in various states of development; proposed, contemplated and future services; pricing (including price lists), billing, budget, forecast, accounting, costs, profits, sales/patient census and discharge (including, but not limited to census history); business plans; analyses; identifying information or aspects of the Company's existing or potential vendors or suppliers; and information entrusted to Company by third parties. Such information may include written information, unwritten information, techniques, processes, practices or knowledge.

1.2. Director's Acknowledgment. Director acknowledges and agrees that such foregoing items constitute the Proprietary Information of the Company, that all Proprietary Information and all physical embodiments thereof, are confidential to and shall be and remain the sole and exclusive property of the Company, that any Proprietary Information produced by the Director shall be considered a "work for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101), and shall be the sole and exclusive property of the Company, and that the sale or unauthorized use or disclosure of any Company Proprietary Information by the Company constitutes unfair competition.

1.3. Duty of Nondisclosure. The Director agrees that all Proprietary Information and other

information designated as confidential received, obtained or developed by the Director as a result of the Director's service as a member of the Board of Directors of the Company (the "Board") will be held in trust and in strictest confidence by the Director. The Director agrees to maintain and to observe the provisions of confidentiality contained in this Agreement with respect to the Proprietary Information during the term of his or her services on the Board, and at all times following the termination or separation of such employment for any reason whatsoever. The Director will not disclose, use, or publish any Proprietary Information, any copy or reproduction of said Proprietary Information, or any form whatsoever, to any person, whether natural or corporate, or to any other business entity (a) without the prior written consent of an officer of the Company, or (b) unless and to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by law; provided, however, that the Director shall use his or her best efforts to minimize such disclosure and shall provide notice of such disclosure to the Company and consult with and assist the Company in obtaining a protective order prior to such disclosure if so requested by the Company. Furthermore, the Director shall observe and maintain all rules and regulations of the Company now or hereafter adopted which are designed to maintain the confidentiality of the Proprietary Information and other information designated as confidential.

In addition, *see* Addendum A.

Notwithstanding the foregoing, the Director may disclose Proprietary Information only to the Company's officers, directors, attorneys, accountants, and other like advisors, who need to know such information to enable them to perform their obligations and services to the Company, and then only to the extent necessary to carry out the legitimate use of the Proprietary Information.

1.4. Non-Solicitation of Customers, Affiliates, Sub-Affiliates or Employees. Director acknowledges the highly confidential nature of information regarding the Company's customers, affiliates, sub-affiliates, employees, agents, independent contractors, suppliers, and consultants. The Director will not during his or her service on the Board or within one year after it ends, without the Company's express written consent, directly or indirectly (i) hire, solicit, recruit, or induce to leave the employ of the Company any employee, agent, independent contractor or consultant of the Company or its parents, subsidiaries, or affiliates; (ii) use the Company's Proprietary Information to solicit the business of any clients or patients of the Company (other than on behalf of the Company); or (iii) encourage to terminate or alter any relationship between (a) the Company, and (b) any customer, affiliate sub-affiliate, employee, agent, independent contractor, supplier, consultant, or any other person or Company. During the Director's service on the Board, he or she will not do anything to compete with the Company's present or contemplated business, nor will he or she plan or organize any competitive business activity. The Director will not enter into any agreement that conflicts with his or her duties or obligations to the Company. The Director agrees that such activities would necessarily and inevitably involve disclosure or use of Proprietary Information in violation of this Agreement.

1.6. Director's Further Obligations. Except as the Director may be required or authorized in order to render the necessary services or duties to or on behalf of the Company, the Director further promises, covenants and agrees that: (a) the Director will not make or cause to be made any copies, pictures, duplicates, or other reproductions or recordings of any Proprietary Information; (b) the Director will return any Proprietary Information in his or her possession to the Company promptly upon being requested to do so by the Company, or upon termination of his or her service on the Board, whichever should occur first; (c) the Director will take reasonable precautions to prevent any Proprietary Information from coming into the possession of any person, corporation, firm, association, or other business entity; and (d) the Director will not sell, license or otherwise exploit any services (in any form) which embody in whole or in part of the Company's Proprietary Information.

II. THIRD PARTY INFORMATION

2.1. Obligations of Director. Director acknowledges and agrees that he or she has received and in the future will receive from third parties (expressly including, but not limited to, the Company's patients) confidential information ("Third Party Information") subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. The Director agrees

that all Third Party Information received or obtained by the Director as a result of the Director's service on the Board will be held in trust and in strictest confidence by the Director. The Director agrees to maintain and to observe the obligations and duties of confidentiality owed by the Company with respect to the Third Party Information during the term of his or her service on the Board, and at all times following the termination of his or her service on the Board. The Director will not disclose, use, or publish any Third Party Information, or any copy or reproduction of said Third Party Information to any person, whether natural or corporate, or to any other business entity (a) without the prior written consent of an officer of the Company, or (b) unless and to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by law. Furthermore, the Director shall observe and maintain all rules and regulations of the Company now or hereafter adopted which are designed to maintain the confidentiality of the Third Party Information.

Notwithstanding the foregoing, the Director may disclose Third Party Information only to the Company's officers, directors, attorneys, accountants, and other like advisors, who need to know such information to enable them to perform their obligations and services to the Company, and then only to the extent necessary to carry out the legitimate use of the Third Party Information.

III. TERMINATION

3.1. Term of Agreement; Survival. This Agreement shall survive (a) the termination of the Director's service on the Board, and (b) the assignment of this Agreement by the Company to any successor in interest or other assignee. This Agreement shall terminate only upon the Company's release of the Director from this Agreement. Notice of such release must be given in writing by the Chief Executive Officer of the Company. Any such release may be partial or total, as the Company, in its sole and absolute discretion, may determine.

3.2. Termination Obligations. Upon the termination of Director's service on the Board, the Director shall deliver to the Company any and all writings, documents, notes, memoranda, specifications, and drafts, together with all copies thereof in any medium whatsoever, and any other material containing or disclosing any Proprietary Information or Third Party Information.

IV. MISCELLANEOUS

4.1. Entire Agreement. This Agreement is the final, complete, and exclusive agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all other prior and contemporaneous agreements and statements pertaining to the subject matter hereof and it may not be contradicted by evidence of any prior or contemporaneous statements.

4.2. Integration. This Agreement is intended by the parties to be an integrated and final expression of their agreement concerning the subject matter hereof.

