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October 26, 2017

Honorable Arnold L. Natali, Jr., P.J.Ch.
Middlesex County Courthouse
56 Paterson Street, 3rd Floor
New Brunswick, NJ 08901

Re: Proposed Establishment of The Trustees of the University of Pennsylvania as Sole Member of Princeton HealthCare System Holding, Inc. Pursuant to the Community Health Care Assets Protection Act, N.J.S.A. 26:2H-7.10 to -7.14
Dkt. No.

Dear Judge Natali:

This Office has completed its examination of the application submitted by Princeton HealthCare System Holding, Inc. ("PHCS"), a New Jersey nonprofit, tax-exempt corporation, to establish The Trustees of the University of Pennsylvania (the "University"), a Pennsylvania nonprofit, tax-exempt corporation, as its sole member/parent corporation (the "Proposed Transaction"). This Office recommends the Court's approval of the Proposed Transaction, with one condition, set forth below.

PHCS is the sole member/parent corporation of an integrated healthcare delivery system, and is the sole member of a number of nonprofit, tax exempt subsidiaries, including Princeton HealthCare System ("PHS"), Princeton HealthCare System Foundation (the "Foundation"), Princeton Care Givers, and Princeton Medical Properties. PHS has three (3) operating divisions consisting of: (i) the University Medical Center of Princeton at Plainsboro, a general acute care hospital (the "Medical Center"); (ii) Princeton House Behavioral Health; and (iii) Princeton HomeCare. (PHCS' nonprofit, nonhospital affiliates and subsidiaries will be referred to collectively as,

the "Affiliates.") PHCS also owns certain health care related taxable subsidiaries, including Princeton Health, Inc. and Princeton Urban Renewal, LLC.

The University owns and operates the University of Pennsylvania Health System ("UPHS"). UPHS consists of several operating divisions of the University, including the Hospital of the University of Pennsylvania. The University has established a unified governance structure within the University, known as "Penn Medicine" to oversee, coordinate, and govern the University's medical education, research and clinical healthcare components, including UPHS and The Raymond and Ruth Perelman School of Medicine at the University of Pennsylvania. UPHS consists of medical centers, regional hospitals, and multispecialty outpatient and rehabilitation facilities. (For the purposes of this letter, the University, UPHS and Penn Medicine will be referred to collectively as the "Penn Health System".)

In accordance with the terms of an Affiliation Agreement, dated December 22, 2016, by and among the University, PHCS, and PHS (the "Agreement") and receipt of all required approvals, PHCS will file Amended and Restated Articles of Incorporation with the State of New Jersey establishing the University as PHCS' sole member. PHS and the Affiliates, as necessary, will also file Amended and Restated Articles of Incorporation with the State of New Jersey and amend their Bylaws to effectuate the governance changes required by the Agreement. Following the consummation of the Proposed Transaction, PHCS will remain the sole member of PHS and the Affiliates. Nevertheless, the University, through Penn Medicine, will exercise certain "reserved powers" over PHCS, PHS and the Affiliates. These powers include, inter alia, the following: (i) approval of PHCS Board approved amendments to, alterations to, or repeal of the governing documents of PHCS, PHS or the Affiliates; (ii) approval of PHCS Board-approved annual capital and operating budgets for PHCS and PHS; (iii) approval of PHCS board-approved strategic plans for PHCS and PHS; and (iv) the hiring, termination, renewal, and determination of terms of employment of the PHCS Chief Executive Officer, with the prior advice and consultation with the PHCS Board.

PHCS, PHS, and the University seek the Court's approval for the establishment of the University as the sole member of PHCS and the attendant change in control over PHCS, PHS, and the Affiliates, in accordance with the Community Health

Care Assets Protection Act ("CHAPA"), N.J.S.A. 26:2H-7.10 to -7.14, and the Attorney General's common law oversight of charitable corporations. CHAPA requires that a nonprofit hospital licensed pursuant to N.J.S.A. 26:2H-1 et seq. satisfy the requirements of CHAPA before applying to the Superior Court of New Jersey for approval and prior to entering into a transaction that results in the acquisition of the hospital. The purpose of this submission is to advise the Court of our findings and recommendations associated with our examination of the Proposed Transaction under CHAPA.

