

# **WNC Community Healthcare Initiative**

**SUPPORT ACCESS. SUPPORT CHOICE.**

## **VIA FACSIMILE AND HAND DELIVERY**

May 23, 2011

The Honorable Beverly Eaves Perdue  
Governor of the State of North Carolina  
c/o Edward Speas, General Counsel  
20301 Mail Service Center  
Raleigh, NC 27699-4240  
Fax: (919) 733-2120

The Honorable Lanier M. Cansler  
Secretary, North Carolina Department of Health  
and Human Services  
2001 Mail Service Center  
Raleigh, NC 27699-2001  
Fax: (919) 715-4645

Dear Governor Perdue and Secretary Cansler:

WNC Community Healthcare Initiative ("WNC CHI") is a group consisting of Park Ridge Health, a hospital in Henderson County, North Carolina; 21<sup>st</sup> Century Oncology, an outpatient oncology provider in Western North Carolina, and Dr. Nathan Williams, a physician practicing with Hope-Women's Cancer Centers in Asheville. WNC CHI is writing to ask the State of North Carolina to fulfill its obligation to actively supervise Mission Hospital under Mission's Certificate of Public Advantage ("COPA").

As you may be aware, the State of North Carolina issued a COPA to Mission in 1995 when Mission and St. Joseph's Hospital engaged in a virtual merger. The COPA was renewed in 1998 when Mission and St. Joseph's completed their merger, leaving Mission as the only acute care hospital in Buncombe County. The COPA was renewed again in 2005. North Carolina Law purports to give parties to a COPA immunity under the State and Federal antitrust laws. *See* N.C. Gen. Stat. § 131E-192.13(a). However, in order for this immunity to be effective, the State of North Carolina must actively supervise Mission's conduct under the COPA. *See FTC v. Ticor Title Insurance Co.*, 504 U.S. 621 (1992). DHHS, with assistance from the Attorney General's Office, has been principally responsible for actively supervising Mission under the COPA.

Unfortunately DHHS has not done a very effective job in actively supervising Mission, and public confidence has been seriously eroded.

After fifteen years of passive supervision, the State initiated a study by Dr. Gregory S. Vistres, Ph.D., an outside economist, to review Mission's behavior in the marketplace. Dr. Vistres' report, entitled *An Economic Analysis of the Certificate of Public Advantage (COPA) Agreement Between the State of North Carolina and Mission Health*, uncovered a number of



problems with the existing COPA, including incentive problems that leave patients in Western North Carolina vulnerable to higher prices and fewer choices. Dr. Vistnes made several recommendations to strengthen the State's regulation of Mission under the COPA.

WNC CHI believes all of Dr. Vistnes' recommendations are appropriate, with the exception of eliminating the cap on the number of physicians Mission is allowed to employ. The COPA only addressed Mission's primary service area as it existed in 1995 and was conspicuously silent on its employment of physicians outside this area. Presently, Mission is allowed to employ up to 20% of the primary care physicians in Buncombe and Madison Counties; WNC CHI supports extending the cap to all physician specialties and to all counties in Western North Carolina. A reasonable restriction on Mission's employment of physicians outside of Buncombe and Madison Counties will protect healthcare consumers who want access to care close to home instead of being referred to Asheville and who also want to maintain a choice of providers in their communities.

Dr. Vistnes' report details and highlights what many healthcare professionals in Western North Carolina have known for years, but have been afraid to voice given the vast reaches of Mission's business practices.


WNC CHI is writing to you today to ask that you act upon Dr. Vistnes' report and provide the oversight protection mandated by the COPA to curtail the perceived predatory business practices currently undertaken by Mission. Mission's business practices require strict and active supervision by the State as part of the COPA agreement in order to protect patients and the rights of other businesses engaged in providing healthcare services in Western North Carolina.

Now that the State has the benefit of an independent economist's work, the State has the opportunity to restore public confidence that it is indeed committed to actively supervising Mission, as it is required to do by law.

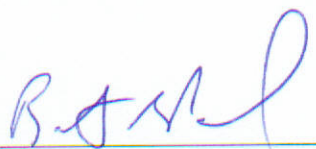
Failure to do so will only further jeopardize future access to quality health care for residents of Western North Carolina.

WNC CHI appreciates the opportunity to present its views on this important subject. If you have any questions, please do not hesitate to contact us.

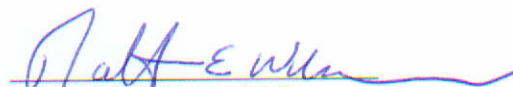
Sincerely,



Jimm Bunch  
President and CEO  
Park Ridge Health



Barton R. Paschal, M.D.  
Medical Oncologist  
21<sup>st</sup> Century Oncology



Nathan Williams, M.D.  
HOPE- Women's Cancer Centers

cc: Members, North Carolina House of Representatives  
cc: Members, North Carolina Senate