4.3. Legal and Equitable Remedies. Director acknowledges that in the event he or she fails to comply with this Agreement, the Company may suffer irreparable harm, which may not be adequately compensated for by monetary damages alone. Director, therefore, agrees that in the event of the Director's breach or threatened breach of this Agreement, the Company will be entitled to enforce this Agreement and any of its provisions by injunctive relief or other preliminary relief, specific performance, or other equitable relief, without bond or prejudice to any other rights and remedies available at law to the Company.

4.5. Cumulative Rights and Remedies. The rights and remedies of the parties hereunder shall not be mutually exclusive, and the exercise by any party of any right to which he or she is entitled shall not preclude the exercise of any other right he or she may have.

4.6. Amendments, Waivers. This Agreement may only be modified by an instrument in writing, signed by the party to be charged. No failure to exercise and no delay in exercising any right, remedy or power under this Agreement shall operate as a waiver thereof, nor shall any partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

4.7. Successors and Assigns. This Agreement shall be binding upon the Director's heirs, executors, administrators, legal representatives, successors, and assigns, and will be for the benefit of the Company, its successors and assigns.

4.8. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given (a) upon receipt, if delivered personally or via courier; (b) upon confirmation of receipt, if given by facsimile; provided that another copy is sent by another means permitted by this subsection within two (2) business days thereafter; and (c) on the third business day following mailing, if mailed first class, postage prepaid, as follows:

If to the Director: To the address on the signature page hereto.

If to the Company: Prospect CharterCARE, LLC
825 Chalkstone Avenue
Providence, RI 02908
Attention: Chief Executive Officer

Any party may by notice given in accordance with this section to the other parties designate another address or person for receipt of notices hereunder.

4.9. Severability; Enforcement. If any provision of this Agreement, or its application to any person, place, or circumstance, is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement and such provision as applied to other persons, places, and circumstances shall remain in full force and effect.

4.10. Governing Law; Choice of Venue; Consent to Jurisdiction. This Agreement and the obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of Rhode Island, as such laws are applied to agreements entered into and to be performed entirely within such state between residents of such state, and without regard to conflict of laws principles.

4.11. Interpretation. The captions, headings and subcaptions used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions thereof. Words used herein in the masculine gender shall include the neuter and feminine gender, words used herein in the neuter gender shall include the masculine and feminine, words used herein in the singular shall include the plural, and words used in the plural shall include the singular, wherever the context so reasonably requires.

4.12. No Waiver. No waiver, express or implied, by any party hereto, or of any breach or default by any other party, in the performance of his, her or its obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same or any other obligations hereunder.

[signature page follows]

I HAVE READ THIS PROSPECT CHARTERCARE, LLC DIRECTOR CONFIDENTIALITY AND PROPRIETARY INFORMATION AGREEMENT CAREFULLY AND UNDERSTAND ITS TERMS.

Signature: _____

Date: _____

Name: _____

Address: _____

**Addendum A to Director Confidentiality and Proprietary Information Agreement regarding
Section 1.3 “Duty of Non-Disclosure”**

Due to the on-going litigation in the following matters:

1. *St. Joseph Health Services of Rhode Island, Inc. v. St. Joseph Health Services of Rhode Island Retirement Plan as amended*, C.A. No. PC-2017-3856
2. *Stephen Del Sesto, 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. PC-2018-4386
3. *CharterCare Community Board et al. v. Samuel Lee et al.*, C.A. No. PC-2019-3654
4. *In re CharterCARE Community Board, St. Joseph Health Services of Rhode Island and Roger Williams Hospital*, C.A.No. PC-2019-11756
5. *Stephen Del Sesto, 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-cv-00328 WES-LDA

Directors shall not disclose Confidential Information to any parties adverse to Prospect CharterCARE, LLC in those proceedings, including but not limited to Receiver, Stephen Del Sesto (the “Receiver”), the Court-appointed legal counsel for the Receiver which is Wistow, Sheehan & Loveley, PC and/or its attorneys of record, Max Wistow, Stephen P. Sheehan, Benjamin G. Ledsham, Thomas S. Hemmendinger (the “Liquidating Receiver”) and/or any attorneys in the Liquidating Receiver’s firm of Brennan Recupero Cascione Scungio McAllister LLP.

I HAVE READ THIS PROSPECT CHARTERCARE, LLC DIRECTOR CONFIDENTIALITY AND PROPRIETARY INFORMATION AGREEMENT CAREFULLY AND UNDERSTAND ITS TERMS.

Signature: _____

Date: _____

Name: _____

Address: _____



W. Mark Russo
mrusso@frlawri.com

55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 WWW.FRLAWRI.COM

September 15, 2020

Via e-mail

Thomas S. Hemmendinger
Brennan, Recupero, Cascione, Scungio & McAllister, LLP
362 Broadway
Providence, RI 02909

RE: Prospect CharterCARE, LLC

Dear Tom:

I am responding to your August 25, 2020 correspondence to my client with copy to the Category A Director nominees and Bill Lynch's most recent correspondence dated September 14, 2020 .

You state in your correspondence dated August 25, 2020, that you are writing in your capacity as Permanent Liquidating Receiver of the Chartercare Community Board. In addition, you acknowledge the fiduciary duty due and owing by the Category A nominees to Prospect CharterCARE, LLC.

You do not represent the Category A nominees and to do so would be a clear conflict of interest. Furthermore, it is a clear conflict of interest to be requesting documents on behalf of the Category A nominees based upon the fact that we are currently involved in litigation with you in your capacity as Permanent Liquidating Receiver and also with the Receiver for the St. Joseph's Pension Plan.

In turn, it would be a violation of the acknowledged fiduciary duties, if directors were seeking documents and/or financial information to pass on to you in your position as Permanent Liquidating Receiver of Chartercare Community Board in light of such litigation and your relationship to the Receiver for the St. Joseph's Pension Plan.

However, based upon Bill's correspondence dated September 14, 2020, it appears that this is exactly what is taking place and it is a conflict. In order to try and work with the Category A Director nominees, Conflict of Interest and Disclosure Policy documents were delivered on August 31 to the nominees for completion and filing. I do not believe that we have received any completed responses. Upon receipt of completed responses, we were prepared to provide the nominees with requested documents. However, in light of Bill's correspondence, we are also going to require all Directors, including the nominees to execute Confidentiality and Non-Disclosure Agreements in the form attached hereto. Again, once we have these forms completed, we will produce the requested documents.

September 15, 2020

Page 2

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Mark Russo".

