

September 28, 2020

Honorable Judith M. Persichilli
Commissioner
New Jersey Department of Health
P. O. Box 360
Trenton, NJ 08625-0360

Re: Oversight of Hospital Real Estate Transactions

Dear Commissioner Persichilli:

As you may be aware, prior to and during your time as commissioner, we raised concerns with various operations of the for-profit hospital industry in New Jersey. We are writing to renew a specific concern with you today.

A priority of the Department of Health (Department) is to improve population health by strengthening New Jersey's health system.

Over the past 10 years, we have observed a proliferation of "sale-lease-back" arrangements, as well as direct purchases of for-profit hospital real estate. This has resulted in a pattern that can reasonably be described as resembling "the wild west." One has to look no further than the current situation at multiple hospital locations in Hudson County to see the result of the lack of Department oversight.

We acknowledge that the for-profit hospital industry poses unique challenges to the Department; however, in instances the Department has the ability to protect our residents and prevent financial maneuvers and actions that are not in their best interests it is imperative that it takes such action.

Specifically, it is clear that the Department has within its powers the ability to provide oversight of hospital real estate transactions and to require a review process: to ensure that for-profit companies are financially solvent, will not interfere or destabilize healthcare services that take place on the land, have business practices that meet a high standard, and has its history fully vetted.

The Department has this power and should use it. The decision not to review for-profit hospital real-estate transactions is a failure to protect the residents of New Jersey and only serves to weaken our health system. Simply put – the Department must not abdicate a responsibility it has and owes to the people of New Jersey.

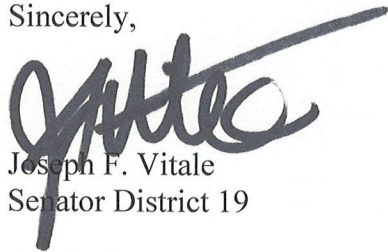
In the absence of diligent review at the outset of these purchases, the state is leaving the land hospitals sit on in the hands of obscure ownership structures, that in many instances obfuscate any future efforts to regulate them. All we know about them are the LLC names they use and the legal gamesmanship they so often play on the state to block oversight efforts.

Whether the Department has historically used its oversight powers is irrelevant. The State has not historically encountered what we see unfolding in relation to Bayonne Medical Center. The reality is that the decision not to exercise the Department's power exposes the New Jersey health care system to vulnerability. We are asking the Department to reverse this inaction and exercise its full powers.

The Department of Health is responsible for overseeing 2400 health care facilities of which 70 are acute care hospitals. It is impossible to monitor facility ownership without doing so in a systematic way. The SCI Report in 2019 pointed out that, "the layered nature of certain hospital ownership structures... further exemplifies the need for a systemic process to ensure that DOH is fully aware of and properly reviews ownership structures of hospitals and related parties." The party that owns the real-property for which a hospital stands is certainly related and the CN process is the process for which the Department has to effectuate its responsibility to the residents of New Jersey.

We are perplexed by the Department's decision to waive the CN requirement for the sale of the real-property where Bayonne Medical Center sits and we wish to discuss this important matter with you at your earliest convenience.

Sincerely,



Joseph F. Vitale
Senator District 19



Nicholas Chiaravalloti
Assemblyman District 31