Here, the Proposed Transaction constitutes an "acquisition" of PHS (which owns and operates the Medical Center) by the University as that term is defined in CHAPA. Under CHAPA, an acquisition means the "... restructuring, merger, division, consolidation, transfer of control or other disposition of a substantial amount of assets or operations, whether through a single transaction or series of transactions, with one or more persons or entities." N.J.S.A. 26:2H-7.11. The Proposed Transaction constitutes a fundamental corporate change involving a transfer of control of a substantial amount of the operations and charitable assets of PHS, requiring CHAPA review.

CHAPA mandates the participation of the Attorney General, the Commissioner of the Department of Health (the "Commissioner"), and the Superior Court in reviewing the Proposed Transaction. The Attorney General is required to ascertain whether the acquisition is in the public interest, with or without any specific modifications, by determining whether appropriate steps have been taken to safeguard the value of the charitable assets of the hospital being acquired. The Commissioner must decide whether the Proposed Transaction is likely to result in the deterioration in the quality, availability, or accessibility of health care services in the affected community.

Pursuant to N.J.S.A. 26:2H-7.11(l), "[u]pon completion by the Attorney General of the review of the application required by this act, the nonprofit hospital shall apply to the Superior Court for approval of the proposed acquisition. In that proceeding, the Attorney General shall advise the court as to whether the Attorney General supports or opposes the proposed acquisition, with or without any specific modifications, and the basis for that position." The Superior Court must ultimately approve the Proposed Transaction.

We have examined the application submitted by PHCS/PHS in response to our requests for documentation relating to the Proposed Transaction. We have also reviewed the transcripts of the public hearing held on September 27, 2017 concerning the Proposed Transaction. Finally, we have examined applicable law. Based on our independent analysis of the information provided and for the reasons set forth below, this Office supports the Proposed Transaction as described herein, without any modifications. Our recommendation is conditioned upon:

1. The adoption by the governing bodies of PHCS, PHS and any Affiliates affected by the Proposed Transaction of amendments to their respective Certificates of Incorporation and Bylaws, as submitted with their CHAPA application, effectuating the changes resulting from the Proposed Transaction, provided that there be thirty (30) days prior written notice to and approval by the Attorney General of any material changes to the proposed forms of governing documents which were submitted in the CHAPA application process.

PHCS also seeks approval for the change in control affecting the Affiliates resulting from the establishment of the University as sole member of PHCS and the grant of reserve powers to the University over the corporate governance of the Affiliates. This change in control is not subject to review under CHAPA, because it does not involve an acute care general hospital. However, CHAPA does not limit the Attorney General's existing authority to review transactions. N.J.S.A. 26:2H-7.14. The change in control affecting the Affiliates is inextricably intertwined with the change in control involving PHCS and PHS. The information provided to us by PHCS and PHS regarding the CHAPA transaction also relates to the due diligence PHCS engaged in concerning the Affiliates. Based upon our review of the materials provided and for the reasons set forth below, we have no objection to the change in control affecting the Affiliates, subject to the condition set forth above.

In addition, the Department of Health has issued a finding pursuant to CHAPA, specifically N.J.S.A. 26:2H-7.11(b). Writing in regard to the proposed merger of Princeton Health Care System Holding (Princeton) and The Trustees of the University of Pennsylvania (Penn) in a letter dated October 13, 2017 to Christopher S. Porrino, Attorney General of New Jersey (attached hereto as Exhibit A), Cathleen D. Bennett, the Commissioner of the Department of Health, stated that, "[t]he Department has approved the licensure application regarding this

transaction." Also, the Department participated in a public hearing held in accordance with the Community Health Care Assets Protection Act. "Princeton and Penn both represent that Princeton and its respective subsidiaries and affiliates will continue all services currently being provided at their facilities. Based upon the applicants' representations, and information reviewed in connection with the proposed merger, the Department believes the transaction will not result in the deterioration of the quality, availability or accessibility of health care services in the impacted communities."[1]

I. The Transacting Parties and the Proposed Transaction

(a) Description of the Transacting Parties and their Affiliates

1. Princeton HealthCare System Holding, Inc.

PHCS, a New Jersey nonprofit corporation, is the sole member of PHS, the Foundation, Princeton Medical Properties, and Princeton CareGivers. PHCS is the owner of Princeton Health, Inc. and Princeton Urban Renewal, LLC. Currently, PHCS has no corporate member.