W. MARK RUSSO

WMR/was

Enclosure

Cc: Dr. Jeffrey H. Liebman, CEO (via e-mail jeffrey.liebman@chartercare.org)

Thomas S. Hemmendinger

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Wednesday, September 16, 2020 4:12 PM
To: Thomas S. Hemmendinger; Marc Weinberg; James Riley; James Aceto
Subject: [External] FW: Orientation meeting: Category A Board members

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Wednesday, September 16, 2020 4:11 PM
To: Jeff Liebman (jeffrey.liebman@charterscare.org) <jeffrey.liebman@charterscare.org>
Cc: Bill Lynch <Bill@WJLYNCHLAW.COM>
Subject: FW: Orientation meeting: Category A Board members

Jeff, I assume that you also understand that we will also need all the previously requested documents prior to any meeting so that we will be able to have a meaningful discussion.

From: Bill Lynch
Sent: Wednesday, September 16, 2020 3:00 PM
To: Jeff Liebman (jeffrey.liebman@charterscare.org) <jeffrey.liebman@charterscare.org>
Cc: Capobianco, Sheila M <scapobianco@charterscare.org>; Marc Weinberg <marcsweinberg@gmail.com>; James Riley <jimriley011150@gmail.com>; James Aceto <jaceto@wardfisher.com>; Bill Lynch <Bill@WJLYNCHLAW.COM>
Subject: Orientation meeting: Category A Board members

Jeff, We are just following up with you to inquire as to the status of our initial board meeting/orientation. As previously mentioned we would also appreciate a proposed agenda with respect to the same. Thanks, Bill

William J. Lynch, Esq.
WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916
401-648-2100; 401-648-2103 (fax); 301-338-7444 (cell)
bill@wjlynchlaw.com

This communication and any attachments may contain confidential and/or privileged information for the use by the designed recipients named above. If you are not the intended recipient, you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited. If you have received this communication in error, please notify the sender immediately by telephone and destroy all copies of this communication and any attachments. Thank you for your consideration in this matter.

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Thomas S. Hemmendinger

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Wednesday, September 16, 2020 4:44 PM
To: Thomas S. Hemmendinger
Subject: [External] FW: Orientation meeting: Category A Board members

From: Mark Russo <mrusso@frlawri.com>
Sent: Wednesday, September 16, 2020 4:22 PM
To: Bill Lynch <Bill@WJLYNCHLAW.COM>
Cc: Liebman, Jeffrey <jeffrey.liebman@chartercare.org>; Marc Weinberg (mweinberg@marcweinbergmd.com) <mweinberg@marcweinbergmd.com>; James Riley (jimriley011150@gmail.com) <jimriley011150@gmail.com>; James Aceto (jaceto@wardfisher.com) <jaceto@wardfisher.com>
Subject: RE: Orientation meeting: Category A Board members

Dear Bill:

I am following up on my communications from yesterday. My client will schedule an orientation meeting as soon as we have the Conflict of Interest and Confidentiality forms completed and signed.

If you could let me know the status, it would be greatly appreciated.

Thank you.

W. Mark Russo

Ferrucci Russo P.C.
55 Pine Street, 3rd Floor
Providence, RI 02903
Tel.: (401) 455-1000
Fax: (401) 455-7778
mrusso@frlawri.com

Please visit our website at: www.frlawri.com



This e-mail message is subject to attorney-client privilege and contains information intended only for the person(s) named above. If you receive this transmission in error, please notify us immediately. Destroy the original message and all copies.

Begin forwarded message:

From: "Liebman, Jeffrey" <jeffrey.liebman@chartercare.org>
Date: September 16, 2020 at 3:14:19 PM EDT

<mrusso@frlawri.com>

Subject: Fwd: Orientation meeting: Category A Board members

FYI

Jeff

Sent from my iPhone

Begin forwarded message:

From: Bill Lynch <Bill@WJLYNCHLAW.COM>

Date: September 16, 2020 at 3:00:18 PM EDT

To: "Jeff Liebman (jeffrey.liebman@chartercare.org)"

<jeffrey.liebman@chartercare.org>

Cc: "Capobianco, Sheila M" <scapobianco@chartercare.org>, Marc Weinberg

<marcsweinberg@gmail.com>, James Riley <jimriley011150@gmail.com>, James Aceto

<jaceto@wardfisher.com>, Bill Lynch <Bill@WJLYNCHLAW.COM>

Subject: Orientation meeting: Category A Board members

Jeff, We are just following up with you to inquire as to the status of our initial board meeting/orientation. As previously mentioned we would also appreciate a proposed agenda with respect to the same. Thanks, Bill

William J. Lynch, Esq.

WJ Lynch Law

320 Newport Avenue

Rumford, RI 02916

401-648-2100; 401-648-2103 (fax); 301-338-7444 (cell)

bill@wjlynchlaw.com

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Thomas S. Hemmendinger

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Sunday, September 20, 2020 3:33 PM
To: Thomas S. Hemmendinger
Cc: Marc Weinberg; James Riley; James Aceto
Subject: [External] FW: CCHP JV Board D&O Coverage
Attachments: Lockton Ins.9.18.2020 Correspondence.pdf

Here's the newest threat.

From: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>
Sent: Saturday, September 19, 2020 2:29 PM
To: Lee, Sam <Sam.Lee@pmh.com>; Crockett, Von <Von.Crockett@prospectmedical.com>; Grimshaw, Bruce <Bruce.Grimshaw@altahospitals.com>; Reardon, Thomas <Thomas.Reardon@prospectmedical.com>; Bill Lynch <Bill@WJLYNCHLAW.COM>; Marc S. Weinberg <mweinberg@marcweinbergmd.com>; Jim Aceto <jaceto@wardfisher.com>; jimriley011150@gmail.com; marcsweinberg@gmail.com
Cc: Liebman, Jeffrey <jeffrey.liebman@chartercare.org>
Subject: CCHP JV Board D&O Coverage

Dear CharterCARE Board Members,

On behalf of Jeff Liebman, attached please find communication from our Insurance Broker which states that actions taken by individual CharterCARE Board Members that are contradictory to the Operating Agreement encompassing the CharterCARE Joint Venture will not be covered by our Directors and Officers Insurance Coverage. Actions brought forward or against those individuals will be deemed to be the individual responsibility of the Director.

Please contact me with any questions or for further guidance.

