

GEORGE C. JEPSEN  
ATTORNEY GENERAL



55 Elm Street  
P.O. Box 120  
Hartford, CT 06141-0120

Office of The Attorney General  
**State of Connecticut**

November 13, 2014

**VIA ELECTRONIC MAIL**

Dennis P. McConville, Senior VP &  
Chief Strategy Officer  
Eastern Connecticut Health Network, Inc.  
71 Haynes Street  
Manchester, Connecticut 06040

Jeffrey Peterson, Senior Counsel  
Tenet Healthcare Corporation  
1445 Ross Avenue, Suite 1400  
Dallas, Texas 75202

Nancy Rosenthal, Senior VP &  
Health Systems Development  
Yale-New Haven Health Services Corporation  
789 Howard Avenue  
New Haven, Connecticut 06519

**Re: Eastern Connecticut Health Network, Inc. – Proposed Asset Purchase by Tenet  
Healthcare Corporation and Yale-New Haven Health Services Corporation - OHCA  
Docket No. 14-31926-486 and Attorney General Docket No. 14-486-01**

Dear Mr. McConville, Mr. Peterson, and Ms. Rosenthal:

On October 24, 2014, the Application of Eastern Connecticut Health Network, Inc. (“ECHN”), including Manchester Memorial Hospital (“MMH”) and Rockville General Hospital (“RGH”), Tenet Healthcare Corporation, Inc. (“Tenet”) and Yale-New Haven Health Services Corporation (“YNHHS” and referred to collectively with ECHN and Tenet herein as “Applicants”) was filed with the Office of Health Care Access, Department of Public Health (“OHCA/DPH”) and Office of the Attorney General (“OAG”) for the transfer of substantially all of the assets of ECHN and its related affiliates to a newly established, for-profit affiliate of a joint venture company to be formed by Tenet and YNHHS.

The OAG and OHCA/DPH have determined that there are deficiencies in the Application that require clarification and/or additional production. Conn. Gen. Stat. § 19a-486a(d). Accordingly, please respond to the following questions and/or submit the following materials to the OAG and OHCA by January 12, 2015.

1. Please provide draft copies of the Certificate of Incorporation and the Bylaws for the proposed Conversion Foundation.
2. Please provide a draft of Schedule 2.02(n), the listing of the assets of the ECHN Community Healthcare Foundation, Inc., to the extent the list is not duplicative of your Exhibits 17, 18, and 19 to the Application.
3. Please provide a financial analysis (balance sheet) of the proposed transaction that lists the assets and liabilities of the nonprofit hospital as of the most recent quarter end, and then sets forth the projected balance sheets of the surviving nonprofit entity and the for-profit purchaser that reflect the agreement of the parties regarding the assets and liabilities retained and assumed by the respective parties post-close.
4. Page 19 of the Application and section 5.18, Capital Commitment, of the Asset Purchase Agreement (“APA”), pages 180-181, states that VHS Eastern CT will continue to operate both MMH and RGH as acute care hospitals for at least three years. Applicants also state on page 53 of the Application that “ECHN, Tenet and YNHHS are committed to ensuring the long-term future and viability of MMH and RGH.” Please reconcile these two statements. In responding to this question, please answer the following:
  - a. Why is the commitment period to operate both hospitals as acute care hospitals limited to three years?
  - b. What performance criteria/financial metrics will be used to determine whether one or both of MMH and RGH will continue or cease operations beyond this three-year period?
  - c. Discuss all previous closures or relocations of acute care hospitals undertaken by Tenet, the dates of such closures or relocations, and the factors that led to the decision to close or relocate the hospital?
  - d. Have any of the Applicants studied the impact on health care delivery in the service area if either MMH and RGH were to cease operations as an acute care hospital and, if so, what were the results of that study?
  - e. Is one of the ECHN hospitals more vulnerable to closure after the three-year period than the other and, if so, which one?
  - f. Please provide a detailed explanation for the answer to subsection (e) above.
5. On pages 19 and 26 of the Application, Applicants state that VHS Eastern CT will pay \$105 million for the assets of ECHN, subject to adjustments that will include net working capital reconciliation. On page 106 of the Application, the Applicants indicated that the Buyer intends to pay \$135 million to ECHN as full consideration for the assets minus the net working capital as of the closing date for the Asset Purchase (“Closing Date”). On page 621, Exhibit 13, the Applicants indicated that the initial agreement envisioned a purchase price of \$135 million, but the amount was subsequently revised to

\$105 million after completion of financial due diligence by the Buyer. Provide a detailed description of the factors that reduced the purchase price by \$30 million. Include a list of the items, if any, eliminated from the proposed Asset Purchase that resulted from this process.