PHCS is organized and operated exclusively for educational, charitable, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. Further, PHCS is organized to enhance the quality of life and benefit the inhabitants of the community served by PHS and its affiliates in the surrounding areas. PHCS' mission is to provide comprehensive care for the communities it serves, continually improving the quality of the health care services it provides to patients, and promoting medical and scientific research.

(i) Princeton HealthCare System

PHS is a New Jersey nonprofit corporation comprised of three divisions, the University Medical Center of Princeton at

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[1] In accordance with a letter from John Calabria, Director of Certificate of Need and Licensing, New Jersey Department of Health, dated March 30, 2017, the DOH concluded that, "the proposed transaction where the University becomes the sole corporate member of PHCS does not require Certificate of Need approval."

Plainsboro, Princeton House Behavioral Health and Princeton HomeCare, Hospice and Rehabilitation Services.

- The Medical Center is a 319-bed acute care general hospital located in Plainsboro, New Jersey providing a full spectrum of inpatient and outpatient services. The hospital was established in 1919 and grew for over one hundred years in Princeton. In 2012, the hospital moved to its new campus in Plainsboro.

- Princeton House Behavioral Health is a 110-bed facility and electroconvulsive therapy center providing psychiatric and addiction care services at the inpatient, partial hospital and intensive outpatient levels of care.

- Princeton HomeCare, Hospice and Rehabilitation Services provide comprehensive in-home nursing, rehabilitation, hospice care and support services.

(ii) Princeton HealthCare System Foundation

The Foundation is a New Jersey nonprofit organization that supports the mission of PHS through various fundraising activities.

(iii) Princeton Medical Properties

Princeton Medical Properties is a New Jersey nonprofit organization that holds properties for the benefit of PHS.

(iv) Princeton CareGivers

Princeton CareGivers is a New Jersey nonprofit organization that provides private duty homecare services.

PHCS is also the parent entity or sole shareholder of Princeton Health, Inc. ("PHI") and Princeton Urban Renewal, LLC ("PUR"), respectively. Both taxable affiliates operate in furtherance of PHCS' mission and purpose. PHI engages in various health-related ventures and joint ventures on behalf of PHCS and PHS. PUR initiates and conducts projects for development and/or redevelopment as an urban renewal entity under L. 1991, c. 431 (C.40A: 20-1, et seq.).

2. The Trustees of the University of Pennsylvania

The University is governed by its Board of Trustees which has delegated to the Penn Medicine Board the responsibility to foster relationships among the components of Penn Medicine and between Penn Medicine and the University. The University maintains ultimate control over the governance and operation of UPHS and Perelman School of Medicine.

The Penn Medicine Board has responsibility for the oversight of UPHS and the Perelman School of Medicine and to assure that its constituents operate in a coordinated manner to promote the goals of providing outstanding clinical care, education and research.

i. Perelman School of Medicine

The Perelman School of Medicine supports active research programs in every area of modern biomedical research with major emphases in behavioral disorders, biomedical imaging, cancer, computer technology, diabetes, immunology, molecular genetics, the neurosciences and pharmacology.

ii. University of Pennsylvania Health System

UPHS consists of certain operating divisions of the University and affiliated entities, including: the Hospital of the University of Pennsylvania ("HUP"), Penn Presbyterian Medical Center ("PPMC"), Pennsylvania Hospital of the University of Pennsylvania Health System, The Chester County Hospital and Health System ("TCCHS"), Lancaster General Hospital ("LGH"), and Wissahickon Hospice ("WH"). HUP is an operating division of the University. PPMC, TCCHHS, LGH, PAH, and WH are separate nonprofit corporations affiliated with and controlled by the University.

- HUP is an 820-licensed bed, including bassinets, quaternary care hospital and academic medical center located on the campus of the University in the West Philadelphia area of Philadelphia, Pennsylvania. HUP provides secondary, tertiary, and quaternary care to the residents of Philadelphia and the surrounding tri-state area.