Thank you,
Mimsey Cauley

Miriam G. Cauley

Hospital Operations Counsel, RI
401.456.2498 (office)
562.253.8323 (cell)
Email: Miriam.Cauley@prospectmedical.com



UNCOMMONLY INDEPENDENT

September 18, 2020

Frank Castro
Senior Vice President Insurance & Risk
Prospect Medical Holdings, Inc.
3415 South Sepulveda Blvd., 9th Floor
Los Angeles, CA 90034

Re: CharterCare Health Partners
Directors & Officers Liability Insurance
Non-Compliance Concerns

Dear Frank:

It has been brought to our attention that some members of the CharterCare Board of Directors are in non-compliance with the CharterCare Joint Venture Operating Agreement that stipulates that all board members to sign a Conflict of Interest Statement as well as a Confidentiality Statement. Organizational compliance is an important element within the broader construct of directors' fiduciary duties of care, good faith, loyalty, obedience and candor. These duties create multiple implications within the context of the CharterCare Health Partners overall risk management architecture involving three critical factors; (1) governance structure and execution; (2) organizational indemnification; and (3) D&O Liability insurance.

Consequently, internal compliance failures relative to board governance guidelines, board committee charters, corporate bylaws, joint venture operating agreements, or other corporate governance requirements, practices, or agreements, can create a cascading impact as to Chartercare Health Partners ability to effectively manage risk consistently throughout its organizational structure. Each of the duties noted above represent potential factors that can be used to challenge organizational indemnity obligations, as well as D&O insurers' agreement to provide coverage and/or pay claims.



Re: CharterCare Health Partners
Directors & Officers Liability Insurance
Non-Compliance Concerns

Page 2

A brief sampling of potential D&O coverage implications:

- a. Claims may be determined to be non-indemnifiable or indemnifiable.
- b. Non-indemnifiable loss may arise from (a) an Insured Entity's financial inability to fund; (b) an Insured Entity's determination as to indemnifiable conduct; or (c) public policy constraints or prohibitions.
- c. Insured Person definitions are independent of indemnification considerations – coverage is applicable to all past, present, and future Insured Persons.
- d. All D&O policies contain personal conduct exclusions, subject to determination requirements.
- e. Annually, PMH meets with its D&O insurers to determine underwriting acceptance. Among the underwriting considerations, PMH is periodically questioned as to its conflict of interest protocols and affirmations.

The failure of Board Members to stay within compliance of the Joint Venture operating agreement policies can potentially lead to wrongful act allegations associated with breaches of various duties. The tie between compliance and insurance can create D&O insurance acceptance issues wherein underwriters can choose to specifically exclude coverage for selected individuals. With CCHP, and board member, best interests in mind, organizational compliance is an important element relative to both corporate and personal asset protection via D&O insurance.

Sincerely,

A handwritten signature in black ink that reads "Dana F. Kopper". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dana F Kopper
Executive Vice President & Managing Director
Lockton Insurance Brokers, LLC

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Sunday, September 20, 2020 3:56 PM
To: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>; Lee, Sam <Sam.Lee@pmh.com>; Crockett, Von <Von.Crockett@prospectmedical.com>; Grimshaw, Bruce <Bruce.Grimshaw@altahospitals.com>; Reardon, Thomas <Thomas.Reardon@prospectmedical.com>; Marc S. Weinberg <mweinberg@marcweinbergmd.com>; Jim Aceto <jaceto@wardfisher.com>; jimriley011150@gmail.com; marcsweinberg@gmail.com; Bill Lynch <Bill@WJLYNCHLAW.COM>
Cc: Liebman, Jeffrey <jeffrey.liebman@chartercare.org>
Subject: RE: CCHP JV Board D&O Coverage

Thank you Miriam, Would you please send me a complete copy of the entire Directors and Officers Insurance Coverage policy as well as a complete copy of the CharterCare Joint Venture Operating Agreement. Thanks, Bill Lynch

From: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>
Sent: Saturday, September 19, 2020 2:29 PM
To: Lee, Sam <Sam.Lee@pmh.com>; Crockett, Von <Von.Crockett@prospectmedical.com>; Grimshaw, Bruce <Bruce.Grimshaw@altahospitals.com>; Reardon, Thomas <Thomas.Reardon@prospectmedical.com>; Bill Lynch <Bill@WJLYNCHLAW.COM>; Marc S. Weinberg <mweinberg@marcweinbergmd.com>; Jim Aceto <jaceto@wardfisher.com>; jimriley011150@gmail.com; marcsweinberg@gmail.com
Cc: Liebman, Jeffrey <jeffrey.liebman@chartercare.org>
Subject: CCHP JV Board D&O Coverage

Dear CharterCARE Board Members,

On behalf of Jeff Liebman, attached please find communication from our Insurance Broker which states that actions taken by individual CharterCARE Board Members that are contradictory to the Operating Agreement encompassing the CharterCARE Joint Venture will not be covered by our Directors and Officers Insurance Coverage. Actions brought forward or against those individuals will be deemed to be the individual responsibility of the Director.

Please contact me with any questions or for further guidance.

Thank you,
Mimsey Cauley

Miriam G. Cauley

Hospital Operations Counsel, RI
401.456.2498 (office)
562.253.8323 (cell)
Email: Miriam.Cauley@prospectmedical.com

Thomas S. Hemmendinger

From: Thomas S. Hemmendinger
Sent: Tuesday, September 22, 2020 3:10 PM
To: Mark Russo (mrusso@frlawri.com)
Cc: Preston Halperin (phalperin@shslawfirm.com); bill@wjlynchlaw.com; James Aceto (jaceto@wardfisher.com); James Riley (jimriley011150@gmail.com); Marc Weinberg (mweinberg@marcweinbergmd.com)
Subject: Prospect CharterCARE, LLC

Mark, this letter is my response to your client Prospect CharterCARE, LLC's actions against the Category A Directors, both on behalf of those directors and on my own behalf as liquidating receiver for the minority owner of Prospect.

Prospect has issued an unwarranted demand that they sign both a conflict of interest form based on Prospect's 2019 conflict policy and a separate, unconscionable confidentiality agreement.

As you well know, the 2019 policy by its own terms does not even apply to directors, and Prospect asserts that it is the only conflict of interest policy that it has. The only operative conflict of interest policy is the 2011 policy attached to the June 20, 2014 amended and restated LLC agreement. Under the terms of the LLC agreement, Prospect committed to adopt that policy. Prospect has not been able to identify any other applicable conflict policy, nor has it identified any confidentiality requirement other than what is contained in the 2011 policy.

