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October 9, 2023

VIA E-MAIL:

Dana Selover, M.D., M.P.H.
Health Care Regulation and Quality Improvement
Oregon Health Authority
800 N.E. Oregon Street
Suite 465
Portland, OR 97232
Dana.S.Selover@state.or.us

**RE: Encompass Health Rehabilitation Hospital of Oregon, LLC, CN # 679
Withdrawal of Application for Certificate of Need**

Dear Dr. Selover:

I am writing on behalf of my client, Encompass Health Rehabilitation of Oregon, LLC (“Encompass Health”), to withdraw Encompass Health’s Certificate of Need (“CON”) application and surrender its CON to construct and operate a 50-bed inpatient rehabilitation hospital in Hillsboro, Oregon.

Encompass Health’s project has been delayed for over 5 years, despite Oregon’s patent and demonstrable need for specialized inpatient beds to treat patients with serious rehabilitative needs caused by strokes, cardiac events, spinal cord injuries, traumatic brain injuries and other conditions. In addition to the record created throughout the laborious administrative process, which evidenced a clear and marked need for inpatient rehabilitation services, Encompass Health has noted in recent years a series of state and local press reports regarding Oregon’s lack of available options for patients ready for discharge from acute care hospitals to begin post-acute care treatment. Encompass Health’s project is exactly the type of option that acute care hospitals need to help alleviate the patient backlogs, which are costly to the healthcare system as a whole and frustrating and ill-advised for patients and their families.

The unwarranted delay in Encompass Health’s case is the result of a CON process that allows parties effectively to block competition with objections that lack a legal and factual basis. In this instance, one incumbent provider (Legacy Health) and the state nursing home association (the Oregon Health Care Association) have caused the five-year delay through administrative and judicial appeals; and, despite your agency granting Encompass Health’s CON application, the judicial appeals remain pending.

Meanwhile, during this five-year period, Encompass Health has added a total of 1,518 new inpatient rehabilitation beds in other states, through the expansion of existing hospitals and the construction and opening of thirty-four (34) new hospitals. Encompass Health regrets its inability

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to construct a new, state-of-the-art rehabilitative hospital in Oregon that would have created over 130 quality, high-paying jobs, but a burdensome regulatory scheme and its manipulation by anti-competitive interests have frustrated Encompass Health's efforts to provide critical healthcare to citizens of your state.

As Encompass Health has stated to agency counsel, to help address Oregon's dire need for these services Encompass Health is willing to assist in a search for a new provider to acquire both Encompass Health's CON and the property where the new hospital is to be located. We understand, however, that the agency believes its rules will not allow such a transfer. We regret the agency's inability to work with us to locate a replacement provider; however, if this is the agency's position, Encompass Health has no option remaining but to withdraw from the CON process altogether.

Please let me know if you have any questions or need any further information from me or my client in order to effect this withdrawal.

Sincerely,



Marc James Ayers
Counsel for Encompass Health Rehabilitation of
Oregon, LLC

MJA

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