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October 16, 2015

Ms. Courtney R. Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street
2nd Floor
Springfield, IL 62761

RECEIVED

OCT 20 2015

**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

BARNES & THORNBURG OBJECTIONS TO:

Project #15-038, Rockford Memorial Hospital-Rockton Avenue Campus

Project #15-039, Rockford Memorial Hospital-Riverside Boulevard Campus

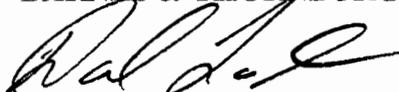
**Project #15-040, Rockford Memorial Hospital-Riverside Boulevard Campus Medical
Clinics Building, Rockford**

Dear Ms. Avery:

Please include my attached letter to Mr. Juan Morado in the above project files.

Very truly yours,

BARNES & THORNBURG LLP



Daniel J. Lawler

DJL:dp
Attachment

Daniel J. Lawler
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October 6, 2015

VIA MESSENGER DELIVERY

Mr. Juan Morado
General Counsel
Illinois Health Facilities and Services Review Board
69 West Washington Street
35th Floor
Chicago, IL 60602-3134

BARNES & THORNBURG OBJECTIONS TO:

Project #15-038, Rockford Memorial Hospital-Rockton Avenue Campus

Project #15-039, Rockford Memorial Hospital-Riverside Boulevard Campus

Project #15-040, Rockford Memorial Hospital-Riverside Boulevard Campus Medical Clinics Building, Rockford

Dear Mr. Morado:

I am writing to follow up on my objections and requests on behalf of OSF Saint Anthony Medical Center at the public hearings for the above projects on September 17, 2015. The objections and requests were submitted orally and in writing, and a copy of the written statement is attached. Specifically, we objected to the applicants' improper misrepresentation of a congratulatory note from the Governor's Office as a "Support Letter" for their CON applications, and requested that the State Board suspend further review of these CON applications, and take action to ensure that the applicants' communications to this Board relating to the Governor's letter do not prejudice any party or adversely affect the fairness of the proceedings.

As more fully set forth and documented in the attached written objections, in 2009, a support letter from a previous Governor's Office was submitted in regard to another CON application. That letter expressly supported a CON application, and drew sharp bi-partisan criticism from the legislative members of the Task Force on Health Planning Reform. Senator Susan Garrett, a co-chair of the Task Force, was quoted in the Chicago Sun-Times as saying: "It's very upsetting to me to hear that while we're pushing for reforming the planning board, the governor is encouraging certain projects to be pushed through." Senator Bill Brady was similarly quoted as saying, "Clearly this is what we set this board up for -- so it wouldn't be political"; "When the person who appoints you weighs in, it is certainly political." Then-Governor Quinn quickly retracted that letter, and said it "... was sent without my knowledge or approval, and should not have been submitted to the Board."

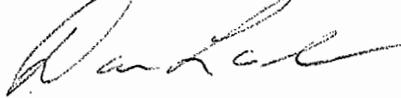
Ms. Juan Morado
October 6, 2015
Page 2

The applicants here submitted Governor Rauner's congratulatory letter with the clear intention of influencing Board member voting on their CON applications. The congratulatory letter is dated, and was submitted to the Review Board by the applicants with their CON applications, so that it was in the project files before the CON applications were even deemed complete and made known to the public. The applicants' intentional misuse of this letter from the Governor is highly prejudicial to parties adversely affected by these CON applications.

For these reasons, OSF Saint Anthony Medical Center renews its requests that the State Board suspend further review of these CON applications, and take action to ensure that the Applicants' communications to this Board do not prejudice any party or adversely affect the fairness of the proceedings. As there is no indication that the Governor's office intended or authorized the letter to be represented as a support letter for the CON applications and submitted into the project files as support letters, we request, at a minimum, that the letters be removed from the three project files. Please advise me of the Review Board's response to this request.

Very truly yours,

BARNES & THORNBURG LLP



Daniel J. Lawler

DJL:dp

Attachment

Daniel J. Lawler
(312) 214-4861
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September 17, 2015

Ms. Courtney R. Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street
2nd Floor
Springfield, IL 62761

BARNES & THORNBURG OBJECTIONS TO:

Project #15-038, Rockford Memorial Hospital-Rockton Avenue Campus

Project #15-039, Rockford Memorial Hospital-Riverside Boulevard Campus

**Project #15-040, Rockford Memorial Hospital-Riverside Boulevard Campus Medical
Clinics Building, Rockford**

Dear Ms. Avery:

We represent OSF Saint Anthony Medical Center in opposition to the above projects. We have many substantive objections to the CON applications, and we are providing them in writing to this Board in accordance with the Review Board's rules. My appearance here today is necessitated by the Applicants' improper misrepresentation of a congratulatory note from the Governor's Office as a "Support Letter" for their CON applications. On behalf of OSF Saint Anthony Medical Center, I object to this highly inappropriate tactic and request that the Review Board take corrective action.

