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Anne M. Murphy
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April 10, 2019

RECEIVED
APR 10 2019
HEALTH FACILITIES & SERVICES REVIEW BOARD

VIA HAND DELIVERY AND EMAIL

Ms. Courtney Avery, Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, IL 62761-0001

Re: Update as to Westlake Hospital (E-004-19)

Dear Ms. Avery:

As you are aware, Westlake Hospital filed Notice of Temporary Suspension of Services through a letter from its CEO that was emailed to you and IDPH at about 8:00 a.m. central time on April 9 (attached). As indicated in that Notice, and as we discussed by telephone yesterday morning, the temporary suspension covers inpatient admissions and all non-emergent surgeries, and took effect at 8:00 a.m. on April 9.

Over the course of the morning and afternoon of April 9, the temporary suspension was fully implemented. IDPH surveyors were onsite at the Hospital, and received the Hospital's suspension implementation plan at the 3:30 p.m. exit interview.

At about 5:30 p.m. on April 9, a Cook County Circuit Court Judge issued a Temporary Restraining Order (attached), enjoining Pipeline Health System LLC and certain other parties from, among other things, "[d]iscontinuing any medical service offered by Westlake Hospital on April 9, 2019, or modifying the scope of medical services that were offered by Westlake Hospital on April 9, 2019, until such time as Defendants receive approval to do so from the Illinois Health Facilities and Services Review Board pursuant to 20 ILCS 3960/1 et seq." The order was entered April 9, 2019 at 4:30 p.m., and is to remain in effect until May 1, 2019 (unless sooner modified or dissolved by the court).

In Court yesterday afternoon, litigation counsel for Pipeline properly disclosed that the Temporary Suspension Notice had been filed and implemented by the Hospital yesterday. As a result of this temporary suspension, the status quo at 4:30 p.m. yesterday was that no inpatient admissions or non-emergent surgeries were being offered at the hospital. Indeed, these services had been temporarily suspended as of 8:00 a.m. yesterday. Nevertheless, the Order took effect at 4:30 p.m.

Given all of the above, Westlake Hospital continues to operate in accordance with the Notice of Temporary Suspension. Hospital representatives believe this is in full compliance with the Order. This is also in deference to ongoing significant patient safety considerations as detailed in the Notice.

It is clear from yesterday's Court proceedings, and the attached Order, that the Court believes the Board will act on the COE Application to Discontinue Westlake Hospital (E-004-19) on April 30. The Court understandably expects the Board to fulfill its statutory responsibilities.

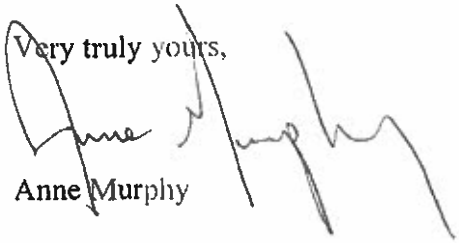
As you know, the COE Application was filed on February 21, and was deemed complete very shortly thereafter. Under Section 8-5a of the Planning Act, the Board must approve the application. As detailed in my April 5 correspondence (attached), we do not believe the Board has a valid basis for delaying consideration of the COE Application on April 30.

We implore the Board to fulfill its statutory obligation to timely consider our properly filed and completed COE Application. If the Board fails to do so, Pipeline and the Hospital will be caught between a Board that refuses to meets its statutory responsibility to act, for an indefinite time period that could drag on for months or years, and a Court system that is awaiting the very action that the Board refuses to undertake. Such a scenario not only would be unfair and patently unreasonable, but would hold Pipeline, a private party, hostage to the whims of whatever third parties might choose to file legal action in the future.

It should not be the case that the State of Illinois can force a private party to operate a non-public hospital at a loss of $2 million a month, under circumstances that raise patient safety concerns. And for this to continue over an extended period of time would defy all reason.

We respectfully ask that this letter and the attachments be made part of the record of COE Application E-004-19.

Very truly yours,



Anne Murphy

Enclosures
AMM:rmc
cc: Ronald Safer, Esq.
Patricia Holmes, Esq.

