



MECKLENBURG COUNTY
Office of the County Manager

June 3, 2011

Mr. Michael Tarwater
Chief Executive Officer
Carolinas Healthcare Systems
P.O. Box 32861
Charlotte, NC 28232-2861

Dear Mr. Tarwater:

Wednesday evening County Attorney Marvin Bethune received a letter from your General Counsel Keith Smith, a copy of which is attached. Mr. Bethune is sending a response to Mr. Smith that addresses the legal issues raised in the letter.

As you and your Board Chairman Jim Hynes have pointed out, Mecklenburg County and Carolinas HealthCare System have enjoyed a mutually beneficial relationship for more than 70 years. You and I have been colleagues for the past 11 years. Previously these relationships have been built on trust between one government and another government. Despite the past successes, there are several contractual and other issues that cannot be ignored and must be addressed by the County.

The primary purpose of this letter is to place you on notice of breach of the Restated Consolidated Shared Programs Joint Undertaking Agreement of November 2, 2000 between Mecklenburg County and the Charlotte-Mecklenburg Hospital Authority, and to give you notice that Mecklenburg County is withholding payment of funds under this contract until such time as all data and information requests from the County are fulfilled and Carolinas HealthCare System (CHS) complies with the contract with respect to data and information sharing.

Mecklenburg County learned on Wednesday, from sources other than you, of your ongoing efforts to circumvent the state requirement that Mecklenburg County's Local Management Entity (LME, formerly Mecklenburg County Area Mental Health) be involved in your attempt to transfer 44 beds from Broughton Hospital to a new facility at Huntersville Oaks and placed under the license of Mercy Hospital. It appears you requested several weeks ago that the North Carolina General Assembly place in the State's budget bill language that would eliminate the necessity of the County's LME executing an agreement in support of the bed transfer for this facility. When this effort failed, you asked

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legislators to strip an unrelated bill and insert your language during a committee hearing. This bill passed committee without an opportunity for Mecklenburg County to comment on it and is currently scheduled for a vote on the Senate floor. The only conclusion I can draw from your actions is that you hoped to pass this legislation based not on its merits but rather by sneaking it through unnoticed by the County.

During the same time you were seeking these legislative changes affecting Mecklenburg County, you also were meeting, on several occasions, with me and other County officials. However, at no time during these multiple meetings did you reveal your concurrent actions with the legislature. This willful disregard for open and transparent communication appears to have been a furtive action to capitalize on our trust and the 70-plus year relationship. Mecklenburg County would have preferred hearing directly from you about your legislative attempts at circumvention of County authority, and is stunned that you did not tell us. I am hopeful that you will be more ingenuous and forthcoming in responding promptly to the numerous outstanding issues I set forth as follows:

New 44 Bed Psychiatric Facility to be Located at Huntersville Oaks

So that we are clear, Mecklenburg County has neither approved nor opposed the transfer of the beds from Broughton Hospital for your construction and operation of this facility. We are unable to do either because you refuse to provide us with information that is necessary and required under the provisions of the Joint Undertaking Agreement (Section III. D.), to enable the County (LME) to represent to the State that CHS will use these beds to care for residents who are normally placed in psychiatric beds at State psychiatric hospitals and that community services are available to support the beds. Performing this evaluation and assessment is especially necessary in light of the 2011 State Medical Facility Plan, which indicates a need for only 8 additional adult psychiatric beds, with said need being recently more than fulfilled by the acquisition of 15 adult psychiatric beds by Presbyterian Hospital. Your failure to provide the County with information with respect to utilization of CMC-Randolph precludes the County from making any informed representation to the State.

As background, in the summer of 2010 Michelle Lancaster, Mecklenburg County General Manager, notified Greg Gombar, CHS CFO, that State funds would be available to support the transfer of 8 beds from Broughton Hospital. State mental health funds were attached to the bed transfer. Mr. Gombar informed Ms. Lancaster that CHS was not interested and that she should contact Presbyterian Hospital, which she did. Clearly Ms. Lancaster's actions show the County's effort to engage CHS in this endeavor.

Presbyterian Hospital was indeed interested in the beds, and the County assisted in the transfer, bringing Presbyterian's total number of psychiatric beds to 75. The transfer of the beds to Presbyterian fulfilled the adult bed deficit for Mecklenburg County in the 2011 State Medical Facilities Plan.

You recently informed the County that you now want 44 additional adult psychiatric beds (which would bring your total to 110, including the 66 beds at CMC-Randolph) for a new facility at the Huntersville Oaks campus, which is described on your website as "a village of connecting households." A significant question for the County is whether this location is compatible with any patient normally placed in psychiatric beds at the State psychiatric hospitals, which we would have to represent to the State in the bed transfer. Additionally, the County continues to have concerns that the opening of this facility could increase the County's cost to CHS for the operation of CMC-Randolph based on the funding arrangement included in the Joint Undertaking Agreement.

Contributing to the County's concerns are questions as to how this 44-bed facility can be operated by CHS with only 102 employees, while the County pays for the deficit cost of the 66 bed CHS facility that has 525 CHS employees. The County also wonders how your projected \$3.8 million annual loss in the operation of this new facility will be absorbed. The need for additional inpatient psychiatric beds, especially a number as large as 44 when there are already 141 in this community, seems to be inconsistent with national and State trends to treat the mentally ill in an outpatient community setting.

