



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

525 WEST JEFFERSON ST. • SPRINGFIELD, ILLINOIS 62761 • (217) 782-3516 FAX: (217) 785-4111

SENT VIA ELECTRONIC MAIL

September 22, 2022

Mr. Joe Ourth, Attorney at Law
Saul Ewing Arnstein & Lehr LLP
161 North Clark Street, Suite 4200
Chicago, Illinois 60601

Re: Exemption Requests E-041-22 to E-050-22.

Dear Mr. Ourth:

This correspondence is in response to the discussion and tabling of the above-referenced exemption projects by the Health Facilities and Services Review Board (hereafter referred to as the "HFSRB" or the "Board"). As you know, the Board did not initially approve this transaction, but at your request, the Board reconsidered and tabled this item to allow the presentation of further information to address its concerns. This letter may also be considered our response to the letter dated September 20, 2022, that this office received from Ms. Kara Friedman, an attorney with the law firm Polsinelli.

I note that each party in this application process continues to reference the rules (Ill. Admin. Code tit. 77 § 1130.520) related to this process. Your position, as we understand it, is that the HFSRB must approve the exemption as soon as the application has been deemed complete. However, at this time, the Board has not deemed this application complete. Moreover, your clients' position is that the transaction documents are excluded from review by the HFSRB. The Health Facilities Planning Act, 20 ILCS 3960, specifically states under Section 8.5 that "an application for a change of ownership need not contain signed transaction documents so long as it includes the following key terms of the transaction: names and background of the parties, structure of the transaction, the person who will be the licensed or certified entity after the transaction, the ownership or membership interests in such licensed or certified entity both prior to and after the transaction, fair market value of assets to be transferred, and the purchase price or other form of consideration to be provided for those assets."

You will recall that the Board's members specifically asked questions relating to these key terms of the transaction, specifically regarding the background of the parties, structure of the transaction, the membership interests, and whether any assets are being transferred.



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In fact, all of the HFSRB questions stemmed from the requirement for the applicants to provide information around those key terms. The HFSRB members questioned why this “affiliation” model has been utilized, who has operational control when Advocate Aurora’s CEO retires, and how this impacts state licensure of existing Advocate hospitals.

For reference, below is a summary list of several questions from the Board regarding this transaction. These questions were asked by HFSRB members at the September 2022 meeting:

- The Board lacks an understanding of the key terms of the transaction, namely, its rationale and what consideration underpins the contract.
- Your application indicated that Advocate Health, Inc. will not be a corporate parent of Advocate Aurora Health. Can you describe what ownership and membership interests Advocate Health, Inc. and Atrium Health will have in Advocate Aurora Health after the transaction?
- Will Aurora Health Inc. have the authority to establish, consolidate, or eliminate services at Advocate Aurora Health’s Illinois hospitals?
- Will Advocate Health Inc. have day-to-day authority over Advocate Aurora Health’s Illinois hospitals?
- Will Advocate Health Inc. have authority to approve all capital transactions for the Illinois hospitals?
- Will Advocate Health Inc. have authority to appoint and remove the members of the board of directors of Advocate Aurora Health?
- Any additional information you deem important to assist the Board to have a comfort level with the background of the affiliated group and its management who will have tie breaker status in approximately 18-months, once the Advocate Aurora CEO retires, would also be appreciated.

Addressing the above questions will greatly assist our members in understanding the key items of the transition, as required by the exemption process. Addressing the above questions will greatly assist the Board’s members in understanding the key items of the transaction required by the exemption process. We welcome submission of any additional information you deem important to assist the HFSRB with having a better understanding of the structure of the transaction and the resulting affiliated group and its management.

There is also one piece of housekeeping that we need to address, you told me that in your absence,



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Ms. Friedman would fill in; we will need written notice of that from the Applicant to complete the file to formally continue that direct dialogue. Should you have any questions, please do not hesitate to reach out to me.

Sincerely,

A handwritten signature in blue ink, appearing to read "John P. Kniery".

John P. Kniery
Administrator

Cc: Kara Friedman, Attorney-at-Law, Polsinelli
Mike Constantino, Chief, Project Review, IDPH
Douglas Dorando, Deputy General Counsel, IDPH