

Minutes of the New Jersey Health Care Facilities Financing Authority Special Meeting held on April 1, 2005 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

The following **Authority Members** were in attendance:

Dr. Fred M. Jacobs, Commissioner of Health and Senior Services (Chairman); Noreen White, Public Member; Gus Escher, Public Member; Ann Kohler, representing the Commissioner of Human Services; and, Maryann Kralik, representing the Commissioner of Banking and Insurance.

The following **Authority staff** were in attendance:

Mark Hopkins, Dennis Hancock, Steve Fillebrown, Jim Van Wart, Carole Conover, Stephanie Zschunke, Suzanne Walton, and Lou George.

The following **representatives from State offices** were in attendance:

Victoria Pratt, Authorities Unit Office of the Governor; Manny Fernandez, Treasurer's Office; Ed Tetelman, Department of Health and Senior Services; and, Robert A. Romano, Deputy Attorney General.

The following **members of the public** were in attendance:

Sean Hopkins, Randy Minniear, New Jersey Hospital Association; Jerry Tofani, St. Barnabas-Monmouth Medical Center; Brian O'Neill, Somerset Medical Center; Kari Fazio, Wachovia Securities; Karen Lumppp, John Bennett, Patricia Sly, Atlantic Health System; Kevin Natali, Evergreen Financial Services; Nancy Pinkin, J. Richard Goldstein, Don Camisi, New Jersey Council of Teaching Hospitals; Thomas Fivek, East Orange General Hospital; Russ Malloy, Meridian Health System; Pete Kisylia, Saint Clare's Hospital; Joe Dobosh, Children's Specialized Hospital; Andrew Lambert, Valuation Associates; Sharon Landgraf, PNC Bank; Shane Fleming, Capital Health System; Michael Keen, Bayshore Community Hospital; John Dellocono, CentraState Healthcare System; Bob Osler, Virtua Health, Inc.; and, Mike O'Connell, Pringle Quinn & Anzane.

### ***CALL TO ORDER***

Dr. Jacobs called the meeting to order at 1:05 p.m. and announced that this was a special meeting of the Authority. In accordance with the provisions of the Open Public Meetings Act and the Authority's By-laws, notice of this meeting was delivered to all the newspapers with mailboxes at the Statehouse, including *The Star-Ledger* and the *Courier Post*, far enough in advance to permit the publication of an announcement at least 48 hours before the meeting.

## ***E.O. #26 POLICY DISCUSSION***

### ***Selection of Financial Professionals***

Dr. Jacobs stated that the meeting was called in order to hold a public discussion on the Authority's proposed change to Executive Order No. 26. He provided background information, stating that the Authority had been concerned that there was limited competition with respect to the selection of senior managers, financial advisors, private placement agents, and co-managers for Authority transactions. Forty-seven firms had been deemed by the Authority as qualified to provide some or all of these services on its transactions; only a fraction of these firms had been selected by the borrowers for these services.

At the February Authority meeting, a change was proposed that would give the Authority the primary responsibility of selecting financial professionals from this qualified list. Concern had been raised by a number of hospital borrowers regarding the proposed change. This meeting was called to provide a public forum in which the Authority's borrowing community and other involved parties can voice suggestions on the issue. Dr. Jacobs encouraged the public to make recommendations on how to improve the selection process to ensure that the Authority complies with the requirements of Executive Order No. 26 to provide for an open and competitive process while taking into consideration borrowers' needs.

Dr. Jacobs stated some procedural guidelines for the forum, including a limit of five minutes per speaker and a total meeting time of two hours. Speakers would be called upon in the order in which their names appeared on the list designated for speakers.

Dr. Jacobs announced that the discussion is being recorded, however, individuals are encouraged to submit written statements to ensure that all comments are accurately preserved. Written comments will be accepted until April 11<sup>th</sup>. As with all other Authority meetings, minutes will be kept and forwarded to the Acting Governor for his review, although no specific action of the Authority is expected during the meeting. Dr. Jacobs thanked the attendees in advance for their patience and requested that speakers be concise and considerate so that as many people as possible may provide input. He then began to call on speakers.

### **1) Sean Hopkins – Senior Vice President of Health Economics New Jersey Hospital Association (“NHJA”)**

Mr. Hopkins introduced himself and then thanked the Commissioner and the Authority for holding this meeting, calling it a great opportunity for individuals to express thoughts on this issue that is very important to the hospital community. He noted that, in a letter dated March 22, 2005 (*attached as Appendix A*), the NJHA did previously submit written comments. He stated that there are many hospital representatives at this meeting who are not speaking in the forum but are supportive of NJHA's comments. Out of respect for time, Mr. Hopkins stated that his verbal comments will be brief.

Hospitals are concerned over the potential of not being able to select their own underwriters for public offerings. Currently, hospitals choose underwriters only after a competitive bid process is completed. These selections are based on a variety of criteria such as efficiency, expertise, cost-effectiveness, relationships

and knowledge of the healthcare market. Changing the current policy as proposed has the potential to limit the range of financing options and structures, discourage the independent generation of innovative financing ideas, and enhance the risk associated with having a less experienced banker senior manager who may not have the expertise to underwrite the financing in the most cost-effective fashion.

Since this change was originally proposed on February 24<sup>th</sup>, a significant number of hospitals and some of New Jersey's largest healthcare systems have contacted NJHA expressing their strong opposition to this proposed change. NJHA's own independent data shows that from 2000 through 2004, more than twenty different firms have served in the capacity of senior or co-senior manager, while more than fifteen other firms have served in the capacity of co-manager. There is clearly a significant amount of competition in this market. The current system is working. There is no need for this proposed change.

Mr. Hopkins stated that, at NJHA's board meeting this past week, the board voted unanimously in favor of a recommendation to reject the proposed changes to Executive Order No. 26. On behalf of the NJHA member hospitals, Mr. Hopkins encouraged the Authority not to proceed with this proposed change. He then thanked the Authority for its time.

2) **Karen Lumpp – Director of Finance**  
**Atlantic Health System**

*(Read directly from attached statement – Appendix B)*

3) **Richard Goldstein – President**  
**New Jersey Council of Teaching Hospitals**

*(Read directly from attached statement – Appendix C)*

4) **Robert P. Osler - Treasury Director**  
**Virtua Health System, Inc.**

*(Read directly from attached letter – Appendix D)*

Mr. Osler also stated that Virtua would appreciate the opportunity to further discuss the policy change in question and suggested the Authority contact Virtua Health, Inc. if interested in additional input.

All other documents attached hereto were received by the Authority in advance of this meeting in written form only. The documents in Appendix E were sent to Acting Governor Richard J. Codey prior to his veto of the relevant part of the Authority's February 24, 2005 minutes. The letters in Appendix F were sent to the Authority following its solicitation for input on the potential policy change.

***ADJOURN***

As there was no further business to be addressed, Ms. White moved to adjourn the meeting, Ms. Kralik seconded. The vote was unanimous and the motion was carried at 1:20 p.m.

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY OF MINUTES OF THE NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY SPECIAL MEETING HELD ON APRIL 1, 2005.

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Dennis Hancock  
Assistant Secretary

## **APPENDIX A**

# NJHA

NEW JERSEY HOSPITAL ASSOCIATION

Mr. Mark E. Hopkins  
Executive Director  
New Jersey Health Care Facilities Financing Authority  
Station Plaza Building #4  
22 South Clinton Avenue  
Trenton, New Jersey 08609-1212

March 30, 2005

**RE: NJ-HCFFA Executive Order No. 26**

Dear Mr. Hopkins:

The New Jersey Hospital Association on behalf of its 109 member hospitals thanks you for the opportunity to submit comments on the New Jersey Health Care Facilities Financing Authority's proposed changes to its policy regarding the selection of senior managing underwriters, placement agents, remarketing agents and financial advisors in accordance with Executive Order No. 26.

At the Authority's February 24 Board meeting and again via a letter dated March 22, the Authority is proposing an amendment to its current policy that would give the Authority the primary responsibility in selecting the Financial Professionals for Authority financings. NJHA feels strongly that New Jersey's hospitals need to retain the ability to have final say and choose financial professionals that most closely meet their needs.