Therefore, each Category A Director is in the process of completing and submitting to Prospect the conflict of interest disclosure form that is contained in the 2011 policy. They anticipate that these will be in Prospect's hands by tomorrow. This will satisfy all legitimate requests that have been made on the Category A Directors *and leaves no basis for Prospect to withhold the information and documents the directors have requested or to impair or impede the Category A Directors ability to do their jobs.*

The Category A Directors and I each demand that Prospect do the following:

- 1) Give the Category A Directors all of the information and documents they have previously requested.
- 2) Give me a complete copy of the directors and officers liability insurance policy.
- 3) Clean up the mess that Prospect created with the directors and officers insurance broker, as well as any similar mess its actions may have created with the insurance carrier.

Prospect's failure to comply with this demand by Thursday September 24, 2020 at 5:00 p.m., time being of the essence, will constitute not only a breach of Prospect's and its management's duties to the directors, but also management's fiduciary duties to me as minority owner and violation of the stay contained in the order appointing me permanent receiver.



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.brscsm.com

This communication may be privileged and confidential. If you received this in error, please notify me immediately and delete this email and attachments.

Thomas S. Hemmendinger

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Tuesday, September 22, 2020 5:22 PM
To: Thomas S. Hemmendinger
Subject: [External] FW: Prospect CharterCARE, LLC

From: Bill Lynch <Bill@WJLYNCHLAW.COM>
Sent: Tuesday, September 22, 2020 5:20 PM
To: Cauley, Miriam <Miriam.Cauley@Prospectmedical.com>
Cc: Lee, Sam <Sam.Lee@pmh.com>; Crockett, Von <Von.Crockett@prospectmedical.com>; Grimshaw, Bruce <Bruce.Grimshaw@altahospitals.com>; Reardon, Thomas <Thomas.Reardon@prospectmedical.com>; mweinberg@marcweinbergmd.com; jimriley011150@gmail.com; James Aceto <jaceto@wardfisher.com>; Liebman, Jeffrey <jeffrey.liebman@chartercare.org>; Elders, Rob <Rob.Elders@prospectmedical.com>; Bill Lynch <Bill@WJLYNCHLAW.COM>
Subject: FW: Prospect CharterCARE, LLC

Hi Mimsey, Thank you for your follow-up email regarding the Confidentiality Agreement and Conflict of Interest Form. I am respectfully declining to execute the Confidentiality Agreement as well as the Conflict of Interest form referenced in your email. For your convenience I have attached below a copy of an email from Attorney Hemmendinger to Attorney Mark Russo from earlier today which addresses these same issues. I have however completed and mailed to your attention the "2011" Conflict of Interest form referenced in Mr. Hemmendinger's email. I hope you are well and healthy, regards, Bill Lynch

From: Thomas S. Hemmendinger <themmendinger@brcsm.com>
Sent: Tuesday, September 22, 2020 3:10 PM
To: Mark Russo (mrusso@frlawri.com) <mrusso@frlawri.com>
Cc: Preston Halperin (phalperin@shslawfirm.com) <phalperin@shslawfirm.com>; Bill Lynch <Bill@WJLYNCHLAW.COM>; James Aceto (jaceto@wardfisher.com) <jaceto@wardfisher.com>; James Riley (jimriley011150@gmail.com) <jimriley011150@gmail.com>; Marc Weinberg (mweinberg@marcweinbergmd.com) <mweinberg@marcweinbergmd.com>
Subject: Prospect CharterCARE, LLC

Mark, this letter is my response to your client Prospect CharterCARE, LLC's actions against the Category A Directors, both on behalf of those directors and on my own behalf as liquidating receiver for the minority owner of Prospect.

Prospect has issued an unwarranted demand that they sign both a conflict of interest form based on Prospect's 2019 conflict policy and a separate, unconscionable confidentiality agreement.

As you well know, the 2019 policy by its own terms does not even apply to directors, and Prospect asserts that it is the only conflict of interest policy that it has. The only operative conflict of interest policy is the 2011 policy attached to the June 20, 2014 amended and restated LLC agreement. Under the terms of the LLC agreement, Prospect committed to adopt that policy. Prospect has not been able to identify any other applicable conflict policy, nor has it identified any confidentiality requirement other than what is contained in the 2011 policy.

Therefore, each Category A Director is in the process of completing and submitting to Prospect the conflict of interest disclosure form that is contained in the 2011 policy. They anticipate that these will be in Prospect's hands by tomorrow. This will satisfy all legitimate requests that have been made on the Category A Directors *and leaves no basis for Prospect to withhold the information and documents the directors have requested or to impair or impede the Category A Directors ability to do their jobs.*

The Category A Directors and I each demand that Prospect do the following:

- 1) Give the Category A Directors all of the information and documents they have previously requested.
- 2) Give me a complete copy of the directors and officers liability insurance policy.
- 3) Clean up the mess that Prospect created with the directors and officers insurance broker, as well as any similar mess its actions may have created with the insurance carrier.

Prospect's failure to comply with this demand by Thursday September 24, 2020 at 5:00 p.m., time being of the essence, will constitute not only a breach of Prospect's and its management's duties to the directors, but also management's fiduciary duties to me as minority owner and violation of the stay contained in the order appointing me permanent receiver.



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.brasm.com

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Thomas S. Hemmendinger

From: Mark Russo <mrusso@frlawri.com>
Sent: Wednesday, September 23, 2020 4:56 PM
To: Thomas S. Hemmendinger
Subject: [External] RE: Prospect CharterCARE, LLC

Dear Tom:

It is unfortunate that you decided to forego talking through these issues and instead sent me this type of e-mail.

I do note in your e-mail that you say you are responding on behalf of the Liquidating Receiver for the minority owner of Prospect CharterCARE, LLC and the Category A Director nominees. This is different than your previous correspondence. You are now purporting to represent the Category A Director nominees and you have litigation pending against my client, Prospect CharterCARE, LLC.

In turn, you are working in conjunction with the Plan Receiver, who also has litigation pending against Prospect CharterCARE LLC.

In your e-mail, you say that the Category A Director nominees have requested certain documentation, which would provide them with the ability to do their jobs. My client is not proposing to stop them from doing their jobs. Rather, my client is taking the completely reasonable position that they do not want what would otherwise be confidential information that is being distributed to purportedly assist the Category A Director nominees "in doing their jobs" to then, be provided to persons or entities who have active litigation pending against Prospect CharterCARE, LLC.

Accordingly, if we can get the appropriate Conflict of Interest documents and Confidentiality Agreements executed, we have no problem providing the documentation and the Category A Director nominees can utilize that in carrying out their duties to Prospect CharterCARE, LLC. I am not interested in having my client provide the documentation merely as a conduit for a form of discovery in the ongoing litigation matters.