- PPMC is a 366-licensed bed acute care facility located in University City adjacent to the

University's campus. PPMC provides primary, secondary and tertiary care to residents of metropolitan Philadelphia and Southern New Jersey.

- PAH has 546 licensed beds, including bassinets, and today is an acute care tertiary facility. PAH provides primary, secondary and tertiary care to residents of metropolitan Philadelphia and Southern New Jersey.

- TCCHHS includes The Chester County Hospital which is a 289-licensed bed, including bassinets, acute care facility located in West Chester, as well as satellite locations. Chartered in 1892, the hospital complex offers an array of inpatient and outpatient medical/surgical services. TCCHHS became affiliated with UPHS in September 2013.

- LGH controls and manages the Lancaster General Health System, an integrated regional healthcare delivery system principally located in Lancaster County, Pennsylvania, operated through its affiliated entities, including Lancaster General Hospital, a 533-licensed bed acute care and surgical facility and Women & Babies Hospital, a women's specialty hospital with ninety-seven (97) inpatient beds.

- Wissahickon Hospice was established in 1982 to provide compassionate care for patients with life-limiting conditions.

(b) Description of the Proposed Transaction

In accordance with the Agreement, PHCS will file Amended and Restated Articles of Incorporation establishing the University as its sole member. PHCS will remain the sole member of PHS and the Affiliates, including the Foundation and the University will exert certain reserved powers over PHCS, PHS and the Affiliates.

(c) Chronology of Events Leading to the Proposed Transaction

As recounted in the minutes of the July 11, 2016 joint meeting of the Board of Trustees of Princeton HealthCare System (the "PHS Board") and the Board of Trustees of Princeton HealthCare System Holding, Inc. (the "PHCS Board"), (referred to collectively as the "Princeton Boards"), in January 2012, the PHCS Board established an ad hoc Strategic Planning Committee ("SPC"). From January 2012 through November 2013, the SPC studied the changing healthcare landscape and decided to monitor the healthcare market and continue to strengthen PHCS's financial position rather than pursue an affiliation transaction with a third party at that time.

On May 22, 2012, PHS successfully completed the relocation of its acute care hospital by opening University Medical Center of Princeton at Plainsboro on the Plainsboro Campus.

Beginning in July 2014, and over the course of the next year, PHCS developed and implemented a strategic plan with the assistance of its third-party advisor, Kaufman Hall ("KH"). At its March 10, 2015 meeting, the SPC concluded that it would report to the PHCS Board that PHS will be challenged to meet its strategic imperatives without a partner. The opening of the new hospital had disrupted operating performance and increased debt load. At the March 23, 2015 PHS Board Meeting, KH presented that PHS should seek to form strategic partnerships in order to maintain and advance PHS' ability to carry out its organizational mission in the evolving healthcare environment.

The Princeton Boards evaluated alternatives on how best to meet anticipated population demands, including remaining independent, merging with similarly sized organizations, or fully integrating with a larger not-for-profit or for-profit partner. The Princeton Boards concluded, following the recommendation of the SPC, that integrating with a larger not-for-profit partner was in the best interest of PHCS and PHS and the communities each serves.

The Princeton Boards identified certain guiding principles, best practices and charitable objectives that must be met through integration with a larger not-for-profit partner to ensure that the charitable mission of PHS continues long into the future.

In July 2015, the Princeton Boards initiated a competitive process of evaluating potential partners and partnership structures. The Princeton Boards engaged Wells Fargo Securities, LLC, an investment bank with experience in the healthcare industry ("Wells Fargo"), McDermott Will & Emery LLP, a law firm with expertise in the evaluation and negotiation of not-for-profit hospital affiliations ("McDermott") and Withum, Smith & Brown, a consulting and accounting firm with hospital-industry finance and tax experience ("Withum", and together with Wells Fargo and McDermott, the "Outside Advisors") to advise the Princeton Boards throughout the strategic affiliation process.