CHS has done little to assuage the County's concerns. Your offer to mitigate financial loss with respect to CMC-Randolph operations by capping County exposure at \$22.4 million per year, with annual increases at the medical care services CPI, does not address these concerns. Again, your failure to provide us with the requested CMC-Randolph information precludes the County from making its own assessment of financial risk.

Upon receipt of the outstanding request for utilization information, the County will be glad to make an assessment of actual short-term bed need in this community, instead of relying upon anecdotal information. This information also will allow us to assess whether there exists sufficient community support services to support beds that significantly exceed the 2011 State Medical Facilities Plan.

Existing Contract Issues

The County is placing you on notice of breach of the Joint Undertaking Agreement, specifically Sections III. C. Sharing of Information and III. D. Patient Information, and is withholding payment until you comply.

Section III. C. requires CHS to provide the County with very specific information by very specific dates (please see attached letter from Marvin Bethune to Keith Smith). The County expects compliance in order for the County to be in compliance with State requirements.

Section III.D. requires CHS to provide the County with non-patient specific information regarding use of the facility. The County needs this information to assess ongoing and future service needs and funding, and to assess whether the facility is being well managed.

Additionally, information that you provided to your consultant, New Heights, and to Mecklenburg County shows a 23% utilization rate by out-of-county residents. Mecklenburg County has made it clear that this facility is for Mecklenburg County residents. We are aware that you are not able to refuse admission due to residency. However, it appears that you use CMC-Randolph in your regional marketing of psychiatric services; with this facility being the location of the 24/7 call center and where the bulk of psychiatric services are provided by CHS.

If there is indeed a bed shortage, it is our expectation that non-Mecklenburg County residents be moved to State or other facilities. We also note that the annual compilation report prepared by the auditors says that CHS collects 100% of all receivables related to the out-of-county patients. Assuming a collection rate of 100% and that none of the patients are medically indigent, it would seem that some or most of the patients have coverage through private insurance, Medicaid, Medicare or are private pay. This might entitle them to your discounts. Mecklenburg County receives no discounts, and is charged your indirect costs and corporate fees that do not appear to be reduced for these out-of-

county patients. It is difficult to fathom that Mecklenburg County taxpayers are subsidizing the care of non-Mecklenburg County residents.

Further, according to your website, you market this County-owned facility to private employers for use in the Employee Assistance Program that you sell, including the County funded call center. At no time have you requested permission from the County to use the facility for this purpose outside the scope of the Joint Undertaking Agreement, and there is no specific accounting of this use.

If our impressions are incorrect with respect to any of these statements, we would welcome the opportunity to review any data or information you can provide to more accurately assess the situation.

Escalating Costs and the County's Future Role in Subsidizing Hospital-Based Comprehensive Psychiatric Services

I have attached a chart that shows the escalating costs of the subsidy to CHS for providing hospital-based psychiatric services. The County has actually reduced services since 2005 yet the cost of your deficit has increased by 124%. Your Health Department subsidy has increased by 79% since that time. I would welcome your comments on how this occurred.

Also, a recent examination of your Medicare cost report shows very large discrepancies in what you report to the federal government as your actual costs for various services and what you charge the County for the same services. Using laundry as an example, you report a cost to the federal government of \$1,100 yet you charge the County \$50,000. I would like for our respective finance officers to meet to discuss why these discrepancies exist and why they are so large.

Additionally, the information provided by Keith Smith in response to some of our questions has given rise to additional questions. CHS is now charging to the Joint Undertaking Agreement \$7,000,000 in corporate fees (indirect costs.) Apparently from Mr. Smith's information 99 CHS positions, not directly involved with providing mental health services, are charged to this contract. This number would appear excessive without further explanation.

Beginning this year, the annual review of the Joint Undertaking Agreement under Section III.E. will be more robust. The County is no longer satisfied with the annual compilation report that CHS has provided over the years. Since you are of the impression that it is instead an audit, the County plans to actually have an audit performed before it agrees to the deficit costs. I assume you will have no objection.

As I have previously stated, the County has renewed its commitment to compliance and has no interest in being less than transparent with the expenditure of taxpayer money. The County expects no less of its contractors.

In closing, as I have stated earlier, I do not intend to manage a \$60 million County taxpayer-funded contract through attorneys. I intend to communicate my questions to you, and I expect my staff to communicate with the most appropriate CHS employee.

Also, I do not want your relationship with the County to end on a bad note. In the weeks to come, I will be discussing with the Board of Commissioners the issues associated with the Joint Undertaking Agreement and the County's future role in subsidizing the delivery of health care, in light of the extent to which the County has provided the subsidy and in light of changes to come under the Affordable Care Act. I will be pursuing, with the Board of Commissioners, the naming of a Blue Ribbon Committee to assist in this task, and I know I can count on your full cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry L. Jones, Sr.", written in a cursive style.

Harry L. Jones, Sr.
County Manager

Cc: Board of Commissioners
Marvin Bethune
Michelle Lancaster