In turn, I would suggest that rather than filing some form of contempt motion that you seek specific instructions from the appointing Court in this regard.

W. Mark Russo

Ferrucci Russo P.C.
55 Pine Street, 3rd Floor
Providence, RI 02903
Tel.: (401) 455-1000
Fax: (401) 455-7778
mrusso@frlawri.com

Please visit our website at: www.frlawri.com



This e-mail message is subject to attorney-client privilege and contains information intended only for the person(s) named above. If you receive this transmission in error, please notify us immediately. Destroy the original message and all copies.

From: Thomas S. Hemmendinger <themmendinger@brcsm.com>
Sent: Tuesday, September 22, 2020 3:10 PM
To: Mark Russo <mrusso@frlawri.com>
Cc: Preston Halperin (phalperin@shslawfirm.com) <phalperin@shslawfirm.com>; bill@wjlynchlaw.com; James Aceto (jaceto@wardfisher.com) <jaceto@wardfisher.com>; James Riley (jimriley011150@gmail.com) <jimriley011150@gmail.com>; Marc Weinberg (mweinberg@marcweinbergmd.com) <mweinberg@marcweinbergmd.com>
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Thomas S. Hemmendinger
Brennan, Recupero, Cascione, Scungio & McAllister, LLP
362 Broadway | Providence, RI 02909

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Thomas S. Hemmendinger

From: Thomas S. Hemmendinger
Sent: Friday, September 25, 2020 6:44 PM
To: Miriam Cauley (Miriam.Cauley@prospectmedical.com)
Cc: Mark Russo (mrusso@frlawri.com); bill@wjlynchlaw.com; James Aceto (jaceto@wardfisher.com); James Riley (jimriley011150@gmail.com); Marc Weinberg (mweinberg@marcweinbergmd.com)
Subject: Prospect CharterCARE, LLC - conflict of interest disclosure
Attachments: COI Riley, James 2020-09-23.pdf; COI Lynch, William 2020-09-21.pdf; CCHP 2011 COI Dr. Weinberg .pdf; COI Aceto, James 2020-09-22.pdf

Ms. Cauley, James Riley asked me to forward his disclosure to you (attached). For your convenience, also attached are the forms that the other three Category A Directors have already sent you.



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@brscsm.com | www.brscsm.com

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Thomas S. Hemmendinger

From: Thomas S. Hemmendinger
Sent: Friday, September 25, 2020 6:45 PM
To: Mark Russo (mrusso@frlawri.com)
Cc: bill@wjlynchlaw.com; James Aceto (jaceto@wardfisher.com); James Riley (jimriley011150@gmail.com); Marc Weinberg (mweinberg@marcweinbergmd.com)
Subject: FW: Prospect CharterCARE, LLC - conflict of interest disclosure
Attachments: COI Riley, James 2020-09-23.pdf; COI Lynch, William 2020-09-21.pdf; CCHP 2011 COI Dr. Weinberg .pdf; COI Aceto, James 2020-09-22.pdf

Mark, based on the attached and on the Category A Directors' prior correspondence with Prospect CharterCARE, LLC, the Category A Directors have beyond dispute satisfied their obligations to make conflict of interest disclosures that apply to directors and to accept the confidentiality undertakings that apply to directors. Therefore, whatever justification Prospect CharterCARE, LLC might have had to withhold information and documents from the Category A Directors before (and both they and I believe Prospect had no such justification), Prospect has no excuse to further delay its compliance with the Category A Directors' requests.

In your September 23 email, you intimate that I am acting as legal counsel for the Category A Directors. I am not their lawyer, but am merely communicating on their behalf at their request.

Your email also purports to restrict what the Category A Directors can do in the performance of their duties and falsely accuses them of partisanship. Please note that the Category A Directors were chosen for their integrity, skills, and commitment to supporting the local hospitals and the communities they serve. The same should be true for the Category B Directors.



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@brscsm.com | www.brscsm.com

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From: Thomas S. Hemmendinger <themmendinger@brscsm.com>
Sent: Friday, September 25, 2020 6:44 PM
To: Miriam Cauley (Miriam.Cauley@prospectmedical.com) <Miriam.Cauley@prospectmedical.com>
Cc: Mark Russo (mrusso@frlawri.com) <mrusso@frlawri.com>; bill@wjlynchlaw.com; James Aceto (jaceto@wardfisher.com) <jaceto@wardfisher.com>; James Riley (jimriley011150@gmail.com) <jimriley011150@gmail.com>; Marc Weinberg (mweinberg@marcweinbergmd.com) <mweinberg@marcweinbergmd.com>
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55 PINE STREET, PROVIDENCE, RI 02903
401.455.1000 WWW.FRLAWRI.COM

W. Mark Russo
mrusso@frlawri.com

September 30, 2020

James H. Aceto, CPA
Ward Fisher & Company, LLP
250C Centerville Road
Warwick, RI 02886-4353
jaceto@wardfisher.com

William J. Lynch, Esq.
WJ Lynch Law
320 Newport Avenue
Rumford, RI 02916
bill@wjlynchlaw.com

James P. Riley
38 Captain John Jacobs Road, #411
East Providence, RI 02914
jimriley011150@gmail.com

Marc Weinberg, M.D.
Marc Weinberg MD Personal HealthCare, Ltd.
One Randall Square, Suite 304
Providence, RI 02904
mweinberg@marcweinbergmd.com

Thomas S. Hemmendinger
Brennan, Recupero, Cascione, Scungio &
McAllister, LLP
362 Broadway
Providence, RI 02909
themmendinger@brcsm.com

RE: Prospect CharterCARE, LLC – Category A Director Nominees

To all:

I wanted to reemphasize that in order for us to move forward and for you to assume your duties, we need the Confidentiality Agreement signed in light of the ongoing litigation. I have attached a copy for your convenience.

We would be more than happy to set up a telephone call to discuss any concerns and answer any questions in this regard. Please let me know as soon as possible.

In addition, the Rhode Island Department of Attorney General also provided a Conflict of Interest form to the Category A Director nominees and those need to be returned as well.

Thank you.

Sincerely,

W. MARK RUSSO

WMR/was
Enclosures



Thomas S. Hemmendinger, of counsel
E-mail themmendinger@brasm.com

By email jeffrey.liebman@chartercare.org

October 5, 2020

Jeffrey H. Liebman. DMD
Chief Executive Officer
Prospect CharterCARE, LLC
825 Chalkstone Avenue
Providence, RI 02908

Re: Prospect CharterCARE, LLC

Dear Dr. Liebman:

I write this to give Prospect CharterCARE, LLC a final chance to comply with the pending demands for information and documents by the Category A Directors and by myself before I seek appropriate relief in the Superior Court.