Since the adoption of Executive Order No. 26, the range of financing options and innovative financing structures recommended by both investment and implemented by the state's hospitals, have expanded considerably and have generally resulted in a reduction in the industry's cost of capital. Competition has flourished with over a dozen different firms serving from time to time in the role of senior managing underwriter on both large and small Authority issues and at least another dozen firms have served as co-manager. Competition was further enhanced by a policy that was introduced several years ago that provided for the appointment by the Authority of a co-senior manager. Although most public authorities maintain an approved list of underwriters, as does the New Jersey Authority, to our knowledge no other state authority selects the senior manager for negotiated sales.

Many of our members have contacted NJHA voicing their concerns regarding the potential impact of this revision to Authority policy. Their concerns regarding the implementation of this change include:

- 1) Limiting the range of financing options and structures that may be offered by investment or commercial bankers at the time of submission of a Certificate of Need (CON), or if a CON is not required, at the early stages when a hospital is de signing and/or structuring a new capital project because the banker would have no

760Alexander Road, PO Box 1 Princeton, New Jersey 08543-0001 Tel 609-275-4000

## APPENDIX A

**Mark E. Hopkins (cont.)**

**March 30, 2005 Page**

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assurance that they would be eligible for consideration by the Authority as a senior manager at the time of financing.

- 2) Discouraging the independent generation of innovative financing ideas if bankers are concerned that they may have their ideas used by their competitors.
- 3) Exposing hospitals to the potential risk associated with having a less experienced banker serving as senior manager who may not structure the financing in the most cost effective fashion or whose firm may not have the particular expertise necessary to underwrite/market the financing in the most cost effective fashion.
- 4) Appointing bankers that have limited involvement in this area and who do not fully understand the unique challenges facing the New Jersey hospital industry; therefore, do not have the ability to position the state's hospitals in the most favorable light with bond rating agencies and credit enhancers, i.e., letter of credit banks and bond insurers, which directly impact the hospitals' cost of capital.

The current process requires that hospitals facilitate a competitive bid process by requesting proposals from at least three firms. These firms are chosen from an approved list provided by the Authority. Within this process hospitals weigh the value of innovative financing techniques and products, long-term relationships, healthcare expertise, managed care and market issues as well as the level of familiarity with New Jersey. NJHA is concerned that changing this policy will negatively impact hospitals.

As a result of these concerns, the New Jersey Hospital Association, on behalf of its membership, is respectfully requesting that the Authority not proceed with its proposed amendment to Executive Order No. 26. It is imperative that the ultimate choice remains firmly in the hands of the hospitals and their boards, who are responsible for paying all of the associated fees.

I look forward to sharing these concerns with you directly at the Authority's special meeting to be held on Friday, April 1. I plan on attending and would request the opportunity to comment at that meeting. If you have any questions regarding these comments or would like to discuss our members' concerns in greater detail, please feel free to call me at (609) 275-4022.

Sincerely,

Sean J. Hopkins  
Senior Vice President  
Health Economics

**APPENDIX A**

## **APPENDIX B**

**ATLANTIC HEALTH SYSTEM 325 Columbia Turnpike, Florham Park, NJ 07932**

**New Jersey Health Care Facilities Financing Authority  
Special Meeting on Proposed New Policy In Accordance with Exec. Order No. 26  
Friday, April 1, 2005, 1:00 p.m.**

Good afternoon. Thank you Commissioner Jacobs, Mr. Hopkins and members of the Authority for the opportunity to testify today. My name is Karen Lumppp. I serve as Director of Finance at Atlantic Health System. I am a CPA, and have worked in New Jersey hospital finance for over 25 years.

Atlantic Health System is opposed to the proposal that would give NJHCFFA the power to select our investment banker and other financial professionals. We are well qualified to select these professionals on our own and do not believe there is any value in having others preempt our selection process. In fact, such intervention potentially will weaken and delay the process and yield inferior results with poor matches between the hospitals, their projects and the bankers.

Not all investment bankers on the NJHCFFA's list of approved firms are equal. Some bankers have strong retail distribution networks; others have distinctive products or expertise, such as ability to issue daily re-set auction debt.

The current process allows NJHCFFA to appoint bond and underwriter's counsel, as well as co managers.

So why does NJHCFFA now need to appoint senior investment bankers? What are the motivating factors? What are the benefits?

Atlantic Health System has issued and redeemed over \$100 million of debt through the NJHCFFA in the years 2003 and 2004. Our debt is completely insured by AMBAC with an underlying issue of "A+" from Standard & Poor and an "A" rated by Moody's.

We could never have put our most recent transactions together as efficiently or have been able to execute the transactions in the same timely deliberate mariner if we had not had the financing team of well qualified, seasoned professionals that we selected.

Our transactions included the sale of Passaic General, refinancing of existing debt and issuance of convertible taxable debt, and the subsequent conversion of debt from taxable to tax exempt. Time was saved and the cost of issuance minimized by utilizing several unique financing concepts, such as forward commitment from AMBAC and convertible tax to tax-exempt financings.

Morristown Memorial Hospital • Overlook Hospital • Mountainside Hospital

**APPENDIX B**

All investment banks are not equal. Some offer different products and have different quality of creative problem solving. Atlantic Health would not be comfortable with a banker with limited experience for a specific project or one who finances competing hospital systems. We want unbiased, experienced advice which we can rely upon.

Before we started our financing process for our Series 2003 and Series 2004, we asked three sets of investment bankers for advice based on the same set of circumstances. Each firm gave us very different advice, and we were able to determine which firm we were comfortable with, not just for a one time transaction but as our long term investment banker advisor.

Currently, we have already worked with our investment banker in drafting up a preliminary plan of finance for our next bond issue. It is expected in the next 18 months, and includes discussions with bond insurers. This requires having an investment banker on board well in advance of the actual sale of bonds.

In closing, Atlantic Health is well qualified to select its own senior investment banker and we believe that assigning responsibility to another entity will not improve the quality of the process or the resultant financing, and it will likely undermine that quality. We urge the Authority to withdraw its recommendation to select the financial professionals.

Thank you for your consideration.

Morristown Memorial Hospital • Overlook Hospital • Mountainside Hospital

**APPENDIX B**

## **APPENDIX C**

Date: April 1, 2005

**New Jersey Health Care Facilities Financing Authority (NJHCFFA)  
Testimony Regarding Opposition To Proposed Policy To Give The  
Authority The Primary Responsibility In Selecting The Senior  
Managing Underwriters, Placement Agents, Remarketing Agents And  
Financial Advisors For Authority Financings**

Good morning Mr. Hopkins and members of the Authority, I am J. Richard Goldstein, M.D. President of the New Jersey Council of Teaching Hospitals, the state's premiere association of major teaching hospitals. NJCTH was founded in 1986 to recognize the unique nature and special needs of teaching hospitals. Teaching hospitals provide training and education for tomorrow's doctors, nurses, and other health professionals. NJCTH member institutions are dedicated to high-quality patient care, education and research. In affiliation with the University of Medicine and Dentistry's seven schools, NJCTH hospitals train approximately 1,300 resident physicians, physician assistants, nurse practitioners, and nurses each year.

The Council's member institutions care for more than 261,000 inpatients and nearly 3 million outpatients each year; represent 6,461 hospital beds; more than 29,000 healthcare professionals; have a total aggregate budget in excess of \$3.2 billion per year; and provide a significant amount of charity care to New Jersey's uninsured. All three of New Jersey's Level I Trauma Centers' and four of the designated Children's Hospitals are Council hospitals.

**NJCTH strongly opposes your recent action to amend the NJHCFFA policy for the procedure to select senior managing underwriters, placement agents, remarketing agents and financial advisors**, in accordance with Executive Order No. 26. The Council opposes this new policy on the basis that the current process established in Executive Order No. 26 works well and we believe New Jersey's hospitals should retain the ability to choose financial professionals with the expertise necessary to meet their needs. Executive Order 26 was written to address problems in the bidding process which resulted in the use of out-of-state firms, and a process that restricted the use of qualified senior managing underwriters when issuing bonds for health care facilities. Selection from a pre-determined list of financial representatives eliminates our members' ability to negotiate and discourages the utilization of innovative financing options and structures that may be offered by investment or commercial bankers.

On behalf of the Council, I respectfully urge you to oppose implementation of this new, restrictive policy. Please help us to maintain an open and competitive bidding process for the issuance of Authority bonds for the construction of healthcare facilities. Thank you for your consideration of this important issue.

