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March 6, 2013

Mr. Frank W. Urso
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Illinois Health Facilities and Services Review
Board
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Ms. Courtney Avery
Administrator
Illinois Health Facilities and Services
Review Board
525 W. Jefferson
Springfield, IL 62761

**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Re: Status of Deferral
Vista Medical Center - Lindenhurst CON Application (the "Application") Project No. 12-081 (the "Project")

Dear Mr. Urso and Ms. Avery:

Thank you for your letter regarding the status of the Vista Medical Center Application referenced above.

By letter dated February 7, 2013, I had inquired about the status of Community Health System's request to defer its Application to the March meeting. That letter noted that the Board's rules prohibited the Applicant from deferring its Application to the March 26 meeting because that meeting was beyond the 6-month deadline established by the Board. The State Agency Report reached the same conclusion in stating that the Applicants could not defer the project further.

Your letter noted that public comments presented several issues and your letter enumerated seven items of "serious concerns" about this Vista project that should be addressed before the Board considered this Application. As discussed further below, we agree with you that these issues should be addressed before the Review Board considers this Application.

We wish to renew our objection to this Application being deferred. We support your suggestion that the Applicant not proceed with the project until the serious issues are addressed. Board rules, however, provide a variety of permissible ways that the Applicant could have addressed the concerns other than through an impermissible deferral. The Applicant could have (i) modified their Application to provide additional material and thus extend the review period, (ii) proceeded to the Board and obtained an Intent-to-Deny and then address open issues before a

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final vote, or (iii) appeared before the Board and requested the Board defer the Project. The mechanism chosen by the Applicant, however, is not one of the permitted alternatives. The Board rules state:

An applicant may not defer:

- 1) Initial consideration of the application by HFPB to a meeting that is scheduled more than 6 months from the date the application was deemed complete; or*

1130.640(b)(1) (emphasis added). While the Board could have deferred the Application at the Board meeting, rules remain clear that the Applicant cannot defer, even at the suggestion of the State Agency.

If the Application were to proceed despite the prohibition on the Applicant's deferral, we suggest consideration not proceed until the Board staff and the public have opportunity to analyze and comment on the new material the Applicant submitted. The Applicant only days ago filed almost 80 pages of new material. By filing this information so late the Applicant has given little time (i) for Board staff to review this information before preparing a State Agency Report; (ii) for Board compliance counsel to review whether Vista is in compliance with Board requirements; and (iii) almost no time for the public to provide written comment.

Community Health Systems ("CHS") voluminous response to serious concerns requires far more analysis and response than can be provided in the 24-hour time that has been afforded. We will provide additional response at the time of the State Agency Report but we want to briefly highlight our initial reaction.

1. Vista East's Compliance Problems Are Relevant To Lindenhurst. Lindenhurst bases much of its argument for a new hospital upon moving beds from Waukegan to Lindenhurst. Vista's letter concedes that the Board's rules do not allow relocation of beds, but nevertheless states that it intends to do so. We ask the Board to investigate the phantom beds in Waukegan. If phantom beds should have been removed from the inventory, Vista would not have those beds to move. We also ask that the Board further review Vista's response to the question about "Transitional" beds. Transitional beds are not beds that can be held in inventory indefinitely.
2. The Lindenhurst Application Must Include Additional Co-Applicants. Early in this CON process, we contacted the Board to state that Waukegan Hospital Corp. is a necessary applicant. Our January 10 letter sets this out in detail. As a practical matter, how can a hospital agree to give up 108 beds without its being a co-applicant? Further, Vista now argues that Vista East compliance problems are irrelevant to Lindenhurst because they are separate hospitals. The application, however, states that

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Lindenhurst will be a satellite of Vista East. We encourage the Board to investigate further so that all necessary applicants be included in the Application.

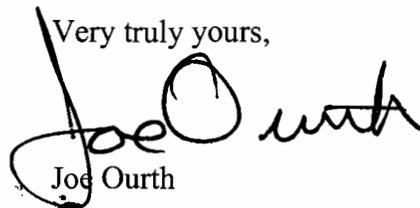
3. Pediatric Category Of Service Requires More Investigation And A Declaratory Ruling. Vista East admits in its filing that it incorrectly reported pediatrics information to the Board. Much of the new information submitted is two years of revised AHQ documents. We believe that more review is required on this issue. At the very least, a change in the AHQ data requires a declaratory ruling request and approval by the Board. This change would also further lower Vista East's already low medical/surgical bed utilization.

4. Vista's Submission Appears To Prove It Did Not Comply With Its \$66,000,000 Capital Commitment. Lake County United wrote to the Board on January 15, 2013 requesting that the Board look into whether Vista had complied with its commitment to invest \$70,000,000 in Waukegan within five years after CHS acquired the Waukegan Hospitals. Vista's own response seems to document that it did not comply. The agreement provided said that it would invest \$66,000,000 within five years. Vista's spreadsheet shows seven years of expenditures and the dates show that CHS did not fulfill its commitment to the community or the Board to make the investment within the required time.

Vista's argument that this issue relates only to Vista East and not Lindenhurst is particularly off base. CHS is the entity that made the contractual commitment as part of the earlier change of ownership and is a co-applicant for Lindenhurst. The timing, amounts and inclusion of non-capital items needs to be further reviewed in the context of the commitment Vista made to the Board as part of its COE.

Because of the importance of these issues we believe that staff and the public should have time to review any new material modifying the Application. To not allow thorough public comment on what is acknowledged to be "serious concerns" would contravene the open and transparent process required by the Planning Act.

Very truly yours,



Joe Ourth

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