6. How will the commitment by VHS Eastern CT to spend \$75,000,000 on capital items over 5 years be impacted or influenced by the shorter 3-year commitment with respect to the continued operation of MMH and RGH as acute care hospitals? In responding to this question please also answer the following:
  - a. Will spending for capital items at either hospital be impacted by an assessment period to determine the hospital's viability?
  - b. Which projects on the list of priority capital projects in terms of medical equipment and information technology as well as construction and renovation set forth at page 82 of the Application are expected to be carried out within the first year following the "Closing Date"?
  - c. Which projects on the list are expected to be carried out within the first three years following the Closing Date?
7. Please confirm whether it is the Applicants' intention to appoint separate Chief Executive Officers for each of MMH and RGH post-closing and, if so, why this is being done?
8. Reference is made to page 23 of the Application and the description of the governance of the Tenet/YNHHS joint venture Regional Provider Organization ("RPO"), and the reference to the approval rights of YNHHS related to material decisions. These approval rights have been previously represented to the OAG and OHCA to cover the following actions by the RPO and its subsidiary healthcare facilities (of which VHS Eastern CT would be one): (i) acquisition of a healthcare facility by the RPO; (ii) a joint venture or major service line agreement between a healthcare facility that is owned by the RPO and a healthcare facility that is not owned by the RPO; (iii) the merger of a healthcare facility that is owned by the RPO with a healthcare facility that is not owned by the RPO; (iv) a transfer or affiliation agreement between a healthcare facility that is owned by the RPO and any tertiary hospital that is not owned by the RPO; (v) an academic affiliation between a healthcare facility that is owned by the RPO with an academic institution other than the Yale School of Medicine or a similarly accredited institution subject to certain conditions; (vi) the admission of a new member to the RPO; (vii) a management services agreement or an amendment thereto between Tenet and a healthcare facility owned by the RPO; (viii) any contract between the RPO or a healthcare facility owned by the RPO with Tenet or an affiliate that is not made in the ordinary course of business and on commercially reasonable terms; and (ix) any outsourcing of any major service line by a healthcare facility owned by the RPO to a

healthcare facility not owned by the RPO. With respect to these approval rights, please answer the following.

- a. What is the nature of YNHHS' approval rights (i.e., are they reserved powers or another form of governance right)?
  - b. If YNHHS does not grant its approval to an action described above, but a majority of the seven-member Board of Managers of the RPO favors the action, can the RPO undertake the action?
  - c. If the answer to the question in subsection (b) is yes, please describe the governance processes that would permit the RPO to undertake the action.
  - d. If the answer to the question in subsection (b) is no, please describe the protections that are in place to prevent YNHHS from acting in a manner that could create a conflict of interest for YNHHS between the hospitals and health systems in which it has 100% ownership and the hospitals and health systems owned and controlled by the RPO in which YNHHS would have a 20% ownership interest.
9. In reference to the statement related to capital commitment on page 27, "VHS Eastern CT has the right to defer this commitment beyond a five-year period if the State of Connecticut enacts any legal requirements after closing that discriminate against for-profit hospitals and cause the Hospital Businesses to suffer a decline in EBITDA of more than ten percent in any year on a consolidated basis." Please identify any legal requirements connected with Tenet's operations in other markets that Tenet has considered to be discriminatory against for-profit hospitals and describe the financial consequences of such legal requirements.
10. On page 28 of the Application and section 5.17 of the APA (Educational Support), page 180, the Applicants state that the "Buyer agrees to maintain and support financially the University of New England medical student and other health professions teaching programs established by Seller, in addition to Seller's graduate medical education programs, while operating at a level to not exceed the Indirect Medical Education and Direct Graduate Medical Education caps that may be established by CMS." Please explain the meaning of the statement "while operating at a level to not exceed the Indirect Medical Education and Direct Graduate Medical Education caps that may be established by CMS" and how this condition to continued financial support impacts the growth of ECHN's medical education programs in the future. Please also describe:
- a. All health profession teaching programs established by ECHN;
  - b. What affiliations, if any, currently exist between the Yale School of Medicine ("YSM") and MMH and RGH, respectively;
  - c. What affiliations between MMH and RGH, on the one hand, and YSM, on the other hand, are planned if the Asset Purchase is approved;

- d. If applicable, how ECHN's relationship with the teaching programs of University of New England – College of Osteopathic Medicine (UNECOM) and its Family Practice Residency Program will co-exist with its affiliations with YSM; and
  - e. The nature of any planned affiliation between YSM and the hospitals owned and controlled by the RPO.
  