On October 26, 2015, the PHCS Board authorized the SPC to: (i) determine a list of potential strategic partners that would be invited to submit proposals; (ii) evaluate the proposals in light of the charitable objectives; (iii) request additional information and conduct due diligence; (iv) narrow the list to no fewer than two (2) potential partners; (v) present this list to the Board with analysis and recommendations; and (vi) provide regular updates to the Board.

At the November 19, 2015 meeting of the SPC, the Committee reviewed key parameters for PHS to consider in evaluating a partnership transaction to help PHS achieve its objectives. These parameters included governance, community control, financial commitments, and clinical and technology investments.

In October 2015, using recognized guiding principles, Wells Fargo identified nineteen (19) potential strategic partners and initiated contact with seventeen (17) of these potential strategic partners that best satisfied the guiding principles. Wells Fargo sent a draft Confidentiality and Non-Disclosure Agreement ("NDA") to the eleven (11) potential strategic partners that expressed an interest in a fully-integrated strategic partnership, which were executed in October and November 2015. Upon receipt of, and subject to, the NDAs, Wells Fargo provided Princeton's Confidential Information Presentation to eleven (11) potential partners. Initial meetings were held with representatives of the ten (10) remaining interested potential partners. Wells Fargo subsequently sent a formal request for proposal ("RFP") to the nine (9) potential strategic partners on December 23, 2015 that best satisfied PHCS' guiding principles. Six (6) potential partners provided a written response to the RFP in February 2016.

On March 14, 2016, the Princeton Boards agreed that the proposals from Penn Medicine on behalf of the University, Hackensack Meridian Health, a New Jersey health system, and Thomas Jefferson University (the "Preferred Partners") best met the potential partnership criteria developed by the Princeton Boards, had the most potential to meet the guiding principles, and were most in line with the best practices outlined by PHCS. Several rounds of meetings were conducted with the Preferred Partners, including meetings held at the Preferred Partner hospitals. On May 23, 2016, the SPC voted to recommend that the PHCS Board enter into exclusive negotiations with the University.

On July 11, 2016, upon the recommendation of the SPC, the Princeton Boards approved selecting the University as its partner and approved a non-binding letter of intent ("LOI") with the University. The LOI was executed on July 13, 2016.

Following execution of the LOI, the Princeton Boards (via its accountants, legal advisors and other consultants) conducted legal and financial due diligence of the University while simultaneously negotiating the terms of the Agreement among PHCS, PHS and the University.

On November 28, 2016, after the Princeton Boards evaluated the strategic, financial and due diligence analyses conducted with respect to the University, the Princeton Boards decided that affiliating with the University represented the best means of assuring that PHCS, PHS and their affiliates could continue to fulfill their mission and charitable objectives in the future.

Following the approval of the Princeton Boards, and the approval of the University's and Penn Medicine's Boards, on December 22, 2016, PHCS, PHS and the University entered into the Agreement.

II. CHAPA Review Process

By letter dated December 22, 2016, counsel for PHCS notified this Office of a proposed transaction among PHCS, PHS, and the University. In accordance with the Agreement dated December 22, 2016, the University would be established as the sole member of PHCS, with reserved powers over PHCS, PHS, and the Affiliates.

In a letter dated December 29, 2016, we advised that the Proposed Transaction required CHAPA review. We provided PHCS with a substantial number of questions and requests for materials in order to elicit the information needed for us to review the Proposed Transaction.

On February 16, 2017, we acknowledged receipt of PHCS' response to our initial questions constituting PHCS' initial application under CHAPA. This gave us thirty (30) days to deem PHCS' application complete or ask completeness questions. PHCS' partially redacted initial submission included copies of the Agreement, board minutes, consultants' reports, and a comprehensive description of the Proposed Transaction. As required by N.J.S.A. 26:2H-7.11(a)(1), PHCS published notice of the Proposed Transaction in the Times of Trenton on February 24, February 26, February 27, and March 10, 2017, as well as in Latinos Unidos, a Spanish language newspaper, on March 2, April 6, and May 4, 2017.

On March 17, 2017, we sent our first set of completeness questions which were responded to by PHCS on March 31, 2017. On April 25, 2017, we sent additional completeness questions, including a request for disclosure and inclusion in the public record of hundreds of pages of redacted documents.[2] We continued to exchange questions and answers and on August 25, 2017, we deemed PHCS's application complete. In accordance with N.J.S.A. 26:2H-7.11(f), the entire application is available for public inspection at the Office of the Attorney General.