The facts are that the three CON applications were filed on August 18. The applications each included an August 13 letter from the Governor's Office. The same letter was separately mailed by the Applicants' consultant to the Review Board and was separately docketed as having been received on August 24. The letter appears on the Board's website and is labeled "Support Letter – Governor Rauner 8/24/2015."¹

Characterizing this letter from the Governor as a "Support Letter" for the CON applications is a disingenuous and brazen attempt to improperly pressure this Board. The letter is not a supporting statement or endorsement regarding the CON applications. A reading of this brief letter from the Governor reveals that it is a well-wishing congratulatory note intended to be read during an announcement event during which the Applicants apparently intended to announce a hospital project. In the letter, the Governor commends event organizers, congratulates the Applicants on a recent headquarters move and exhibits awareness that the

¹ See Attachment 1: Screen capture of the Applicants' project listings on the Review Board's website.

Applicants intend to build a \$350 million hospital with a variety of potential attributes. It then offers best wishes "... *for a memorable event and many years of success.*"²

A letter exhibiting awareness of an intention to build a new hospital coupled with best wishes for an event and future years of success is not support for, or an endorsement of, these CON applications. Rather, it is an example of countless letters prepared by staff members of public officials to be read at events to welcome or congratulate individuals affiliated with business, not-for-profit and other groups. There is nothing wrong with this letter, and the Governor is entirely within his right to provide a congratulatory greeting of this nature. **What is outrageous is to over-lever the letter and misrepresent it as a letter supporting their specific CON applications. There is no express or implied support or endorsement of the CON applications in the letter.**

Even if the Governor's Office had wanted to, it would have been impossible to have reviewed the CON applications at the time the letter was written *because the CON applications were not filed until five days later on August 18*. Regardless, the misrepresentation of the Governor's "support" was made when the Applicants included the letter in their applications and separately mailed it to the Review Board to be docketed as a "Support Letter." The official project files and the Review Board's website indeed appear to show that a "Support Letter" was received from the Governor, posted on the Board's website and dated August 24, 2015; thereby creating the unfortunate impression that the Governor issued a "Support Letter" *after* the CON applications had been filed.

OSF Saint Anthony Medical Center urges the Review Board to reject the unfortunate practice of the Applicants. This is prejudicial to other parties and unfair to the public officials. The Review Board should not allow circumstances whereby citizens can infer that political actors are influencing the outcome of CON applications for non-substantive reasons -- in derogation of the ethical public policymaking and action of this honorable Board.

In 2009, a support letter from a previous Governor's Office was submitted in regard to another CON application.³ That letter expressly supported a CON application, and drew sharp bi-partisan criticism from the legislative members of the Task Force on Health Planning Reform. Senator Susan Garrett, a co-chair of the Task Force, was quoted as saying: "It's very upsetting to me to hear that while we're pushing for reforming the planning board, the governor is encouraging certain projects to be pushed through."⁴ Senator Bill Brady was quoted as saying, "Clearly this is what we set this board up for -- so it wouldn't be political"; "When the person who appoints you weighs in, it is certainly political."⁵ Then-Governor Quinn quickly retracted

² See Attachment 2: Letter dated August 13, 2015 from Governor's Office to MercyRockford Health System.

³ See Attachment 3: Letter dated March 5, 2009 from Governor's Office to the Executive Secretary of the Health Facilities Planning Board for Project #09-015, Hartgrove Hospital.

⁴ See Attachment 4: Article dated May 17, 2009 from The Chicago Sun-Times.

⁵ *Id.*

that letter, and said it "... was sent without my knowledge or approval, and should not have been submitted to the Board."⁶

The 2009 incident involved obtaining and using a letter supporting a CON application from a Governor who had *not* authorized it. The current incident involves the Applicants' mischaracterization of a congratulatory letter from a Governor who has *not* provided an endorsement of these pending CON applications. The commonality is that in both instances the Governors did *not* take official positions on proposed projects, but efforts were made to make it look that way to this Board. Another commonality is that the same CON consultant retained by Applicants in these cases was also used by the applicant in the 2009 incident.

The Applicants submitted Governor Rauner's congratulatory letter with the clear intention of influencing Board member voting on their CON applications. The congratulatory letter is dated, and was submitted by Applicants, before the applications were even deemed complete and made known to the public. The Applicants' intentional misuse of this innocent congratulatory letter is highly prejudicial to parties adversely affected by these CON applications.

For these reasons, OSF Saint Anthony Medical Center requests that the State Board suspend further review of these CON applications, and take action to ensure that the Applicants' communications to this Board do not prejudice any party or adversely affect the fairness of the proceedings.