J. Richard Goldstein, M.D.  
President

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154 West State Street, Trenton, New Jersey 06806  
Telephone: 609-656-9600 Fax: 609-656-9600

APPENDIX C

## **APPENDIX D**

# Virtua

## HEALTH

Richard J. Codey  
Acting Governor of New Jersey  
PO Box 001  
Trenton, NJ 08625

March 1, 2005

### ***RE: Amendment to Executive Order 26***

Dear Governor Codey:

***Virtua Health, Inc.*** ("Virtua") has been notified of last week's amendment by the New Jersey Health Care Facilities Financing Authority to Executive Order Number 26 which will change the procedure the Authority uses in the selection of financial professionals for the issuance of its Bonds, primarily through negotiated deals. The order now gives the Authority the power to directly select the senior manager and placement agent for deals, as opposed to the original executive order whereby issuers recommended the lead manager that was generally affirmed by the Authority. It is our understanding this amendment has been articulated by the Authority through its minutes to your Office for approval.

Virtua has the utmost respect for the Authority and its representation for the State of New Jersey in health care financing. Historically, Virtua has encountered with the agency for successful bond issues, and currently has three revenue bond series outstanding. In such financings, Virtua, as with all issuers, has the ability to select a senior managing underwriter through a competitive process as required by Authority policy and procedure. This allows an organization's Board representatives and management the capability of selecting a senior manager in a cost-effective and efficient manner following consideration of relevant state, health care and financing variables. It is very beneficial for an organization to maintain freedom in selecting an experienced underwriter that is familiar with its market, management, financial reporting, service programs and organizational composition, especially a complex structure such as Virtua.

It appears the intent of this amendment is to broaden the scope of the competitive process by both opening up the process to all Authority approved underwriters and enabling the Authority to determine a final selection. Although seemingly more favorable to financial firms, this policy shift is more restrictive for issuers which ultimately could result in unfavorable conditions. Consequently, Virtua ***strongly opposes*** the Amendment to Executive Order Number 26 and is requesting that you ***repeal this action*** pertaining to the Authority's minutes.

We would very much enjoy the opportunity to further discuss this issue with you or your representative at your convenience. Should you have any questions specifically, I can be reached at 856-355-0004. Thank you for your assistance and leadership with this matter.

Sincerely;

Richard P. Miller  
President & CEO

RPM/prb

cc: Maurice Coffee  
Robert Segin

APPENDIX D

## **APPENDIX E**

# NJHA

NEW JERSEY HOSPITAL ASSOCIATION

Honorable Richard J. Codey  
Active Governor of New Jersey  
The State House  
P.O. Box 001  
Trenton, New Jersey 08609-1212

March 30, 2005

**RE: NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY**  
**BOARD MINUTES re: EXECUTIVE ORDER #26**

Dear Governor Codey:

I am writing to you to express NJHA's concern associated with a recent policy change regarding the selection of senior managing underwriters at the New Jersey Health Care Facilities Financing Authority and respectfully request that you veto the portion of the February 24 Authority Board minutes related to revisions associated with Executive Order #26.

At the February 24 Authority Board meeting, the Board passed a revision to Executive Order #26 which would significantly limit a hospitals' ability to select its own senior managing underwriter for any capital project it wants to finance through the Authority.

For more than 10 years and pursuant to Executive Order #26, hospitals that met certain specific criteria were permitted to request approval from the Authority to finance a capital project through a "negotiated sale" process. A negotiated sale process required that an individual hospital conduct a competitive process for the selection of a senior managing underwriter. Hospitals were required to request an underwriting proposal from at least three firms and were required to disclose their process in a letter to the Authority. In addition, they were asked to submit a copy of the winning bid that supported their selection of a senior manager with their letter.

Since the adoption of Executive Order #26, the range of financing options and innovative financing structures recommended by both investment and commercial bankers and implemented by the state's hospitals, have expanded considerably and have generally resulted in a reduction in the industry's cost of capital. Competition has flourished with over a dozen different firms serving from time to time in the role of senior managing underwriter on both large and small Authority issues and at least another dozen firms have served as co-manager. Competition was further enhanced by a policy that was introduced several years ago that provided for the appointment by the Authority of a co-senior manager. Although most public authorities maintain an approved list of underwriters, as does the New Jersey Authority, to our knowledge no other state healthcare authority on the East Coast selects the senior manager for negotiated sales.

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Acting Governor Richard J. Codey  
March 3, 2005  
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Many of our members have contacted NJHA voicing their concerns regarding the potential impact of this revision to Authority policy. Their concerns regarding the implementation of this change include:

- 1) Limiting the range of financing options and structures that may be offered by investment or commercial bankers at the time of submission of a Certificate of Need (CON), or if a CON is not required, at the early stages when a hospital is designing and/or structuring a new capital project because the banker would have no assurance that they would be eligible for consideration by the Authority as a senior manager at the time of financing.
- 2) Discouraging the independent generation of innovative financing ideas if bankers are concerned that they may have their ideas used by their competitors.
- 2) Exposing hospitals to the potential risk associated with having a less experienced banker serving as senior manager who may not structure the financing in the most cost effective fashion or whose firm may not have the particular expertise necessary to underwrite/market the financing in the most cost effective fashion.
- 3) Appointing bankers that have limited involvement in this area and who do not fully understand the unique challenges facing the New Jersey hospital industry; therefore, do not have the ability to position the state's hospitals in the most favorable light with bond rating agencies and credit enhancers, i.e., letter of credit banks and bond insurers, which directly impact the hospitals' cost of capital.

As a result of these concerns, the New Jersey Hospital Association, on behalf of its membership, is respectfully requesting that you veto that portion of the minutes of the meeting of February 24, 2005 of the New Jersey Health Care Facilities Authority relating to the amendment of the Authority's Policies and Procedures to Implement Executive Order #26. It is the opinion of our membership that such action was taken without appropriate input from the hospitals.

I am concerned that this amendment will eliminate a hospital's flexibility to make a selection decision that meets their criteria of efficiency, expertise and comfort. If you have any questions regarding this request or would like to discuss our members' concerns in greater detail, please feel free to call me at (609) 275-4240 or our Senior Vice President for Health Economics, Sean Hopkins at (609) 275-4022.

Very truly yours,

Gary S. Carter, FA HE  
President & CEO

cc: Paul T. Fader, Esq., Governor's Chief Counsel  
Joseph Fiordaliso, Deputy Chief of Staff  
Mark E. Hopkins, Executive Director, NJHCFFAV  
Sean J. Hopkins, Senior Vice President, NJHA  
Fred M. Jacobs, M.D., JD Commissioner, Dept. Health & Senior Services

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**APPENDIX E**

# SAINT PETER'S UNIVERSITY HOSPITAL

254 Eaton Avenue, P.O. Box 591  
New Brunswick, NJ 08903-0591  
732-745-8600

March 7, 2005

Honorable Richard J. Codey  
Acting Governor of New Jersey  
The State House  
P.O. Box 001  
Trenton, New Jersey 08625

Dear Governor Codey:

On February 24, 2005, the New Jersey Health Care Facilities Financing Authority Board approved a revision to Executive Order 26, limiting hospitals seeking to issue bonds from significant participation in the selection of its Senior Manager. We urge you not to approve this revision without providing industry representatives an opportunity to comment on this change.

We believe the elimination of hospital input will compromise the hospital's ability to properly position itself in the financial market, and obtain access to creative financing alternatives, increasing overall cost.

New Jersey hospitals are a specialized industry, with significant and unique financial issues, that depress ratings. Firms with no experience in underwriting and marketing hospital credits will cause hospitals to incur higher cost and sub optimal financings.

Most hospitals develop relationships with financial advisors who assist hospitals develop debt structures specific to the organization. These advisors also, assist hospitals position themselves in the financial markets. The appointment of different bankers for each transaction will increase issuance cost and the cost of capital. Hospital boards have a fiduciary responsibility, which will require them to engage qualified financial advisors in addition to the Authority appointed Senior Managers who are better suited to represent the hospital in the financial markets. This adds significant cost to the transaction: Failure to do so could result in less than optimal debt structures and increased debt service cost.

Thank you for your consideration of our request. We are available to discuss our concerns with you at your convenience. .