11. On page 28 of the Application and section 5.16 of the APA, page 180, the Applicants state that "VHS Eastern CT will also ensure that each Hospital maintains and adheres to ECHN's current policies regarding charity care, indigent care, community volunteer services and community benefits (or adopts other policies that are at least as favorable to the community as ECHN's current policies)." With respect to this statement please address the following:
  - a. ECHN's Financial Assistance and Charity Care Policy appears to cap eligibility for uncompensated care at 250% of the federal poverty limit ("FPL"). Are uninsured and underinsured patients with incomes above 250% to 400% of the FPL eligible to receive uncompensated care or other financial assistance?
  - b. How many Tenet hospitals limit financial assistance and charity care at 250% of the FPL?
  - c. What are the plans of the RPO to standardize charity care policies across the hospitals that it seeks to control and, if such standardized policies are planned, is the RPO committed to implementing the charity care policy of the hospital with the most generous policy across the network?
  - d. Please provide any policies and procedures of ECHN regarding indigent care, community volunteer services and community benefits.
  
12. On page 32 of the Application, the Applicants indicated that in the first half of fiscal year 2012, with the implementation of health insurance exchanges pending, ECHN began to model pro forma projections for the next five years. Please provide a contemporaneous copy of this pro forma and the assumptions associated with the projections. Also, please provide a calculation showing each element of the projected \$7.5 million in decreased funding projected for FY 2015 that is referenced on page 83 of the Application.
  
13. Reference is made to page 34 of the Application and the RFP delivered to Vanguard and YNNHS attached at Exhibit 4 to the Application. Based on the terms of the Strategic Alliance Agreement entered into between Tenet and YNHHS and Tenet's and YNHHS' proposed joint venture RPO, please provide answers to the following questions that were posed in the RFP under the headings Vision and Operations or Service Commitments/Enhancements:
  - a. Will the medical staffs of MMH and RGH be integrated with those of any other hospital controlled by the RPO or with the medical staff of YNHHS? Please provide

- an explanation for your answer, including the manner in which enhanced clinical care will be provided to the community and shifts in referral patterns that are likely to occur under the medical staff arrangement that will be followed.
- b. Please describe the way in which YNHHS, as the clinical partner in the RPO, measures quality and safety and discuss how its hospitals perform in terms of CMS quality indicators and patient satisfaction.
  - c. Please discuss VHS Eastern CT's and the RPO's strategy that will followed for clinical integration and alignment with employed and independent medical staff members.
  - d. What approach will VHS Eastern CT and the RPO take with respect to medical staffing, and/or facility equipment and enhancements for ECHN with respect to the following services (please provide as many specifics as possible):
    - i. Enhancing and expanding Primary Care capabilities, in existing and new markets,
    - ii. Cardiovascular Services, including Diagnostic and Interventional Catheterization, Electrophysiology and Pacemaker Programs,
    - iii. Cancer Care, including Medical Oncology and specialty Oncologic Surgery,
    - iv. Maternal Fetal Medicine/Perinatology,
    - v. Bariatric Surgery,
    - vi. Orthopedics, with an emphasis on Spine Surgery and Joint Replacement Surgery, and
    - vii. Pain Management Service/Program.
  - e. What are the plans for maintaining or enhancing ECHN's current non-acute programs, such as the skilled nursing and rehabilitation center and the visiting nurse service, as well as joint ventures, such as Tolland Imaging Center, Evergreen Endoscopy Center, Eastern Connecticut PHO, Community Cancer Care and others?
14. With respect to the post asset purchase organizational chart provided at page 1829 of the Application which depicts the relationship of VHS Eastern CT to its parent, the RPO, please clarify which organization, VHS of Connecticut, LLC or the RPO, will have the 80%, 100% and 100% interest in the VHS Waterbury Health System, VHS Saint Mary's Health System and the Tenet Medical Foundation, Inc., respectively.
15. Questions 14, 15 and 16 of the Application were each two-part inquires, asking whether: (i) there is a proposed corporate relationship between the New ECHN Hospital (VHS Eastern CT) and other proposed VHS health systems, specifically, the Waterbury, Saint Mary's and Bristol Health Systems; and (ii) there are any related strategic, marketing, and/or financial analyses related to this transaction and any of those. In response, Applicants only addressed item (i). Please address item (ii).
16. In response to Question 19 of the Application (page 53), Applicants state that "[n]o service line or service location changes are currently anticipated in connection with the proposed transaction" (the same statement is made on page 59 in response to Question