West Suburban
Medical Center

3 ERIE COURT
OAK PARK, ILLINOIS 60302
708-383-6200

April 9, 2019

VIA EMAIL AND OVERNIGHT DELIVERY

Ms. Courtney Avery, Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, IL 62761-0001

Re: Notice of Temporary Suspension of Services

Dear Ms. Avery:

This serves as notice of temporary suspension of inpatient admissions and of all surgeries at Westlake Hospital, located in Melrose Park, Illinois (the "Hospital"), pursuant to 77 Illinois Administrative Code 1130.240(d) (the "Temporary Suspension Rule"). This suspension is taking effect today, April 9, 2019. All current inpatients will be discharged when clinically appropriate or transferred to another health care facility.

As you know, SRC Hospital Investments II, LLC ("SRC") and Pipeline-Westlake Hospital, LLC ("Pipeline-Westlake") filed a Certificate of Exemption Application to discontinue the operations of the Hospital on February 21, 2019 ("COE Application"). This COE Application was deemed complete by Illinois Health Facilities and Services Review Board ("Board") staff on February 22, 2019. SRC owns and controls Pipeline-Westlake, and Pipeline-Westlake operates the Hospital.

Pursuant to Section 8.5(a-5) of the Illinois Health Facilities Planning Act (the "Act"), the Board is legally required to approve this COE Application. The COE Application is tentatively scheduled to be heard at the Board's meeting on April 30, 2019.

The Hospital has begun to experience staff attrition and a suboptimal clinical staffing mix. These staffing challenges have necessitated extraordinary measures, such as the pulling of staff from West Suburban Medical Center (which is also owned and operated by a subsidiary of SRC) and the increased use of registry nurses.

In addition, a number of Hospital medical staff members have requested relocation of their hospital practices to West Suburban Medical Center. As these physician practices move to

West Suburban Medical Center, clinical staff supporting these practices also must move from the Hospital to West Suburban Medical Center. In other instances, recent lack of responsiveness by Hospital medical staff members to immediate patient needs has raised legitimate concerns about patient care on the part of the Hospital's leadership.

In anticipation of permanent discontinuation of the Hospital, and in fairness to Hospital employees, we are issuing today Worker Adjustment and Retraining Notification ("WARN") Act notices to all Hospital employees. As you may be aware, the federal and Illinois WARN Acts require that we furnish employees with at least sixty (60) days' advance notice of "plant closure".

Our utmost priority and, we believe, that of everyone involved in this process, simply must be appropriate quality of health care services. The combination of recent employee and medical staff deterioration, along with anticipated absenteeism and accelerated attrition after today's WARN Act notice issuance, require us to take this measure in the interest of patient safety. As a result, we are notifying the Board of the temporary suspension of inpatient admissions and of all surgeries.

We will take all reasonable measures to facilitate the transition of Hospital services pursuant to this temporary suspension. We expect this will include substantially increased use of West Suburban Medical Center operations, as well as coordination with the Illinois Department of Public Health and with other area hospitals.

We are filing this notice on the same day services are being suspended, in the interest of transparency, even though the Temporary Suspension Rule permits the notice to be filed up to thirty (30) days after the suspension is implemented. Should significant and pertinent developments come to light within the next thirty (30) days that impact this temporary suspension, we intend to supplement this notice. We also will file periodic reports in accordance with the Temporary Suspension Rule, as applicable.

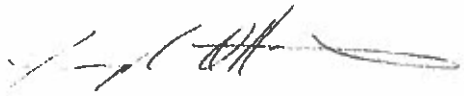
The timetable and circumstances for resolution of this temporary suspension are not fully known at this time. We remain ready to proceed with the COE Application, and hope to do so on April 30. We also have been fully prepared to discuss with elected officials and others the possible transfer of Hospital operations to a third party that has the interest and means to do so. We caution, however, that the Hospital's dire operating and financial realities would create substantial challenges to such a third party. And finally, we are interested in executing our overall plan to consolidate Hospital services at West Suburban Medical Center.

In filing this notice of temporary suspension, we bring to your attention recent precedent that fully supports this action. On December 14, 2018, Vibra Hospital of Springfield, LLC filed notice of suspension of hospital admissions effective December 18, 2018. The notice of temporary suspension cited an intention to file a Certificate of Exemption application to discontinue the facility within sixty (60) days following suspension of admissions. The notice indicated that "[t]he suspension of services is the result of staffing difficulties, the desire to staff

the Hospital with appropriately trained individuals, and a low patient census." It is our understanding that the Board did not object to this temporary suspension, and that all clinical operations at the hospital ceased shortly after the filing of the notice. As you know, the COE application was filed on January 22, 2019, and approved by the Board on March 5, 2019.