Sincerely,

John Calandriello  
Senior Vice President & Chief Financial Officer

cc: Sean Hopkins  
Gary Carter  
Mark Hopkins

Saint Peter's University Hospital  
[www.saintpetersuh.com](http://www.saintpetersuh.com)

*Catholic hospital sponsored by the Diocese of Metuchen -- State-designated children's hospital and regional perinatal center  
Affiliate of The Children's Hospital of Philadelphia -- Affiliate of Drexel University College of Medicine, effective July 2005*

APPENDIX E

# SAINT BARNABAS HEALTH CARE SYSTEM

ALBERT R. GAMPER, Jr.  
Chairman

RONALD J. DEL MAURO  
President and Chief Executive Officer

DAVID A. MEBANE  
Vice President – Legal Affairs  
Tel: (973)322-4045 Fax: (973) 322-4040

The Honorable Richard J. Codey  
Acting Governor of New Jersey  
The State House, 125 W. State Street  
P.O. Box 001  
Trenton, New Jersey 08625

March 7, 2005

**Re: New Jersey Health Care Facilities Financing Authority / Executive Order No. 26**

Dear Governor Codey:

The undersigned is writing on behalf of the Saint Barnabas Health Care System to address a proposal adopted by the Board of the New Jersey Health Care Facilities Financing Authority at its meeting on February 20. The System's understanding is that this proposal, which would amend Executive Order No. 26, would give the Authority primary responsibility for selecting the senior managing underwriter in connection with bonds issued on behalf of hospitals by the Authority. Practically speaking, hospitals would no longer have the ability to make the fundamental business decision associated with choosing an underwriter for major capital financings through the Authority's "negotiated sale" process. For the reasons set forth in this letter, the System would urge the Governor's office to veto this section of the minutes of the Authority Board's meeting on February 24th.

Hospitals in New Jersey are tax-exempt institutions. Because hospitals do not have the ability to issue equity securities, hospitals must resort to debt financing in order to raise capital to undertake capital projects, such as expansion; renovation, and equipment purchases. Issuance of bonds through the New Jersey Health Care Facilities Financing Authority historically has been a the primary source of debt financing for hospitals in New Jersey, enabling hospitals to issue bonds on a tax-exempt basis at a reduced rate of capital.

In undertaking a capital financing, the position of senior managing bond underwriter is critical to the hospital's ability to issue its bonds in the most cost effective and efficient fashion. Frequently the circumstances of the hospital's debt structure, its project, and its overall finances require a unique and creative approach. The proposal adopted by the Authority Board would expose hospitals to the risk of utilizing an underwriter which lacked the competence and experience to structure an effective transaction.

Hospitals and hospital systems have become sophisticated businesses. Saint Barnabas Health Care System generates over \$2 Billion in annual revenues. The System and its management need to be able to make the important decision of choosing a bond underwriter on an independent basis, with management's unique perspective on the hospital's finances, market share, payer mix and

95 OLD SHORT HILLS ROAD ~ WEST ORANGE NEW JERSEY 07052 ~ (973) 322-5000

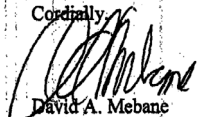
**APPENDIX E**

programmatic structure. The System certainly welcomes the Authority's expertise in developing an approved list of underwriters. However, the making of such an important decision should be reserved to the management of the hospital, not the Authority or State.

Separating management from the choice of underwriter may also have an adverse impact on Wall Street's perception of New Jersey hospitals and the New Jersey healthcare marketplace. An underwriter familiar with the New Jersey marketplace and the challenges facing New Jersey hospitals has greater credibility with potential bond purchasers and will be best able to position hospitals to realize a successful and cost effective sale.

It should also be noted that the relationship between a hospital and its underwriter is not limited to a specific transaction. A hospital must regularly make secondary market disclosure with respect to any change in its business and must on a regular basis meet with rating agencies in order to report on its overall finances. Also, hospitals must continually evaluate their need for capital and the availability of creative techniques to raise that capital. The services of an informed and experienced bond underwriter familiar with all aspects of the hospital's finances and capital structure is critical to enabling the hospital to address these obligations.

For all of the reasons stated above, the System would urge the Governor's office to veto that section of the Authority's minutes pertaining to Executive Order No. 26.

Cordially  
  
David A. Mebane

David A. Mebane  
Vice President for Legal Affairs

DAM/  
Rcodeyltr3705

# SHORE MEMORIAL HOSPITAL

March 4, 2005

Honorable Richard J. Codey  
Acting Governor of New Jersey  
The State House  
P.O. Box 001  
Trenton, New Jersey 08625

**RE: New Jersey Health Care Facilities Financing Authority Board Minutes - Executive Order #26**

Dear Governor Codey,

I am writing to you to express Shore Memorial Hospital's concern associated with a recent policy change regarding the selection of senior managing underwriters at the New Jersey Health Care Facilities Financing Authority and respectfully request that you veto the portion of the February 2,4 Authority Board minutes related to revisions associated with Executive Order #26.

At the February 24 Authority Board meeting, the Board passed a revision to Executive Order #26 which would significantly limit a hospitals' ability to select its own senior managing underwriter for any capital project it wants to finance through the Authority.

For more than 10 years and pursuant to Executive Order #26, hospitals that met certain specific criteria were permitted to request approval from the Authority to finance a capital project through a "negotiated sale" process. A negotiated sale process required that an individual hospital conduct a competitive process for the selection of a senior managing underwriter. Hospitals were required to request an underwriting proposal from at least three firms and were required to disclose their process in a letter to the Authority. In addition, they were asked to submit a copy of the winning bid that supported their selection of a senior manager with their letter.

Since the adoption of Executive Order #26, the range of financing options and innovative financing structures recommended by both. Investment and commercial bankers and implemented by the state's hospitals, have expanded considerably and have generally resulted in a reduction in the industry's cost of capital. Competition has flourished with over a dozen different firms serving from time to time in the role of senior managing underwriter on both large and small Authority issues and at least another dozen firms have served as co-manager. Competition was further enhanced by a policy that was introduced several years ago that provided for the appointment by the Authority of a co-senior manager. Although most public authorities maintain an approved list of underwriters, as does the New Jersey Authority, to: our knowledge no other state healthcare authority on the East Coast selects the Senior manager for negotiated sales for concerns regarding the implementation of this change include:

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APPENDIX E

Acting Governor Richard J. Codey

March 3, 2005

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- 1) Limiting the range of financing options and structures that may be offered by investment or commercial bankers at the time of submission of a Certificate of Need (CON), or if a CON is not required, at the early stages when a hospital is designing and/or structuring a new capital project because the banker would have no assurance that they would be eligible for consideration by the Authority as a senior manager at the time of financing.
- 2) Discouraging the independent generation of innovative financing ideas if bankers are concerned that they may have their ideas used by their competitors.
- 3) Exposing hospitals to the potential risk associated with having a less experienced banker serving as senior manager who may not structure the financing in the most cost effective fashion or whose firm may not have the particular expertise necessary to underwrite/market the financing in the most cost effective fashion.
- 4) Appointing bankers that have limited involvement in this area and who do not fully understand the unique challenges facing the New Jersey hospital industry; therefore, do not have the ability to position the state's hospitals in the most favorable light with bond rating agencies and credit enhancers, i.e., letter of credit banks and bond insurers, which directly impact the hospitals' cost of capital.

As a result of these concerns, Shore Memorial Hospital, is respectfully requesting that you veto that portion of the minutes of the meeting of February. 24, 2005 of the New Jersey Health Care Facilities Authority relating to .the amendment of the Authority's Policies and Procedures to Implement Executive Order #26. It is our opinion that such action. was, taken without appropriate input from hospitals.

I am concerned that this amendment will eliminate a hospital's flexibility to make a selection decision that meets their criteria of efficiency,, expertise and comfort. If you have any questions regarding this request or would like to-discuss our concerns in greater detail, please feel free to call me at (609) 653-3707 or NJHA's Senior Vice President for Health Economics, Sean Hopkins at (609) 275-4022.

Very truly yours,

James T. Foley  
Vice President of Finance/CF

cc: Paul T. Fader, Esq., Governor's Chief Counsel  
Joseph Fiordaliso, Deputy Chief of Staff  
Mark E. Hopkins, Executive Director, NJHCFFA  
Sean J: Hopkins, Senior Vice President, NJHA  
Fred M. Jacobs, M.D., JD Commissioner, Dept. Health &  
Senior Services

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**APPENDIX E**

# Saint Clare's Hospital

Saint Clare's Hospital  
Boonton Township

Saint Clare's Hospital  
Denville

Saint Clare's Hospital  
Dover

Saint Clare's Hospital  
Sussex

March 7, 2005

Honorable Richard J. Codey  
Acting Governor of New Jersey  
The State House  
P.O. Box 001  
Trenton, NJ 08625

Re: Amendments to Executive Order #26 Made at the Meeting of the New Jersey Health Care Facilities Financing Authority Held on February 28, 2005

Dear Governor Codey:

On behalf of Saint Clare's Hospital, I am writing to you to respectfully request that you veto that portion of the minutes of the February 24<sup>th</sup> meeting of the New Jersey Health Care Facilities Financing Authority (NJHCFFA) related to revisions to Executive Order #26.