Very truly yours,

BARNES & THORNBURG LLP



Daniel J. Lawler

DJL:dp
Attachments

⁶ See Attachment 5: Letter dated May 18, 2009 from Governor Quinn to the Executive Secretary of the Health Facilities Planning Board regarding Project #09-015, Hartgrove Hospital.

<p>15-038 <u>Rockford Memorial Hospital-Rockton Avenue Campus, Rockford Application</u> <u>Support Letter - Governor Rauner 8/24/2015</u> <u>Support Letter - Mayor of Rockford 8/26/2015</u> <u>Support Letter - Chairman Winnebago County Board 8/31/2015</u> <u>Public Hearing Request 9/1/2015</u> <u>Support Letters - Alderman Thompson-Kelly and KishHealth System 9/3/2015</u> <u>Support Letter - La Voz Latina & Editorial - Rockford Register Star 9/8/2015</u> <u>Opposition Letter - Sally Carter 9/10/2015</u> <u>Support Letter - Healing Pathways Cancer Resource Center 9/10/2015</u> <u>Support Letters - Rochelle Community Hospital, ATS Ambulance, RAMP 9/14/2015</u></p>	<p>9/3/2015</p>	<p>10/28/2015</p>
<p>15-039 <u>Rockford Memorial Hospital-Riverside Boulevard Campus, Rockford Application</u> <u>Support Letter - Governor Rauner 8/24/2015</u> <u>Support Letter - Mayor of Rockford 8/26/2015</u> <u>Support Letter - Chairman Winnebago County Board 8/31/2015</u> <u>Public Hearing Request 9/1/2015</u> <u>Support Letters - Alderman Thompson-Kelly and KishHealth System 9/3/2015</u> <u>Support Letter - La Voz Latina & Editorial - Rockford Register Star 9/8/2015</u> <u>Opposition Letter - Sally Carter 9/10/2015</u> <u>Support Letter - Healing Pathways Cancer Resource Center 9/10/2015</u> <u>Support Letters - Rochelle Community Hospital, ATS Ambulance, RAMP 9/14/2015</u> <u>Opposition Letter 9/14/2015</u></p>	<p>9/3/2015</p>	<p>10/28/2015</p>
<p>15-040 <u>Rockford Memorial Hospital-Riverside Boulevard Campus Medical Clinics Building, Rockford Application</u> <u>Support Letter - Governor Rauner 8/24/2015</u> <u>Support Letter - Mayor of Rockford 8/26/2015</u> <u>Support Letter - Chairman Winnebago County Board 8/31/2015</u> <u>Public Hearing Request 9/1/2015</u> <u>Support Letters - Alderman Thompson-Kelly and KishHealth System 9/3/2015</u> <u>Support Letter - La Voz Latina & Editorial - Rockford Register Star 9/8/2015</u> <u>Opposition Letter - Sally Carter 9/10/2015</u> <u>Support Letter - Healing Pathways Cancer Resource Center 9/10/2015</u> <u>Support Letters - Rochelle Community Hospital, ATS Ambulance, RAMP 9/14/2015</u></p>	<p>9/3/2015</p>	<p>10/28/2015</p>



OFFICE OF THE GOVERNOR

207 STATE HOUSE
SPRINGFIELD, ILLINOIS 62706

BRUCE RAUNER
GOVERNOR

August 13, 2015

MercyRockford Health System
Rockford, Illinois 61101

Congratulations!

As Governor of the State of Illinois, I am pleased to welcome everyone gathered for the MercyRockford Health System announcement to build a brand new hospital in Rockford, Illinois.

I would like to take this opportunity to commend the organizers and volunteers of today's event. This is an opportune moment to rejoice in the fact that MercyRockford Health Systems chose to move their corporate headquarters to Rockford. Located off of I-90, this \$350 million healthcare facility is one of the largest and most significant projects in Rockford. By expanding upon the current neonatal region program, this hospital will become the most state-of-the-art health center. Furthermore, this project will expand services, strengthen patient care, enhance access, and bring jobs and economic growth to the region while helping Rockford become a healthcare destination.

On behalf of the people of Illinois, I offer my best wishes for a memorable event and many years of success.

Sincerely,

A handwritten signature in black ink that reads "Bruce Rauner".

Bruce Rauner
Governor, State of Illinois



OFFICE OF THE GOVERNOR
JRTC, 100 W. RANDOLPH, SUITE 16-100
CHICAGO, ILLINOIS 60601

PAT QUINN
GOVERNOR

May 18, 2009

Jeffrey S. Mark, Executive Secretary
Illinois Department of Public Health
Health Facilities Planning Board
525 West Jefferson Street
Springfield, Illinois 62761

Dear Mr. Mark:

Please accept this letter as a retraction of the letter dated March 5, 2009 ("the March 5 letter") that the Office of the Governor previously sent to you in your capacity as Executive Director of the Health Facilities Planning Board. The March 5 letter made reference to Hartgrove Hospital and concerned the hospital's plan to expand mental health services at Garfield Park Hospital.