My prior correspondence with you, Miriam Cauley, and Mark Russo provides more than sufficient justification for the directors' and liquidating receiver's respective demands, and need not be repeated here in detail. However, the following facts are particularly important:

First, from the beginning, the Category A Directors have acknowledged their fiduciary duty to Prospect CharterCARE, LLC, including their duty to keep certain information confidential. For example, on August 25, 2020, I wrote the following to you:

The new directors acknowledge that they owe a fiduciary duty to Prospect CharterCARE, LLC. The same is true for the Category B Directors and for all officers.

...

362 Broadway
Providence, RI 02909
401.453.2300

One Church Green
PO Box 488
Taunton, MA 02780
508.822.0178

www.brasm.com

October 5, 2020

The new directors understand that, subject to applicable law that requires or permits disclosure to protect the interests of the entity, a director may not, on his or her own, disclose information that is covered by a valid (i) privilege held by the entity or (ii) obligation not to disclose confidential information. In particular, a director may not share the entity's litigation strategy with the entity's opponent in litigation.

Second, the Category A Directors have fully complied with Prospect CharterCARE, LLC's conflict of interest policy, including its confidentiality provisions. As you well know, the only operative conflict of interest policy is the 2011 policy attached to the June 20, 2014 amended and restated LLC agreement. Under the terms of the LLC agreement, Prospect CharterCARE, LLC committed to adopt that policy. Prospect CharterCARE, LLC has not identified any other applicable conflict policy, nor has it identified any confidentiality requirement other than what is contained in the 2011 policy.

The 2011 policy includes confidentiality provisions. Each Category A Director has accepted these by completing the disclosure form attached to the 2011 policy and submitting it to Prospect CharterCARE, LLC.

Third, from the beginning, the Category A Directors have requested only information and documents to which they have an absolute right:

- 1) Proposed dates and times for an initial meeting of the Category A Directors with you (first requested August 25, 2020).
- 2) An agenda for such initial meeting (first requested August 25, 2020).
- 3) Year-to-date financial reports on Prospect CharterCARE, LLC and its subsidiaries (first requested August 25, 2020).
- 4) The revised financial statements submitted to the R.I. Attorney General and the R.I. Department of Health on August 11 (first requested August 25, 2020).
- 5) The documents authorizing and justifying the pending Hospital Conversion Act and Change in Effective Control applications from the perspective of Prospect CharterCARE, LLC and its subsidiaries (first requested August 25, 2020), each of which applications was signed by you.
- 6) The schedule for Prospect CharterCARE, LLC board meetings (first requested August 25, 2020).

October 5, 2020

- 7) Copies of any policies or codes governing all directors or officers (first requested August 25, 2020).
- 8) Confirmation that the Category A Directors are covered by Prospect CharterCARE, LLC's directors and officers liability insurance policy to the same extent as all other directors (first requested August 25, 2020).
- 9) A copy of the directors and officers liability insurance policy (first requested August 25, 2020).
- 10) Copies of the minutes of all Prospect CharterCARE, LLC board of directors meetings since June 20, 2014 (the date on which Prospect CharterCARE, LLC and its subsidiaries took ownership and management of Our Lady of Fatima Hospital and Roger Williams Medical Center—the "Local Safety-Net Hospitals"), including all minutes of any and all executive sessions during that same period, with any appropriate redactions for discussion of litigation strategy in the cases involving either the plan receiver or the liquidating receiver (first requested September 8, 2020).

As of today, the only item on this list that Prospect CharterCARE, LLC has given the Category A Directors is a September 11, 2019 conflict of interest policy. This 2019 policy applies by its own terms only to employees and medical staff. This leaves the 2011 conflict of interest policy as the only possibly applicable policy.

Fourth, some of the Category A Directors have already filed their R.I. Attorney General's conflict of interest disclosure forms with that office, and the others are in the process of doing so. The Attorney General's office has made it clear to me that, while the forms are required, there is no imminent deadline for filing them. Certainly, the Attorney General's requirement presents no just cause for Prospect CharterCARE, LLC to withhold information or documents from the Category A Directors.

Fifth, Prospect CharterCARE, LLC has compounded its failure to provide requested and necessary information and documents by attempts to muzzle and intimidate the Category A Directors. For example:

- 1) Since August 6, 2020 Prospect CharterCARE, LLC has tried to prevent the Category A Directors from communicating with me or my counsel.
- 2) Prospect CharterCARE, LLC has without explanation continued to insist that the Category A Directors submit to a conflict of interest policy that does not even apply to them.

October 5, 2020

- 3) Prospect CharterCARE, LLC has effectively refused to accept the Category A Directors' tender of the required disclosures and acceptance of confidentiality provisions under the 2011 policy that does apply to them.
- 4) Prospect CharterCARE, LLC has tried to force the Category A Directors to agree to an unconscionable, unwarranted, and unnecessary confidentiality agreement.
- 5) Prospect CharterCARE, LLC, probably with the involvement of its lawyers, made demonstrably false statements to (a) the broker for the directors and officers liability policy, putting coverage in jeopardy (see September 18, 2020 letter from Lockton Insurance Brokers to Frank Castro at Prospect Medical Holdings, Inc.) and (b) the Category A Directors (see Miriam Cauley's September 20, 2020 email to the directors).
- 6) Prospect CharterCARE, LLC, through counsel, has made demonstrably false allegations that the Category A Directors intend to seek information and documents to pass on to me as liquidating receiver.

Prospect CharterCARE, LLC's actions, both through its officers and its outside counsel, are not only contrary to applicable law and the terms of the LLC agreement, but also constitute contempt of court as a violation of the order entered in the liquidating receivership on January 17, 2020. The Superior Court served notice of the entry of this order on all counsel of record, including your counsel Mr. Russo, and the order was included with my appointment of the Category A Directors on July 22, 2020 (addressed to you among others).

Based on the foregoing, the Category A Directors and I each demand that Prospect CharterCARE, LLC do the following not later than Thursday October 8, 2020 by 5:00 p.m., time being of the essence:

- 1) Give the Category A Directors all of the information and documents they have previously requested and not yet received.¹
- 2) Give me a complete copy of the directors and officers liability insurance policy.
- 3) Confirm in writing that the Category A Directors have satisfied Prospect's request for conflict of interest disclosures to Prospect CharterCARE, LLC.
- 4) Confirm in writing that, by submitting those disclosures to Prospect and accepting the terms of the 2011 conflict of interest policy, the Category A Directors have satisfied all

¹ Please note that the Category A Directors were able to obtain item (4) above (revised financial statements filed on August 11) from the regulator's website, so those need not be produced again. However, if there are any other revisions to those financial statements from either before or after those dates, they must be given to the Category A Directors.

