

**STATE OF CONNECTICUT**

IN RE APPLICATION FOR JOINT VENTURE BETWEEN GREATER WATERBURY HEALTH NETWORK, INC. and VANGUARD HEALTH SYSTEMS, INC. : OFFICE OF HEALTH CARE ACCESS DOCKET NO. 13-31838-CON : OFFICE OF THE ATTORNEY GENERAL DOCKET NO. 13-486-01 : NOVEMBER 7, 2014

**RULING ON APPLICANTS' MOTION TO STRIKE PRE-FILED TESTIMONY OF LAUREN M. BATES**

By motion dated November 3, 2014, the Greater Waterbury Health Network, Inc. (“GWHN”) and Vanguard Health Systems, Inc. (“Vanguard”) (together, the “Applicants”) move to strike from the record the written testimony of Lauren M. Bates dated October 15, 2014 admitted into evidence at the hospital conversion hearing held on October 15, 2014, in connection with the Application for Joint Venture between Greater Waterbury Health Network, Inc., and Vanguard Health Systems, Inc. (the “Application”), OAG Docket No. 13-486-1 and OHCA Docket No. 13-31838-CON.

The Office of the Attorney General (“OAG”) and the Department of Public Health, Office of Health Care Access (“OHCA”) (together, the “State”) hereby deny the Applicants’ Motion to Strike the testimony of Lauren M. Bates.

Ms. Bates written testimony was offered at the hearing by the intervenor Connecticut Health Care Associates (CHCA). Applicants assert as grounds for their motion that the pre-filed testimony was untimely filed in accord with the order allowing the intervention of CHCA and that Ms. Bates was unavailable to adopt her testimony under oath as required under the order and regulations applicable to OHCA. At beginning of the hearing on this matter, Ms. Bates written testimony was first considered as among the exhibits to be made part of the record to this proceeding. At that time, the Applicants objected to admission of the written testimony as being untimely. The objection was overruled but the Applicants were allowed an opportunity to respond in writing to the testimony by October 24, 2014. Transcript 10/15/14 at 15.<sup>1</sup> Although, the Applicant was provided an opportunity to respond to Ms. Bates testimony in a post hearing filing, it failed to do so. In addition, Regulations of Connecticut State Agencies §19a-9-29(g) provides that nothing in the Department of Public Health rules of practice "shall be construed as limiting the ability of the presiding officer to make such orders as will aid in the just, economic, and efficient resolution of a case." The orders issued regarding Ms. Bates testimony were consistent with this provision.

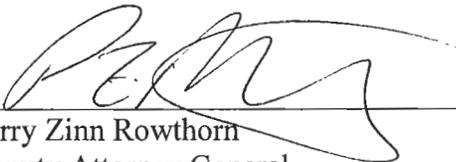
Thereafter when CHCA began the presentation of their evidence, counsel for CHCA explained that Ms. Bates was unavailable at the time to adopt her testimony due to airplane flight difficulties and asked that her pre-filed testimony be accepted for the record. Transcript 10/15/14 at 151-52. Neither at that time, nor at any other time during the hearing did the Applicants object to the admission of the testimony based upon Ms. Bates failure to appear and adopt it under oath or seek any remedy to address their inability to cross examine her. It is also noteworthy that Applicants

---

<sup>1</sup> Of note, Applicants' motion was not filed in accord with this time limit.

did not object to the decision by the State to allow the record to remain open to allow the public, including persons who were not intervenors, to submit for consideration comments regarding the application after the hearing adjourned. Transcript 10/15/14 at 15-16. Ms. Bates statement could have been admitted under that procedure as well as in accord with Conn. Gen. Stat. § 4-177c(b).<sup>2</sup>

Given the failure to timely raise objections as to the appearance of Ms. Bates at the hearing and the previous order overruling the timeliness objection, the motion to strike is denied.

  
\_\_\_\_\_  
Perry Zinn Rowthorn  
Deputy Attorney General  
Office of the Attorney General

  
\_\_\_\_\_  
Kevin T. Hansted  
Hearing Officer  
Office of Health Care Access

11/7/14  
Date

11/7/14  
Date

---

<sup>2</sup> Conn. Gen. Stat. § 4-177c(b) states: "Persons not named as parties or intervenors may, in the discretion of the presiding officer, be given an opportunity to present oral or written statements. The presiding officer may require any such statement to be given under oath or affirmation."