- 20). However, in response to Question 18 (page 51), Applicants state that this transaction will provide ECHN with the ability to “expand and add needed services, recruit and retain physicians, and improve access to services across its service area.” In response to Question 29, page 74, Applicants state that one expected component of the planned capital expenditures “is to add ambulatory access points in the region.” Please clarify whether there are plans to add service locations for either MMH or RGH and where Applicants’ believe access can be improved.
17. In reference to the statement “Tenet will use cash to pay the Purchase Price. Cash also will be used for the \$75 million in capital expenditures” on page 80 of the Application, please address the following:
- a. Will the full \$180 million be paid from Tenet’s cash from operations?
  - b. Is YNHHS contributing cash to pay for the purchase price and/or capital expenditures?
  - c. If applicable, describe the process in which cash from Tenet’s accounts will be transferred to VHS Eastern CT to meet the capital expenditure payments.
  - d. Will there be an intercompany line of credit set up to fund the \$75 million capital expenditures and how else will VHS Eastern CT be assured that these monies will be made available?
18. Please provide a supplement to Exhibit 33 (Staffing Attachment I, page 1839 of the Application) showing, for FY 2014, staff to patient ratios calculated using actual average daily census and the number of nursing staff (or RN) full-time equivalents who actually worked in each unit or department instead of budgeted amounts for these categories.
19. For MMH and RGH, please provide separate Financial Attachment I(A) showing one year of actual results and three years of projections of total revenue, expense and volume statistics without, incremental to and with the CON proposal in the following reporting format:
- a. Financial Attachment I(A) – for MMH without the CON project (columns 1, 2 5, 8 & 11) and for MMH with the CON project and incremental to the CON project (remainder columns);
  - b. Financial Attachment I(A) – for RGH without the CON project (columns 1, 2 5, 8 & 11) and for RGH with the CON project and incremental to the CON project (remainder columns);
  - c. Provide the Assumptions used and explain any projected losses from operations; and
  - d. Please submit the Financial Attachments I(A) using the same page and print layouts (size, font, page orientation, margins, etc.) as provided by OHCA.

20. In reference to Assumptions Utilized in Developing Financial Attachment 1, Exhibit 32, please answer the following:
- a. Explain the rationale for assuming a modest outpatient growth of 1% with the CON and no projected increase in discharge volume with the CON when on page 89 of the Application it is indicated that Applicants' intention is to make significant capital investments that will drive additional volumes;
  - b. Explain why the Applicants assumed a 0.5% increase in employee productivity without the CON as well as with the CON and why employee productivity is not expected to increase at a higher percentage rate with the CON than without it;
  - c. Applicants assumed a supply expense reduction of \$2.6 million related to the increase in purchasing power from affiliating with Tenet. In reference to this assumption, please address the following:
    - i. Explain how the total savings of \$2.6 million in supply expenses is achieved when, at the same time, Applicants assumed an increase of 3% in supplies and drugs pricing each year with the CON;
    - ii. Explain how the total savings in supply chain expenses of \$2.6 million with the CON is less than the assumed reduction of \$3.7 million in supply chain and purchasing efficiencies without the CON;
    - iii. Does the \$2.6 million include savings for drug supplies as well as for medical supplies? If yes, provide the breakdown. If not, provide the amount in savings for drug supplies related to the projected involvement with Tenet's national vendors; and
    - iv. Elaborate on how the \$2.6 million in supply expense savings (drugs and medical) will translate into cost savings for MMH's and RGH's patients.
  - d. The Financial Assumptions project cuts of \$2.6 million in Medicaid payments and \$4.6 million in Medicare due to the wage index factor adjustment. The Applicants also project a reduction in other operating revenue due to cuts in meaningful use incentives. What post-closing plans for MMH and RGH under current ECHN ownership have been made to account for the changes in state and federal hospital funding with and without the CON?
  - e. Explain the reduction in Medicare reimbursement due to a one-time adjustment in FY 2014 and provide the dollar amount.
21. In reference to Financial Attachment I(A), please address the following:
- a. Explain the upward projected trend in total operating expenses between FY 2015 and FY 2017;