Please feel free to contact me with any questions or concerns you may have regarding this notice.

Very truly yours,



Joseph Ottolino

Chief Executive Officer

cc: Karen Senger,
Illinois Department of Public Health

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

VILLAGE OF MELROSE PARK, Plaintiff, v. PIPELINE HEALTH SYSTEM LLC, *et. al,* Defendants.	Case No. 19 CH 3041 Judge Eve Reilly Calendar 07

TEMPORARY RESTRAINING ORDER WITH NOTICE

This cause coming before the Court on Plaintiff's Motion for a Temporary Restraining Order, notice having been given, the Court having reviewed Plaintiff's Verified Complaint, Plaintiff's Motion for Temporary Restraining Order, and the Defendant's Opposition to Plaintiff's Motion for Temporary Restraining Order, and the Court having considered oral arguments of counsel, the Court finds as follows:

1. Plaintiff has raised a fair question that it has a clearly ascertainable right in need of protection;
2. Plaintiff has raised a fair question that Plaintiff will succeed on the merits;
3. Plaintiff has shown that it will suffer irreparable harm if an injunction does not issue; and
4. Plaintiff has shown that it has no adequate remedy at law.

Having weighted and balanced the hardships of the parties, IT IS ORDERED:

1. Defendants are temporarily enjoined from:
    a. Discontinuing any medical service offered by Westlake Hospital on April 9, 2019, or modifying the scope of medical service that were offered by Westlake Hospital on April 9, 2019, until such time as Defendants receive approval to do so from the Illinois Health Facilities and Services Review Board pursuant to 20 ILCS 3960/1 *et seq.*
    b. Creating conditions that change the status quo, including but not limited to:
        i. Terminating employees or contracts that result in insufficient staffing to provide the scope of services that were offered by the Hospital on April 9, 2019;

ii. Failing to maintain facilities, staffing, or supply levels that interfere with providing the scope of services and adequate standard of care to patients that were provided by the Hospital on April 9, 2019.

2. This restraining order is entered on April 9, 2019 at 4:30 p.m. and shall remain in full force and effect until May 1, 2019 at 2:00 p.m., unless sooner modified or dissolved by court order.
3. Per 735 ILCS 5/11-103, no bond is required by a governmental office or agency.
4. Hearing on Plaintiff's Motion for Preliminary Injunction is set for May 1, 2019 at 2:00 p.m.
5. The parties are directed to the requirements governing evidentiary hearings that are contained in the Court's standing order.

Judge Eve M. Reilly

APR 09 2019

Circuit Court - 2122

April 9, 2019
Dated

Judge Eve Reilly

BY COURT ORDER

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Boston, MA 02109-1775
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Anne M. Murphy
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April 5, 2019

VIA OVERNIGHT DELIVERY

Ms. Courtney Avery, Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, IL 62761-0001

RECEIVED
APR 9 2019
HEALTH FACILITIES & SERVICES REVIEW BOARD

Re: Motion to Dismiss

Dear Ms. Avery:

I attach the Defendants' Motion to Dismiss the Complaint that was recently filed by the Village of Melrose Park. The Motion to Dismiss was filed on April 1.

We do not believe Exemption Application E-004-19 (Westlake Hospital) is the subject of litigation within the meaning of 77 Illinois Administrative Code 1130.560(b)(2). Indeed, the Complaint does not name the Illinois Health Facilities and Services Review Board as a party, and does not seek to enjoin the Board or Defendants from taking any action in connection with Exemption Application E-004-19. Exemption Application E-004-19, while it is an exhibit to the Complaint, clearly is not the subject of the litigation.

Any regulatory interpretation that causes this litigation, however specious, to halt for an indeterminate time period the Board's review of a properly-filed discontinuation application is fatally flawed. It is clearly inconsistent with the law, and with the facts.

That said, and reserving the right to challenge any such interpretation, if rendered, we note that Board staff made the Complaint a part of the record of the Application. As a result, we ask that the Motion to Dismiss, and this letter, be made part of the record of the Application as well.

Very truly yours,

Anne Murphy

Enclosures
AMM:rmc
cc: Mr. Michael Constantino