The March 5 letter was sent without my knowledge or approval, and should not have been submitted to the Board. I now write to make clear that I take no position with respect to Hartgrove Hospital's expansion plan or any other matter before the Board. It is for the Board to determine such matters in accordance with its authority and applicable law.

Thank you for your consideration.

Sincerely,

Pat Quinn
Governor



1 of 1 DOCUMENT

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Chicago Sun Times

May 17, 2009 Sunday
Final Edition

SECTION: NEWS; Pg. A5

LENGTH: 505 words

HEADLINE: Quinn letter a 'mistake'; Office retracts support of hospital expansion after gov draws fire

BYLINE: Jordan Wilson, The Chicago Sun-Times

DATELINE: SPRINGFIELD

BODY:

Gov. Quinn's office took the unusual step late Friday of retracting a letter of support for a West Side hospital expansion after drawing bipartisan criticism for personally promoting the project.

Quinn's office sent a letter bearing his signature to the scandal-plagued Illinois Health Facilities Planning Board, touting Hartgrove Hospital's bid to build an 88-bed mental health facility at 520 N. Ridgeway.

His letter, dated March 5, praised the hospital's "commitment to once again provide services in this community." But it sparked serious questions about why he would personally intervene on a matter before a board that was ground zero in the corruption scandals that knocked former Gov. Rod Blagojevich from office.

Late Friday, Quinn's office said the letter was written without his backing and said it shouldn't have been sent to the board. A new letter correcting the original one would be sent immediately to the hospital construction board.

The letter "was sent out by mistake and does not reflect the opinions of the governor. The governor has no official position on proposed projects before the Health Facilities Planning Board," said a statement from Quinn's office.

"The letter never crossed the governor's desk and was sent out by the governor's Office of Constituent Affairs during a time of transition."

Quinn's office said it put stricter standards in place about a month ago to prevent similar instances from happening.

The mistake is the second embarrassing blow Quinn's administration has faced in less than a month involving the board. In late April, after being appointed by Quinn to chair the board, Dr. Quentin Young abruptly withdrew from the job because of a potential conflict of interest.

Quinn letter a 'mistake'; Office retracts support of hospital expansion after gov
draws fire Chicago Sun Times May 17, 2009 Sunday

Before Friday's mea culpa, Quinn was hammered over the Hartgrove Hospital letter by key members of a legislative panel that recommended dramatic overhauls to the board after the Blagojevich scandal.

"It's very upsetting to me to hear that while we're pushing for reforming the planning board, the governor is encouraging certain projects to be pushed through," said Sen. Susan Garrett (D-Highwood). "It just doesn't make any sense to me."

Later told of Quinn's retraction, Garrett said, "Given the fact he was going through a transition, it might be good to give him the benefit of the doubt. However, the fact this letter became public and a retraction had to be made underscores the fact that we have to continually monitor the Health Facilities Planning Board and make sure politics do not enter into the process."

A top Republican who served alongside Garrett on the Illinois Task Force on Health Planning said Quinn had no business getting involved in the activities of a board he has the authority to appoint.

"Clearly this is what we set this board up for -- so it wouldn't be political," said Sen. Bill Brady (R-Bloomington), who is eyeing a run for governor next year. "When the person who appoints you weighs in, it is certainly political."

A Hartgrove spokesman could not be reached Friday.

Comment at suntimes.com.

GRAPHIC:

Photo: Gov. Quinn ;

LOAD-DATE: May 19, 2009



OFFICE OF THE GOVERNOR
JRTC, 100 W. RANDOLPH, SUITE 16-100
CHICAGO, ILLINOIS 60601

PAT QUINN
GOVERNOR

May 18, 2009

Jeffrey S. Mark, Executive Secretary
Illinois Department of Public Health
Health Facilities Planning Board
525 West Jefferson Street
Springfield, Illinois 62761

Dear Mr. Mark:

Please accept this letter as a retraction of the letter dated March 5, 2009 ("the March 5 letter") that the Office of the Governor previously sent to you in your capacity as Executive Director of the Health Facilities Planning Board. The March 5 letter made reference to Hartgrove Hospital and concerned the hospital's plan to expand mental health services at Garfield Park Hospital.

The March 5 letter was sent without my knowledge or approval, and should not have been submitted to the Board. I now write to make clear that I take no position with respect to Hartgrove Hospital's expansion plan or any other matter before the Board. It is for the Board to determine such matters in accordance with its authority and applicable law.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Pat Quinn".

Pat Quinn
Governor