- b. Provide a breakdown of the amounts reported under the other operating expenses line item, without the CON, and with the CON, for FYs 2015, 2016 and 2017;
  - c. Explain the downward projected trend in operating income between FY 2015 and FY 2017.
22. In reference to Tenet’s Form 10-K, pages 743, 744, and 747, please provide the factors associated with the increases and decreases for the following accounts between 2012 and 2013:
- a. Net Income from \$133 million to (\$104) million;
  - b. Total Assets from \$9.0 billion to \$16.1 billion;
  - c. Total Liabilities from \$7.8 billion to \$15.0 billion;
  - d. Total Equity from \$1.2 billion to \$878 million; and
  - e. Cash and Cash Equivalents from \$364 million to \$113 million.
23. Provide revised tables 6 (Population Mix), 8, 9, 10, and 11(Schedule H) that will include the numeric years associated with the labels “Current” and “Year 1, 2, and 3”. With respect to Schedule H, Part II, Community Building Activities for both MMH and RGH, please describe the specific activities included, the amount of spending allocated to each activity and how the projections demonstrate VHS Eastern CT’s commitment to maintain and adhere to ECHN’s current policies regarding charity care, indigent care, community volunteer services and community outreach services.
24. Please provide monthly financial statistics reports for the months of September and October FY 2014, current month and year-to-date, and comparable period for FY 2013, for each of MMH and RGH only, ECHN, and YNHHS. Thereafter, please provide this same data on a monthly basis for each month, until a public hearing in this matter is held. The following financial measurements/indicators should be addressed in the reports:

**Monthly Financial Measurement/Indicators**

<b>A. <u>Operating Performance</u></b>
Operating Margin
Non-Operating Margin
Total Margin
Bad Debt as % Gross Revenue
<b>B. <u>Liquidity</u></b>
Current Ratio
Days Cash on Hand
Days in Net Accounts Receivables
Average Payment Period

<b>C. <u>Leverage and Capital Structure</u></b>
Long-term Debt to Equity
Long-term Debt to Capitalization
Unrestricted Cash to Debt
Times Interest Earned Ratio
Debt Service Coverage Ratio
Equity Financing Ratio
<b>D. <u>Additional Statistics</u></b>
Income from Operations
Revenue Over/(Under) Expense
EBITDA
Patient Cash Collected
Cash and Cash Equivalents
Net working Capital
Unrestricted Assets
Credit Ratings (S&P, FITCH and Moody's)

Please mail two (2) complete hard copies and one (1) complete electronic copy of the requested materials for approval to the following address:

Office of the Attorney General  
55 Elm Street, P.O. Box 120  
Hartford, Connecticut 06141-0120  
Attn: Gary W. Hawes, AAG

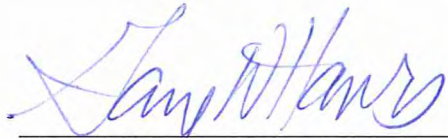
Please mail seven (7) complete copies of the requested materials to the following address:

Office of Health Care Access, Dept. of Public Health  
410 Capitol Avenue  
Hartford, Connecticut 06134  
Attn: Steven W. Lazarus

After receipt of these requested materials, the OAG and OHCA shall review the submission to determine whether the Application for approval is complete. If not, the OAG and OHCA shall provide written notice of any deficiencies within twenty (20) days of receipt of the supplemental Application materials.

Should you have any questions regarding these requests or any other issues relating to OHCA's or the OAG's review, please do not hesitate to contact either Steven W. Lazarus at the Department of Public Health (860-418-7012; Steven.Lazarus@ct.gov) or Assistant Attorney General Gary W. Hawes at the Office of the Attorney General (860-808-5020; gary.hawes@ct.gov).

Very truly yours,



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Gary W. Hawes  
Assistant Attorney General  
Office of the Attorney General

Very truly yours,



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Kimberly Martone  
Director, Office of Health Care Access  
Department of Public Health

cc: Steven Lazarus (via electronic mail)  
Melinda A. Agsten (via electronic mail)  
Collin P. Baron (via electronic mail)