The crux of the revision to Executive Order #26 is that the Authority has now assumed the responsibility of appointing investment banks to serve as senior managing underwriters for all its financings, which are done on behalf of the State's hospitals and health care providers. To date, the Authority provided significant guidance, oversight and controls over the process of selecting an underwriter but ultimately the choice of the senior managing underwriter for a bond financing could be within the discretion of the Hospital. As an organization that has utilized the NJHCFFA in the past and that would like to do so in the future, this change causes us grave concern.

Among our primary concerns is that this change will inhibit the development of innovative financing solutions that benefit hospitals. This revision eliminates the incentive underwriters have to present New Jersey's hospitals with financing opportunities, options and alternatives. Good investment bankers are aware of the newest financing tools and can see both their potential applications as well as the range of implications associated with their implementation. They generate ideas, sometimes unsolicited, specific to our hospital and current market conditions, which we may not otherwise have recognized ourselves. The financings resulting from these ideas have saved the hospitals in New Jersey untold billions of dollars. This change in E.O. #26 would essentially eliminate those savings going forward, putting considerable additional stress on an already-challenged situation with health care providers in New Jersey.

We are also troubled by the fact that we will be forced by the Authority to work with an investment bank with whom we do not have a comfort level, who we don't know well enough to trust and who doesn't know us well enough to understand our priorities, constraints and goals. Completing a financing with an investment bank is not one-time, transaction in nature; it is an on-

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**APPENDIX E**

going relationship that extends through the final maturity of the bonds that are issued, which can be 30 years or more. If an investment bank errs in its structuring of a hospital's debt, even if the error is found 20 years after its issuance, the hospital could end up paying a very high price. With such liability at stake, hospitals deserve the right to select their own senior managing underwriter/investment bank.

Not only do we simply fail to see that value this revision to E.O. #26 offers to hospitals, it will be a detriment to us and will result in increased costs of capital. The NJHCFFA certainly has a role in ensuring (1) the basic qualification of the firms among which we can select, (2) that the fees we pay for the services we receive by our senior managing underwriter is fair and (3) that the rates we pay for our debt are reflective of the market. The Authority currently does that well; those services are greatly appreciated and do result in a reduction in the cost of capital of the hospitals in the State. From our perspective, there is no reason to alter the current system.

Again, we ask you to please review the minutes of the NJHCFFA's February 24th meeting and to consider the perspective of our hospital and others and to veto that section of the minutes related to the amendment to Executive Order #26. If you have any questions regarding this request or would like to discuss the Hospital's concerns in greater detail, please feel free to call me at (973) 983-1700.

Respectfully,

Peter Kisylia  
Executive Vice President and CFO  
Saint Clare's Hospital

cc: Paul T. Fader, Esq., Governor's Chief Counsel  
Joseph Fiordaliso, Deputy Chief of Staff  
Mark E. Hopkins, Executive Director, NJHCFFA  
Gary S. Carter, FACHE, President & CEO  
Fred M. Jacobs, M.D., JD Commissioner, Dept. Health & Senior Services  
Gary J. Blaen, CEO, Saint Clare's Health System

## **APPENDIX F**

# BAYSHORE

COMMUNITY HEALTH SERVICES

727 North Beers Street  
Holmdel, NJ 07733  
(732) 739-5900  
www.bchs.com

March 30, 2005

Mark E. Hopkins  
Executive Director  
New Jersey Health Care Facilities Financing Authority  
Station Plaza Building #4.  
22 South Clinton Avenue  
Trenton, New Jersey 08609-1212

**RE: NJ-HCFFA Executive Order No. 26**

Dear Mr. Hopkins:

Bayshore Community Health Services: (BCHS) appreciates the opportunity to submit comments on the New Jersey Health Care Facilities Financing Authority's (the Authority) proposed changes to its policy regarding the selection, of senior managing underwriters, placement agents, remarketing agents and financial advisors in accordance with Executive Order No. 26.

At its February 24th Board meeting, the Authority proposed amending its current policy that would give the Authority the primary responsibility in selecting the Financial Professionals for the services noted above. BCHS firmly believes that this decision is best made by we, the respective borrowers, to ensure that the firm and financial professionals selected will most closely meet our needs.

Executive Order #26 sets forth that it is the policy of the State of New Jersey and its agencies and authorities to generally rewire that all bonds be sold on a competitive basis, provided, that, under certain circumstances, it may be determined that a negotiated sale would better serve the requirements of a particular financing.

The Authority recognized that health care organizations throughout the State have unique issues to be considered in analyzing financing structure alternatives to allow access to the capital markets. Therefore, in adopting policies to implement Executive Order #26 in 1996, the Authority permitted a health care organization to request a negotiated sale and to select a senior managing, underwriter or placement agent (and other consultants, such as a financial advisor), so long as it had conducted a reasonable, competitive process.

Bayshore Community Hospital • Bayshore Health Care Center • Bayshore Community Hospital Foundation • Bayshore Healthcare Management Corporation

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**APPENDIX F**

Mr. Mark E. Hopkins  
March 30, 2005  
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This process has worked exceedingly well for the benefit of the health care organizations in that it has promoted the investment banking community to provide creative solutions to the unique issues confronted by each of such health care organizations.

Due to the success of the existing policy, we are puzzled by the desire of the Authority to change such a policy that has been beneficial to providing health care organizations with an open flow of ideas and creative solutions to financing alternatives. We believe that the management and Board of a health care organization is better situated to make decisions regarding its unique needs regarding financing, than a member of the Board or staff of the Authority which do not have the same knowledge or insight and, therefore, may make decisions based upon factors that are not in the best interests of the health care organization.

As a result of these concerns, Bayshore Community Health Services is respectfully requesting that the Authority not proceed with its proposed amendment to Executive Order No. 26.

I look forward to sharing these concerns with you directly at the Authority's special meeting to be held on Friday April 1st. If you have any questions regarding these comments or would like to discuss, our concerns in greater detail, please feel free to call me at (732) 739-5907.

Sincerely,

Michael Keen  
Vice President and Chief Financial Officer  
Bayshore Community Health Services

cc: Raimonda Clark, President and CEO; Bayshore Community Health Services

Bayshore Community Hospital • Bayshore Health Care Center • Bayshore Community Hospital Foundation • Bayshore Healthcare Management Corporation

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**APPENDIX F**

# ***EVERGREEN FINANCIAL SERVICES***

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March 29, 2005

Mr. Mark E. Hopkins  
Executive Director  
NJHCFFA  
Station Plaza Building #4  
22 South Clinton Avenue  
Trenton, NJ 08609-1212

## **Re: Comments To Proposed Changes In The Selection of Financial Professionals**

Dear Mr. Hopkins:

Thank you for the opportunity to provide comments to the Authority's proposed changes to its policy regarding the selection of financial professionals and your invitation to attend a special meeting of your Board on Friday April 1, 2005. Unfortunately a prior commitment will not allow me to attend this meeting, but I wanted to share these comments to your proposed change to the manner in which financial professionals are selected.

As both a former NJHCFFA Board member and Executive Director, I am very familiar with the issues that surround this proposed change. I believe very strongly that the selection of financial professionals should remain with the Authority's clients, the healthcare providers that are required to use the Authority to reduce the cost of capital they must incur to insure that their facilities and equipment keep pace with the latest advances in medical and information technology so they can continue to provide the highest quality of care to the state's patient population.

Since my position on the Authority Board in the late 70's and my departure as its Executive Director in 1991, I have remained in the health care financing profession, creating a captive financial advisory subsidiary for the New Jersey Hospital Association in 1992 and an independent financial advisory firm, Evergreen Financial Services, in 1998. As you know, our firm specializes in. health care finance and does not underwrite bonds or serve as financial advisor to any issuing authorities, and exclusively represents providers. Ninety-nine percent of our clients are New Jersey not-for-profit healthcare providers with about 75% of that number representing acute care hospitals and the remaining 25% representing providers of senior living services.

