STATE OF TENNESSEE
DEPARTMENT OF HEALTH

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November 22, 2016

Robert E. Cooper, Jr.
Bass Berry & Sims PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201

Claire Cowart Haltom
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
P.O. Box 190613
Nashville, TN 37219

Re: Meeting Follow-up and Request for Information

Dear Mr. Cooper and Ms. Haltom:

We hope you found last Wednesday's meeting informative. We wanted to follow up expeditiously to summarize the key messages from our conversation and outline a path moving forward.

As a point of clarification, the experts with whom we all met did not, as you know, have access to the confidential information submitted by the applicants under the Attorney General's Civil Investigative Demand process. While some of their comments clearly showed that they were not aware of that confidential information, our purpose in having the meeting was to have disinterested third-parties in this field, whom the department has consulted on a very limited basis, review relevant portions of the application and provide feedback on the issues involved in transitioning from a traditional fee-for-service acute care hospital model, which is the primary current state of your clients' businesses, to a population health care management model with Triple Aim goals that is anticipated by the Hospital Cooperation Act.

Additionally, we want to affirm to you that, because the Department has deemed the application complete, there are not, strictly speaking, any "gaps" in the application but rather what the Department has determined are deficiencies in the information provided in the application. The issue that concerns the Department is whether the information presented is sufficient to

determine whether the "clear and convincing" standard, as required by Tennessee law, has been established. It is this issue that we hope you can address by reviewing the following comments.

First and foremost, as you understand, to the extent that the application must be supplemented, as the potential regulator under a Certificate of Public Advantage that might be issued for your clients, the Department cannot tell you exactly what to include in the application or any supplemental materials. Neither can we be your strategist for implementing a change in your business model, in part because that position is outside of the scope of the Department's role as the regulator but also because that area is not within the Department's realm of expertise. However, we can advise you that any new materials submitted must detail your clients' internal plans and capacity to carry out these plans. To the extent possible, the Department is willing to review outlines of potential responses to ensure the Department's concerns are adequately addressed.

Broadly stated, the Department must see a clear, detailed plan to move a potentially combined system forward that demonstrates that the proposed merger is likely to provide a long-term, sustained benefit to the public beyond the traditional fee-for-service acute care hospital model. It is the Department's position that the benefits outlined in the statute contemplate improvements managed by the applicants in the areas of population health, access/quality, and cost (the "Triple Aim"), rather than a commitment to provide funds to third parties to provide any benefits. To the extent that money will be spent, the Department must be convinced that these investments will result in meaningful outcomes. Stated differently, the Department must see detailed information in regard to how the investments will be realized outside of the mere commitment to dedicate funding to specified programs.

Moreover, to the extent that commitments outlined in the application are intended to mitigate the negative impacts of a loss of competition, the Department must be convinced that these commitments will have the desired impact.

What follows summarizes some of the feedback provided on Wednesday and includes a non-exhaustive list of identified issues that your clients may use as a guide to address the Department's concerns.

- Define your strategy to move from the historic-fee-for service environment to managing health.
    - Move from hospital centric model to a person and community centric model
    - Articulate a roadmap to move through the "risk corridor" described on Wednesday
    - Define the change management plan that will guide the transition
- Define insurance and value payment transition.
    - Evaluate and create plan for Triple Aim performance for a targeted population (Medicaid)

    - Create the short and long term strategy to move through the corridor and define the changing payer / risk relationship
- Define structure for the future
    - Structure for true clinical integration encompassing all parties
    - Align incentives for value creation
    - Align providers for value creation
- Define the comprehensive regional strategy to deliver equitable and efficient care
- Define and plan for the new infrastructure
    - Create short and long term strategy for the new infrastructures to the support system
- Define the performance measurement system
- Provide cultural alignment plan
- Describe how to build the new clinical system
    - Define the new care team models to achieve results
    - Build the plan for coordination of care across the continuum including community resources
- Define IT strategy
    - Create the roadmap for the IT strategy
    - Define the new analytics engine and how it will support the population health framework
    - Define IT governance structure

Your application could be furthered strengthened by providing detail on the following items:

- Evidence-based and/or empirical data to justify a residential treatment center as the best intervention to address substance abuse in the region.
- How you plan to partner or collaborate with community organizations.
- The evidence-based research that supports the population health plan, current regional penetration of these programs, and how the new approach will differ from current activities and investments.

Regarding the last bullet point above, we have not provided suggestions regarding population health improvement efforts; however we encourage you to review the most recent update to the State Health Plan (titled: "2015 Update to the State Health Plan." found at http://tn.gov/health/article/state-health-plan) for information on the Department's interest in primary prevention activities and the need to improve the four major health issues identified therein. Additionally, you should know that the Tennessee General Assembly has charged the Department with the development of a statewide Oral Health Plan, and that the Northeast Tennessee area experiences some of the worst oral health in the nation.

While we anticipate providing you additional information in this area in the near future, the Department is interested in your clients' plans for comprehensively addressing population health challenges and setting outcome goals and timelines.

Additionally, based on confidential information provided in supplemental application materials provided by your clients, the sale by one of your clients to a for-profit entity would have resulted in the establishment of a foundation of at least comparable size to the funds proposed in the application for community benefits. And as has been stated by your clients, the sale of one system would more than likely eventually result in the sale of the second system, potentially resulting in an additional foundation. Thus, the Department believes the amount and timing of funding proposed by your clients should not be considered as a basis for an advantage that would accrue to the region as a result of a COPA-facilitated merger. In addition, the Department, as part of its duty to actively and strongly supervise should a COPA be granted, reserves the right to reallocate or adjust the categories and amount of the intended financial outlays, within the limits of the total stated commitment.

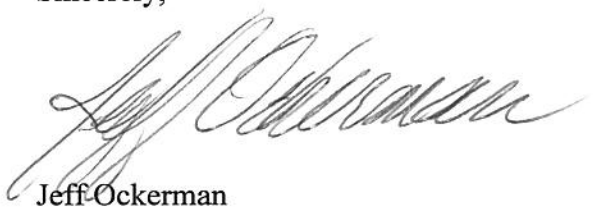
Our final advice is that we want to restate and reinforce the comment made during the meeting last Wednesday that, in terms of additional commitments that may be offered, the mere mitigation of existing disadvantages does not result in cognizable benefits or advantages. The Department further believes that mere mitigation would unlikely rise even to a preponderance of evidence standard.

To the extent that any information you plan to submit needs to remain confidential, please immediately contact Deputy Attorney General Janet Kleinfelter for instructions on how to submit that information to the Attorney General's Office.

Finally, nothing in this letter should be construed to imply that the Department has made a decision on the application.

We look forward to continued conversation regarding this application.

Sincerely,



Jeff Ockerman
Director, Division of Health Planning

c: Jane Young, General Counsel
Malaka Watson, Sr. Assistant General Counsel
Janet Kleinfelter, Deputy Attorney General