



Testimony of
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Bipartisan Round Table on Hospitals and Health Care
Informational Hearing on Connecticut's Hospital Conversion process – Statutes,
Regulation and Precedent
October 23, 2014

Good afternoon. My name is Melodie Peters and I am the President of AFT Connecticut, a diverse union of nearly 29,000 public and private sector members. We are proud to represent approximately 700 nurses, technicians and healthcare workers in four bargaining units at Manchester and Rockville Hospitals, which make up ECHN. ECHN is seeking a Certificate of Need (CON) to convert from a non-profit to a for-profit healthcare system by transferring assets to Tenet Health Care Corporation and Yale-New Haven Health Services Corporation.

AFT Connecticut recognizes that the healthcare landscape is quickly changing and that ECHN has decided that the only path to long term financial stability is to abandon its non-profit status and partner with for-profit healthcare corporations. We recognize that we cannot stop this from happening, but as healthcare professionals with a responsibility to advocate for our patients, their families and our communities, we are concerned about preserving patient access to high quality care and protecting the commitment to community service programs that we have come to expect at ECHN. We want our ECHN hospitals to continue to be responsive to these concerns and provide access to all, not just to those who can afford to pay for profitable services. For these reasons, we have strongly urged all actors to act openly, honestly and transparently by engaging stakeholders, not shareholders.

Last year when ECHN executives decided to pursue a for-profit partner, they also initiated substantive discussions with union representatives about their intentions. This process allowed for a frank labor-management dialogue which permitted the fundamental needs and interests of each party to be clarified and communicated at the earliest stages of the process. Ultimately, this process resulted in a number of significant changes in existing collective bargaining agreements and perhaps more importantly, to the extent allowed by Tenet Healthcare Corporation and Yale-New Haven Health Services Corporation, will continue to provide an important line of communication between ECHN and its employees throughout this transition.

While this dialogue was unfolding with ECHN management, AFT Connecticut also encouraged them to engage the community in the same spirit of cooperation. To their credit, ECHN hosted two forums in May and April to explain their intentions. It was an

important opportunity to begin a process by which the hospitals could move away from simply threatening closure and move instead toward responsiveness and accountability to community needs and concerns.

Those concerns will not end as a result of those forums or the two CON Determination hearings held in June. ECHN and its for-profit partners must demonstrate that they will protect access and quality of care. There are a number of collaborative ways in which this important work can be done. The CON Determination Legal Notice issued by ECHN mentions a number of “features of the proposed transactions that will benefit the current employees and communities” it serves. We feel a number of them do not take full advantage of the resources ECHN has at its disposal.

Though the statute does not require it, OHCA and the Attorney General have the authority to take extra steps to ensure the public trust. We can learn from what other states have done and what was done in our state with Sharon Hospital. We suggest to you that, at minimum, a successful hospital conversion must include:

Community Oversight Board

In its CON Determination Legal Notice, ECHN mentions the establishment of a local advisory board of trustees to serve as a resource on capital investment, maintenance, implementation of strategic business plans, medical staff credentialing and quality assurance oversight. ECHN claims this board would be comprised of physicians and individuals drawn from the local community with an understanding that they will provide input regarding community needs and expectations.

In theory, this sounds appealing. In practice, without knowing who in fact will appoint board members, it is impossible to be certain those appointed will be independent voices representing all stakeholders instead of acting as rubber stamps for the new hospital. Legislative efforts were rejected last month that would have required hospitals converting to for-profit status to establish true community oversight boards with members appointed by elected policy leaders who represent all stakeholders, including direct patient caregivers. If hospitals and their partners will not establish such a board voluntarily, we urge the Attorney General and OHCA to require it as a condition of any conversion.

Independent Monitor

Efforts to create and fund an independent monitor for hospitals undergoing conversion were rejected during the legislative session. Such a role would ensure that hospitals and their partners live up to the terms of the approved conversion and keep the promises they made to the community. An independent monitor would produce a baseline report on services, staffing levels, uncompensated care, community programs, employee benefits and other measures at the time of conversion. That way, when performance audits are conducted, cuts made after the conversion could be easily identified and their impacts monitored. Establishing an independent monitor would ultimately facilitate dialogue between the hospital, patients, communities, the Attorney General and the Department of Public Health, creating a mechanism for success. If

Waterbury Hospital and its partners will not create an independent monitor voluntarily, we urge the Attorney General and OHCA to require it as a condition of any conversion.

Charitable Care/Community Benefits

Proposals were rejected during the legislative session that would have required hospitals undergoing conversion to establish written agreements detailing minimum levels of spending on charitable and uncompensated care, community outreach and volunteer services. In the case of ECHN, for example, in the CON Determination Letter, ECHN and its partners agree only to maintain or adopt policies that are at least as favorable as ECHN's current policies. Who will determine what is "at least as favorable" and who will determine that ECHN's current policies are in fact adequate? We call on hospitals and their partners to establish a detailed, definitive written community benefits agreement voluntarily, but urge the Attorney General and OHCA to require it as a condition of any conversion if they do not.

Employment

Proper patient care cannot be delivered without a qualified, dedicated workforce. All five hospitals engaged in dealings with Tenet have such staffs, but none have done anything definitive to guarantee that these employees will be treated respectfully with regard to wages, benefits, staffing levels or job security.

For example, ECHN's CON Determination Legal Notice promises employment to *substantially* all ECHN employees, with salaries and benefits consistent with those of other Tenet employees. It also provides that existing collective bargaining agreements will be assumed and honored for the existing terms. We urge Tenet Health Care Corporation and Yale-New Haven Health Services Corporation to not only honor the current collective bargaining agreements through their duration, but to recognize all unions where they exist and continue to bargain with them in the future. To not do so would be destabilizing for the workforce and the communities in which they live. It would also have a negative impact on the quality of patient care.

Collective bargaining is an effective process that puts hospital management and employees on equal footing to address issues. Just last week, AFT members demonstrated their willingness to support the financial viability and continued provision of services within their communities by agreeing to difficult wage concessions at ECHN. Nonetheless, it cannot be denied that there remain significant concerns and fears among the workforce as to what may lay ahead in the coming months and years with the entry of an out-of-state based for-profit health care corporation. For those reasons, unions and collective bargaining agreements should be recognized.

OHCA and the Attorney General are poised to make history when rendering decisions on the pending Tenet hospital conversion applications. Waterbury wouldn't be the first for-profit hospital in Connecticut, but it is the first of five that Tenet seeks to purchase; actions taken here will impact what happens to the other four and to the greater

Connecticut healthcare landscape. Without consistently applied protections enforced across all facilities, OHCA could greenlight a virtual profit driven healthcare monopoly in a matter of months. Tenet will surely seek to enlarge it over time.

Historically, Connecticut has embraced a community hospital approach to healthcare delivery. To do a wholesale buyout without patient, community and worker protections and adequate enforcement in statute is problematic. Acting too late or too ambiguously to preserve patient access to high quality care could have lasting, destabilizing impacts on state residents. If we get it wrong, we fail our citizens.

In conclusion, in the absence of a stronger conversion law that favors patient care over profits, there is much hospitals and their corporate partners can voluntarily do to protect the communities they serve as they attempt to convert from non-profit to for-profit status. We ask that they proactively address these issues and seize the opportunity to establish true partnerships with all stakeholders, not shareholders. It is only by working collaboratively that they will succeed. It is your job to make sure they do it. Thank you.