During my 26 years in the health care financing profession, my business partner Karen Mosner, also a former NJHCFFA employee, and I have had an opportunity to work with nearly every hospital in the state to complete a myriad of financings with a very diverse range of credits. As a former President of the National Council of Health Facilities Financing Authorities, I have also seen first hand how more than 25 other state and local financing authorities conduct their business which is, without exception, a much less "hands on" approach than is practiced by the

## **APPENDIX F**

Mr. Mark E. Hopkins  
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New Jersey Authority. However, despite criticism received as Executive Director of HCFFA and subsequently as an employee of the NJHA and later as an independent financial advisor, I have generally supported this more proactive approach because I believe that the benefits of such an approach have been convincing in terms of promoting sound financing structures, avoiding defaults and in reducing interest rates and underwriters' spreads. However, I do not support and am strongly opposed to the Authority's recently proposed changes to Executive Order #26 as it relates to the selection of financial professionals. Further, I am confused about the motivation behind this proposed change given what our firm has seen as the positive results of the Authority's implementation of Executive Order #26 in creating greater competition and in reducing underwriting spreads.

As you know, unlike many of their peers operating in unregulated states, New Jersey hospitals operated for more than a decade in a highly regulated environment where they were unable to generate significant cash reserves and were forced to look to the capital markets whenever they needed to renovate or expand services. Accordingly, they became very experienced in the bond underwriting process and very discerning in the selection of underwriters they solicited to assist them in that process. And, in spite of the Authority's somewhat paternalistic role in the financing process, it has generally viewed its clients with the respect one assumes would be given to corporate managers of multi-million dollar organizations and deferred to their expertise and judgment in the selection of financial professionals, a practice shared by *every* other state financing authority in the country. We have been advised that certain other state authorities in New Jersey such as the Educational Facilities Authority, select the financial professionals that underwrite their bonds. However, we question whether the facilities on whose behalf these bonds are issued are as large, as sophisticated and as experienced in the area of capital financing, as are the state's hospitals.

Occasionally, in the Authority's history, special interests have attempted and temporarily succeeded in replacing the provider as the party responsible for the selection of financial professionals, only later to have this practice overturned by a policy or an Executive Order that was deemed to be more in the public interest. Executive Order #26, issued in 1996 by then Governor Whitman, is an example of such an Executive Order. This Order was issued to both promote competition in underwriting Authority bonds and to avoid any appearance of "pay to play" politics, noble goals that I am confident are supported by the Authority today, especially at a time of increased scrutiny of government officials that are in positions to influence such decisions and at a time when the Municipal Securities Rulemaking Board has stated its intention to strengthen its Rule G-37, which is intended to prevent municipal finance professionals at broker dealer firms from donating money to elected officials so they can receive, or influence the awarding of municipal bond business. In proposing your change to Executive Order #26, we believe you are exposing the Authority and the Administration to criticism that may claim that the shift in power to appoint a senior manager from the provider to the Authority will once again set the stage for these appointments to be doled out as rewards for political contributions or future business opportunities. So, why take this risk when there has been no evidence to suggest that Executive Order #26 is not working effectively?

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Since its adoption in 1996, Authority staff has effectively implemented Executive Order #26. And, it has served both the interests of the public and the provider community by requiring providers to select their financial professionals based upon a competitive process that recognizes expertise and experience in health care finance and rewards firms that have committed the time, energy, financial and human resources necessary to produce innovative and cost effective financings at very competitive interest rates and spreads. To date, the Authority has provided significant guidance, oversight and controls over the process of pre-qualifying and selecting senior managing underwriters, but ultimately the final choice of a senior manager has been a decision left to the provider who both pays for the services provided by the underwriter and has sole responsibility for the payment of debt service on its bonds. As a result of its implementation of Executive Order #26, the Authority has significantly *increased* the number of commercial banks, investment banks and other lenders that have participated in Authority financings as senior manager, co-manager and private placement sources. The industry has benefited from the innovative financing ideas and techniques generated by these firms, which have saved the state's hospitals and the payers, and patients that pay their expenses, untold millions of dollars. To say that a policy change is needed to increase competition and open up the process because the current process has limited reputable underwriters is to say that we need to fix a process that is not broken.

Over the past five years alone, competition has not only increased it has flourished with 20 different firms having served as senior managing underwriter on Authority issues including but not limited to; Bear Stearns, Cain Brothers, CitiGroup, Commerce Capital Markets, First Albany, Goldman Sachs, Legg Mason, Merrill Lynch, Morgan Stanley, PNC Capital Markets, UBS, Ziegler Capital Markets and Wachovia Securities. And at least another dozen or more firms have served as co-managers. Competition was further enhanced by a policy that was introduced several years ago that provided for the appointment by the Authority of a co-senior manager. It is our understanding that the Authority's appointment of a co-senior manager was originally intended to provide underwriting opportunities for smaller regional firms and minority and women owned firms who did not have the experience or resources to senior manage a transaction to gain some experience and income through their participation as a co-senior manager without an added cost to the provider. We believe this policy was initially effective and were confused, when for no apparent reason, it was discontinued.

Also, underwriters' spreads on healthcare financings completed through the Authority during the past several years have been some of the lowest in the nation. In fact, certain underwriters that we have solicited for participation in recent Requests For Proposal for Investment Banking Services have declined to participate because they say they cannot be as competitive in their underwriting spreads as other firms they know the hospital has included in their competitive process.

Given this information, one of our primary concerns for your suggested policy change is that it may inhibit, not contribute, to competition and the development of innovative financing structures that can benefit providers and payers alike. Quality underwriters are aware of and are often the creators of new financing techniques and are able to see both their potential applications as well as the range of implications associated with their implementation. These

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Mr. Mark E. Hopkins

March 29, 2005

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same underwriters currently have incentives to present these new ideas to the state's hospitals with their reward being their selection by a hospital to serve as its senior managing underwriter. If the selection of a senior manager is taken away from the hospital and assumed by the Authority, these same underwriters will no longer have an incentive to come forward with new ideas and techniques. Also the savings that could be generated from these new ideas and techniques will be lost in the future which could add additional financial stress on an already challenged hospital industry that is far more leveraged and less liquid than its peers in other states.

We are also troubled by the fact that providers may be forced to work with firms that they do not know and who may have little health care experience and worse, may have no understanding of them, their operations, their history, their priorities, their constraints and their goals. Educating new bankers about a particular provider and worse yet, about an entire industry, can be a costly and time consuming event and may cost the provider more than just the time involved in the education process. If an underwriting firm does not have a designated healthcare group that understands industry credit profiles and dynamics nationally and perhaps more importantly, understands the particular credit history of the hospital industry in New Jersey, the provider will not only be required to spend additional time to educate this underwriter but may also be severely disadvantaged by the underwriter's lack of experience and inability to sell the provider's credit story to the financial community, i.e., rating agencies, credit enhancement providers, investors, etc. which will have a direct bearing on the provider's credit rating, its ultimate cost of capital and the state's total health care costs. While we can appreciate the time and effort taken by the Authority to pre-qualify 47 firms on its recently approved list of underwriters, we cannot believe that all of these firms are equally qualified and we would be interested in learning about the specific criteria established by the Authority for approving these firms as senior managing underwriter. Undertaking a hospital financing is not like underwriting a general obligation bond and cannot and must not be viewed as a commodity sale. Health care credits, especially in highly competitive state like New Jersey with charity care and the baggage that comes with a long history of rate regulation, are typically very complex and unique. When you've seen one New Jersey hospital bond issue, you've seen one New Jersey hospital bond issue, as each brings with it its own unique set of circumstances and credit story. Undertaking a health care financing is not a one-time event and cannot be viewed as a single "one-off" transaction but rather, must be viewed as an ongoing relationship that extends many months before a bond issue is ready for sale, sometimes years, if a Certificate of Need is involved, through the final maturity of the bonds, which is often 30 years or more. Also, the personalities of the underwriter and the hospital's management team, i.e., chemistry, must be considered if a timely and cost effective financing is the desired outcome. If an underwriter errs in the structuring of a provider's debt, even if the error is discovered 20 years after its issuance, the provider could end up paying a very high price. With such liability at stake, providers deserve the right to select their own senior manager. Of equal importance, does the Authority or the State really want the added liability that will likely come with its proposed selection of the senior manager?