October 5, 2020

confidentiality commitments that are required by the June 20, 2014 LLC agreement. This includes dropping Prospect CharterCARE, LLC's demand for the "director confidentiality and proprietary information agreement" that is predicated on the false allegation that the Category A Directors are seeking information to pass on to me.

- 5) Disabuse the directors and officers liability insurance broker and carrier of any misconception that the Category A Directors have failed to comply with the confidentiality requirements of the LLC agreement or with the conflict disclosure requirements of the LLC agreement.

This matter has taken on greater urgency in light of last week's well-documented article about Prospect Medical Holdings, including Prospect CharterCARE, LLC and the Local Safety-Net Hospitals, in ProPublica (available at <https://www.propublica.org/article/investors-extracted-400-million-from-a-hospital-chain-that-sometimes-couldnt-pay-for-medical-supplies-or-gas-for-ambulances>). This article sheds new light on the deterioration of the financial condition of Prospect Medical Holdings, Inc. and its subsidiaries since it acquired the Local Safety-Net Hospitals, Prospect Medical Holdings, Inc.'s history of dumping safety-net hospitals into chapter 11 after it has extracted funds from the hospitals, the risks posed to Local Safety-Net Hospitals from the proposed change in effective control transaction, and the risks to the communities served by the Local Safety-Net Hospitals. The Category A Directors must look into these matters to fulfill their obligations to Prospect CharterCARE, LLC, and Prospect CharterCARE, LLC must stop preventing them from doing so.

Cordially,

/s/ Thomas S. Hemmendinger

Thomas S. Hemmendinger, permanent liquidating receiver of CharterCARE Community Board, f/k/a CharterCARE Health Partners, both individually and as trustee for the Plan Receiver

TSH:jl

Encl.

cc:	James H. Aceto, CPA (by email)	Preston Halperin, Esq. (by email)
	William J. Lynch, Esq. (by email)	Mark Russo, Esq. (by email)
	James P. Riley (by email)	Stephen Del Sesto, Esq. (by email)
	Marc Weinberg, M.D. (by email)	Max Wistow, Esq. (by email)

Exhibit C

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF
RHODE ISLAND, INC

v.

ST. JOSEPH'S HEALTH SERVICES OF
RHODE ISLAND RETIREMENT PLAN, as
amended

C.A. No. PC-2017-3856

AFFIDAVIT OF THOMAS S. HEMMENDINGER

Thomas S. Hemmendinger, having been duly sworn, states as follows:

1. The statements in this affidavit are based on my personal knowledge.
2. I am the permanent liquidating receiver of CharterCARE Community Board (“CCCB”), St. Joseph Health Services of Rhode Island, and Roger Williams Hospital (collectively, the “Legacy Hospital Entities”).
3. I am of counsel to Brennan, Recupero, Cascione, Scungio & McAllister, LLP (“BRCSM”). BRCSM represents me in my capacity as liquidating receiver.
4. Stephen Del Sesto, Esq. (the “Plan Receiver”) is the permanent receiver of the St. Joseph Health Services of Rhode Island Retirement Plan (the “Plan”).
5. Wistow, Sheehan & Loveley, PC (“Special Counsel”) represents the Plan Receiver.
6. Both the temporary and permanent orders appointing me as liquidating receiver direct me to perform the Legacy Hospital Entities’ obligations under that certain Settlement Agreement dated as of August 31, 2018 among the Legacy Hospital Entities, the Plan Receiver, and putative class action representatives (the “Settlement Agreement”). Under the Settlement Agreement, in my capacity as liquidating receiver of CCCB, I hold CCCB’s minority interest in Prospect CharterCARE, LLC and related rights (collectively, the “Hospital Interests”) in trust for the Plan Receiver.
7. Without having assumed the Settlement Agreement, I have been performing all of the

Legacy Hospital Entities' current obligations under the Settlement Agreement.

8. In the course of such work, I have consulted from time to time with the Plan Receiver and with Special Counsel, and I have received information and documents from them.

9. From time to time, the Plan Receiver or Special Counsel have suggested to me a particular course of action or asked me to take a particular action. On those occasions where I believed that such action is consistent with my duties as liquidating receiver, I have taken such action. However, at no time have the Plan Receiver or Special Counsel demanded, directed or instructed me to do or refrain from doing anything as liquidating receiver, and I would not have accepted any such instructions.

10. On July 22, 2020, after seeking, interviewing and researching various candidates, I appointed James H. Aceto, CPA, William J. Lynch, Esq., James P. Riley, and Marc Weinberg, M.D. as Category A Directors of Prospect CharterCARE, LLC. The Hospital Interests include the right to appoint these directors.

11. I selected these gentlemen based on their integrity, skills, commitment to supporting the long-term success of Prospect CharterCARE, LLC and the local hospitals, and commitment to the communities that these hospitals serve.

12. In my communications with the new Category A Directors, I have shared information and documents related to (a) the governance of Prospect CharterCARE, LLC and (b) my concerns about the financial condition of Prospect CharterCARE, LLC and its subsidiaries.

13. I also made it clear to the new directors that they should not take my claims on faith, but should make their own independent determinations and take such actions as they deem consistent with their duties and rights as directors.

14. At no time have I demanded, directed, instructed, recommended or asked the Category A Directors to share with me, BRCSM, the Plan Receiver, or Special Counsel any

confidential information or documents of Prospect CharterCARE, LLC which they obtained in the course of their service as directors.

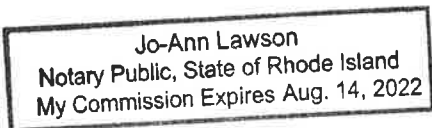
15. Throughout my tenure as Liquidating Receiver, I have acted pursuant to my independent judgment and within the scope of my authority as Liquidating Receiver.




Thomas S. Hemmendinger

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

Subscribed and sworn to (or affirmed) before me on this 6th day of October, 2020, by Thomas S. Hemmendinger, who proved to me through satisfactory evidence of identification to be the person who appeared before me.




Notary Public
Name: Jo-Ann LAWSON # 39718
My commission expires: 8-14-22