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March 29, 2005  
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Also, providers need to have access to underwriters as a resource, for ongoing strategic capital advice and to assist them in the development of strategic capital plans and debt capacity studies, and to explore financing options and products that will help position them to remain financially viable in the future. If providers are able to select their strategic capital partners, i.e., their senior managing underwriters, and establish an ongoing relationship, they are more likely to receive these kinds of services before and after the sale of bonds than they would if the selection of a senior manager is taken from them and made by the Authority. Also, we regularly encourage our provider clients to undertake proactive investor relations programs where intended to provide periodic updates of their financial and operating performance to major stakeholders such as bond insurers, rating agencies, letter of credit banks and large institutional investors. Senior managers are often recruited by providers to assist them in developing and implementing these programs and are rarely compensated for this service after the sale. However, if the underwriter is no longer selected by the provider but rather appointed by the Authority, these value added services may no longer be available.

In summary, we urge the Authority to reconsider its proposed changes to Executive Order #26 and continue to allow its client providers to select their financial professionals, specifically their senior managing underwriter. If the Authority Board wishes to again implement its policy of appointing a co-senior manager to offer greater opportunities to smaller regional firms and minority and women owned firms to gain some experience and income from their participation in Authority financings, we would support that policy. We would also support the Authority's past practice of appointing co-managers on issues of \$20 million or more after consultation with the provider to avoid any possible conflicts with a particular underwriter and to insure that the provider receives the broadest and deepest distribution of its bonds.

As already stated, we believe that Executive Order #26 as currently implemented by the Authority staff is working effectively to produce competition and promote competitive underwriting spreads, and accordingly, we see no reason for you to make any changes at this time. As always, we appreciate the opportunity to comment on your proposed changes to Authority policy and practices and would be pleased to respond to any questions your Board or staff may have regarding the information we have presented.

Very truly yours,

D. Kathryn Fern  
Principal

cc: Fred M. Jacobs, M.D., JD, and Commissioner of Department of Health & Senior Services

**APPENDIX F**

# ***EVERGREEN FINANCIAL SERVICES***

714 East Main Street • Suite 2A • Moorestown, NJ 08057 • (856) 439-2557 • FAX (856) 439-1375

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March 25, 2005

Mr. Mark E. Hopkins  
Executive Director  
NJHCFFA  
Station Plaza Building #4  
22 South Clinton Avenue  
Trenton, New Jersey 08609-1212

Dear Mr. Hopkins:

Thank you for the opportunity to provide comments to the Authority's proposed changes to its policy regarding the selection of Financial Professionals in accordance with Executive Order No. 26 (Whitman). As a former employee of the Authority who spent the first 10 years of my career working both in Operations as well as Project Management, I am very familiar with health care finance in New Jersey. After leaving the Authority in 1992, I have spent the past 12 years as a financial consultant to New Jersey hospitals in their efforts to obtain low cost capital and have continued to work closely with the Authority during these 12 years. While our firm does not represent all of the hospitals in the state, on average Evergreen Financial Services is involved with 50% to 60% of the hospital transactions that are issued through the Authority.

In my 22+ years of experience in working with hospitals in their efforts to access capital through NJHCFFA, I have seen a number of Authority processes with respect to the appointment of Financial Professionals whether as an Authority employee or independent consultant. As a consultant that has solely represented hospitals in the financing process, I believe that the process that has worked best for the hospitals is the process that was put into place in March of 1996 to implement Executive Order No. 26. Given my experience in healthcare finance, I feel strongly that hospitals need to have the ability to choose the Financial Professionals that not only will be structuring their tax-exempt financings but will be providing ongoing capital and strategic advice as well as investor relations programs: My strong beliefs are based on the following:

1. Structuring health care deals are one of the most challenging financings due to the complexity of the credit issues. Hospital bonds are not like state deals, municipals deals, water and sewer deals, etc. Hospitals need seasoned health care bankers that can tell their credit story to the rating agencies, bond insurers, letter of credit banks and ultimately the investors that are buying the bonds. They need bankers that understand reimbursement issues, managed care issues, physician issues, market complexities, competitive issues, etc. Just because a banker can sell a water or sewer bond does not mean they can sell a health care bond. In addition, hospitals in NJ need bankers that are familiar with the NJ history, particularly given the negative impact rate regulation had and continues to have on their capitalization and liquidity ratios. Our firm strongly recommends that our clients seek out firms with dedicated health care bankers and teams that

## **APPENDIX F**

have a tremendous amount of experience, both nationally and in New Jersey. While I can appreciate the process the Authority has in place to develop its list of 40+ bankers, I cannot agree that all of the firms on the Authority's list are created equal and can deliver the same level of expertise on a transaction.

2. Hospitals need ongoing service from their investment banker. We have encouraged our clients to develop long-term relationships with their bankers so that there is continued service even though there are on average three to five years between financings. Investor relation programs need to continue ever year. Our clients work closely with their bankers to update their annual presentations to the rating agencies, bond insurers, letter of credit banks and investors. The bankers are willing to put the time and effort into these programs even though there is not compensation until the next deal. Furthermore, it takes an enormous amount of time to educate a banker on the history and credit story of each hospital. Having a relationship banker that is familiar with a hospital's credit and history adds tremendous value for an investor relations program. Having to educate new bankers takes an enormous amount of time, time that management can use in more beneficial ways. In addition, clients that are contemplating future financings need help with debt capacity analysis, numbers analysis and strategic analysis a year or so before they are ready to access the markets. Again, relationship bankers are willing to put the time and effort into helping the hospital given their role as the institution's investment banker. These relationships have also been valuable during times when hospitals have experienced financial problems. The hospital banker has often been called upon to help craft an investor relation strategy to present to the investment community. Should this choice be taken away from the hospital, bankers will not want to invest the time and energy into New Jersey hospitals as there would be no assurance that they would get to work with the hospital when financing was needed.
3. Hospitals also need access to new financing techniques and products. If hospitals are not able to select their own banker, there will be no incentive for bankers to put time and effort into marketing to NJ hospitals as there will be no guarantee that they would be awarded the business for a great new idea. Our NJ hospitals will be disadvantaged as bankers will choose to market new and creative ideas in other states. Firms that are winning the banking business in this state are the firms that are continuously out meeting with hospitals and marketing new ideas, products and services.
4. Given that the financing process can take anywhere from six months to a year or more, hospital managers need to be able to work with the Financial Professionals from a personality standpoint. Our clients hold extensive interviews with several firms not only to flush out talent and ideas but to also make sure the personalities work. The financing process is difficult enough without having to spend an enormous amount of time with professionals that don't have synergy.

**APPENDIX F**

5. Given that the Hospitals are paying all of the fees, it is only right that they select the banker of their choice. As mentioned earlier, our firm works with a large percentage of the hospitals that access capital through the Authority. Our hospital clients have undertaken very competitive processes to select their bankers. On average, four to six firms are solicited and asked to respond to an RFP with an average of 14+ questions depending on the deal and the credit. Once the RFP's are reviewed, a minimum of three firms are typically interviewed for a two-hour period. The processes our clients have undertaken are extremely competitive and thorough. Even hospitals that have existing relationships continue to solicit additional firms to make sure they are receiving the best advice and to keep their existing banker honest with respect to fees.

In summary, the investment banking relationship is very important to a hospital and is a relationship that is much more than just issuing bonds once every three or four years. Since March of 1996, the Authority's process has worked extremely well for New Jersey hospitals. They have had access to the best health care investment banking talent, have been able to take advantage of new techniques and products and have been the beneficiary of very competitive spreads. The Authority's current process requires that hospitals undertake a competitive process by soliciting proposals from at least three firms that are on the Authority's approved list which seems to be within the spirit of the Executive Order. Hospitals have been operating under this process for the past eight years so it is unclear why all of a sudden this process is no longer acceptable. If the Authority would like to get more involved in the hospital's RFP process I am sure that the hospitals wouldn't mind input and participation. The Authority could comment on the proposed RFP list, RFP questions, RFP answers and participate in the interview process to satisfy itself that the process was competitive. In addition, proposals could be made available to the public should anyone request a copy. However, the final choice needs to remain with the hospital and its Board as they are the ones ultimately responsible for paying the fees as well as paying the bonds that are issued. The investment banking relationship is a key relationship for hospitals, one that should remain their choice.

As a former Authority employee, I cannot understand why the Authority would want to control the appointment process and the liability associated therewith given that we are now in a deregulated environment. It was one thing to control the process when NJ was living under that Chapter 83 system and very regulated, including the approval of every financing by the Rate Setting Commission. However, under deregulation, why does the Authority want the potential liability of appointing a Senior Manager should the Senior Manager have problems? If the transaction doesn't go well and the hospital has appointed the firm, the hospital has only itself to blame. However, if the Authority appoints a banker that the hospital is not happy with and then the banker doesn't do the job the hospital is expecting, it seems to me the Authority is now in a position it would not want to be in. Finally, I am curious as to what process the Authority would undertake to appoint a banker from its list. Will Authority staff now be drafting an extensive RFP on behalf of the Hospital, reviewing the responses, summarizing the answers and proposed financing structures for the hospitals, conducting the interviews and negotiating the fees? It is our experience that hospital RFP's require a number of extensive questions including credit

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Mr. Mark Hopkins

March 25, 2005

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questions, debt capacity questions, marketing and distribution questions, number analysis questions, structuring questions, fee questions and conflict questions. I would believe the hospitals and their boards would continue to want this type of information, given the importance of the service provided and the amount of fees paid to issue bonds.

Again, thank you for the opportunity to comment. A prior commitment does not allow me to attend the meeting, however, I would be happy to meet with you to discuss this issue.

Very truly yours,

Karen B. Mosner

Principal

cc: Fred M. Jacobs, M.D., J.D., and Commissioner of Department of Health & Senior Services

# Capital Health System

*Outstanding Care. Extremely Close.*

March 30, 2005

Mr. Mark E. Hopkins  
Executive Director  
NJ - HCFFA  
Po Box 366  
Trenton, NJ 08625

Dear Mr. Hopkins:

On behalf of Capital Health System, I am writing to express our opposition to the New Jersey Health Care Financing Authority's proposed changes to its policy regarding the selection of bond underwriters and other entities associated with Executive order # 26.

It is our understanding that a portion of the Authority's desire to depart from the current negotiated sale process lies in the belief that benefits will derive from opening up the transaction to a wider field of participants. That intent, while appearing noble, in practicality falls short and causes a more costly and inefficient bond sale transaction, thus not being in the public's best interest. That has been our experience years ago for a bond sale for the Helene Fuld Medical center when we were initially unable to provide input through a negotiated sale process and were essentially given a list of pre-selected participants. We quickly ascertained that the firms selected for us fell far short of the experience required and the transaction costs were greater than needed to be. Following our protests, we were able to convince the Authority to accept our recommendations for senior underwriter and counsel, which resulted in an efficient and satisfactory sale.

We believe that not allowing hospitals the necessary input through the current negotiated sale process would be misguided and a huge setback for New Jersey hospitals, an industry which is motivated and responsible for maintaining the most efficient health care delivery system, and for the Authority that is entrusted through their oversight to ensure that efficiency to the public.

Sincerely,

Ronald J. Guy  
Chief Financial Officer

Cc: Al Maghazehe  
President, Chief Executive Officer

/mhq

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• **Fuld Campus** • 750 Brunswick Avenue • Trenton, New Jersey 08638 • (609) 394-6000  
• **Mercer Campus** • 446 Bellevue Avenue • Trenton, New Jersey 08618 • (609) 394-4000

## APPENDIX F

**MERIDIAN  
HEALTH**

Via facsimile: 609-633-7778  
March 31, 2005

Mr. Mark E. Hopkins  
Executive Director  
New Jersey Health Care Facilities Financing Authority  
Station Plaza Building #4  
22 South Clinton Avenue  
Trenton, New Jersey 68409-1212  
**RE: Executive Order No. 26**

Dear Mr. Hopkins:

Meridian Health System thanks you for the opportunity to submit comments on the New Jersey Health Care Facilities Financing Authority's proposed changes to its policy regarding the selection of senior managing underwriters, placement agents, remarketing agents and financial advisors in accordance with Executive Order No. 26.

We understand that the Authority is proposing an amendment to its current policy that would give it the primary responsibility, in selecting the financial professionals for bond financings. We believe New Jersey's hospitals should retain the ability to choose financial professionals that most closely meet their needs.

Our perception of Executive Order No. 26 is that the current process works well, it has been competitive and has generally resulted in a reduction to the industry's cost of capital. Our concerns regarding the implementation of the proposed change include:

- Limiting or discouraging the range of innovative financing options and structures that may be offered by investment or commercial bankers.
- The potential risk associated with having a less experienced banker serving as senior manager who may not have the particular expertise necessary to structure or underwrite the financing in the most cost effective fashion.

If you have any questions regarding these comments or would like to discuss our concerns in greater detail, please feel free to call me at 732-751-7520.

Sincerely,

William N. Phillips  
Senior Vice  
President & CFO

T. 732.751.7500 • Meridian Health Line 1.800.560.9990 • [www.meridianhealth.com](http://www.meridianhealth.com) ~ Monmouth Shares Corporate Park • 1350 Campus Parkway • Neptune, NJ 07753

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**APPENDIX F**

# SAINT BARNABAS HEALTH CARE SYSTEM

ALBERT R. GAMPER, Jr.  
Chairman

RONALD J. DEL MAURO  
President and Chief Executive Officer

DAVID A. MEBANE  
Vice President – Legal Affairs  
Tel: (973)322-4045 Fax: (973) 322-4040

Mark Hopkins, Executive Director  
New Jersey Health Care Facilities Financing Authority  
22 Clinton Avenue  
Station Plaza - Building 4  
Trenton, New Jersey 08609

March 30, 2005

**Re: New Jersey Health Care Facilities Financing Authority  
/ Executive Order No. 26**

Dear Mr. Hopkins:

The undersigned is writing on behalf of the Saint Barnabas Health Care System to address the proposal by the New Jersey Health Care Facilities Financing Authority ("Authority") to amend Executive Order No. 26. It is the System's understanding that this proposal would give the Authority primary empowerment to select the senior managing underwriter in connection with bonds issued on behalf of hospitals by the Authority. Practically speaking, hospitals would no longer have the ability to make the fundamental business decision associated with choosing an underwriter for major capital financings through the Authority's "negotiated sale" process. We understand that the Authority will be conducting a meeting devoted to this topic Friday, April 1<sup>st</sup>.

In undertaking a capital financing, the position of senior managing bond underwriter is critical to the hospital's ability to issue its bonds in the most cost effective and efficient fashion. Frequently the circumstances of the hospital's debt structure, its project, and its overall finances require a unique and creative approach. Familiarity with New Jersey's health care industry, hospital economics, historical bond market trends, and regulatory trends are all critical ingredients to a successful bond sale. The proposal adopted by the Authority Board would expose hospitals to the risk of utilizing an underwriter which lacked the competence and experience to structure an effective transaction.

The current process, which has existed for many years, has worked exceedingly well for health care organizations. In light of the policy's success, and the potential risk to health care organizations of changing the policy, we are puzzled by the Authority's desire to make a change that would take control away from the hospitals.

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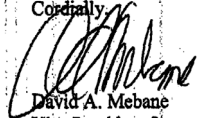
APPENDIX F

Hospitals and hospital systems have become sophisticated businesses. Saint Barnabas Health Care System generates over \$2 Billion in annual revenues. The System and its management need to be able to make the important decision of choosing a bond underwriter on an independent basis, with management's unique perspective on the hospital's finances, market share, payer mix and programmatic structure. The System certainly welcomes the Authority's expertise in developing an approved list of underwriters. However, the making of such an important decision should be reserved to the management of the hospital, not the Authority or State.

Separating management from the choice of underwriter may also have an adverse impact on Wall Street's perception of New Jersey hospitals and the New Jersey healthcare marketplace. An underwriter familiar with the New Jersey marketplace and the challenges facing New Jersey hospitals has greater credibility and will give sophisticated institutional bond purchasers more confidence that a transaction has been properly structured, is legally sound and has been subject to appropriate due diligence.

It should also be noted that the relationship between a hospital and its underwriter is not limited to a specific transaction. A hospital must regularly make secondary market disclosure with respect to any change in its business and must on a regular basis meet with rating agencies in order to report on its overall finances. Also, hospitals must continually evaluate their need for capital and the availability of creative techniques to raise that capital. The services of an informed and experienced bond underwriter familiar with all aspects of the hospital's finances and capital structure is critical to enabling the hospital to address these obligations.

For all of the reasons stated above, the System would urge the Governor's office to veto that section of the Authority's minutes pertaining to Executive Order No. 26.

Cordially,  
  
David A. Mebane

David A. Mebane  
Vice President for Legal Affairs

DAM/vj

cc: Honorable Fred Jacobs, Commissioner of Health (via telecopier)

Mhopkinsltr32905

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**APPENDIX F**