On September 27, 2017, in accordance with N.J.S.A. 26:2H-7.11(f), representatives of the Attorney General and the Commissioner conducted a joint public hearing in Middlesex County. The hearing was held at 6 p.m. at the West Windsor-Plainsboro Community Middle School, 95 Grovers Mill Road, Plainsboro Township, New Jersey. The hearing provided members of the affected communities with the opportunity to comment on the Proposed Transaction. Notice of the public hearing was published in advance of the hearing in the Trenton Times, the Star Ledger, and the Trentonian. Notice was also posted on the website of the Latino Unidos newspaper (in Spanish), on the Medical Center's website, and at various locations in and around the Medical Center's campus. The public hearing was conducted by Assistant Attorney General Kavin K. Mistry on behalf of the

[2] Our Office reviewed unredacted documents via a confidential password protected web portal.

Attorney General and by Assistant Commissioner Susan J. Dougherty on behalf of the Commissioner.

Approximately 20 people attended the hearing. Prepared statements were made by Barry Rabner, the President and Chief Executive Officer of Princeton HealthCare System, Kim Pimley, the Chairman of the Board of Trustees of Princeton HealthCare System, and Ralph W. Muller, Chief Executive Officer, University of Pennsylvania Health System. Mr. Rabner commented that, "Penn Medicine and Princeton HealthCare System will be making significant strategic investments necessary to increase access to care for the 1.3 million people that we are responsible for now." Ms. Pimley offered that "our hospital will remain right where it is, offering high-quality care close to home and, when necessary, serving as a gateway to the advanced care that Penn Medicine offers." Mr. Muller concluded that, "we are looking forward to integrating Princeton HealthCare System into Penn Medicine and bringing the best of Penn to Princeton, their patients, and the communities of Central New Jersey."

Following remarks from the hospital executives and PHCS Chairman Pimley, a member of the public raised a question whether UPHS physicians and other resources will be coming to Princeton or whether PHCS patients will have to go to UPHS for care. Mr. Muller responded that Penn physicians and other resources will be coming to Princeton. This was the only question or comment from the public.

The public hearing was closed at 7 p.m. and the public record for the Proposed Transaction was closed on October 6, 2017, without receipt of any additional public comment.

III. Attorney General's Scope of Review under CHAPA

Under CHAPA, it is the responsibility of the Attorney General to examine and analyze transactions of this type, to obtain all material information, and to consider all of the pertinent factors enumerated in CHAPA before making a recommendation whether or not a hospital asset transfer is in the public interest and warrants support, with or without modification. It is the Attorney General's duty to analyze the Proposed Transaction to determine its impact upon the public interest and to ensure that the process is open to public comment and scrutiny in order to maximize the public's confidence in the final decision.

The historical role of the Attorney General is to enforce the provisions of the charitable trust and charitable corporation laws to fully protect charitable assets for the benefit of the public. These laws recognize the principle that charitable trusts and charitable corporations are, unlike private, profit-making business entities, created to benefit the public. CHAPA provides that the Attorney General shall review the transaction "in furtherance of his common law responsibilities as protector, supervisor, and enforcer of charitable trusts and charitable corporations." N.J.S.A. 26:2H-7.11. The transaction will not be considered in the public interest unless the Attorney General determines that "appropriate steps have been taken to safeguard the value of the charitable assets of the hospital being acquired and to ensure that such assets are irrevocably dedicated for charitable health care purposes." N.J.S.A. 26:2H-7.11(b).

The criteria the Attorney General is to consider in making this determination are set forth in N.J.S.A. 26:2H-7.11(c) and (d). Since the proposed establishment of the University, a Pennsylvania nonprofit corporation, as the sole member of PHCS involves the transfer of control of the assets of a New Jersey nonprofit hospital to a foreign nonprofit corporation, those criteria found at N.J.S.A. 26:2H-7.11(c) and (d) will be considered in this case.

The criteria found at N.J.S.A. 26:2H-7.11(c) are as follow:

"(1) whether the acquisition is permitted under the "New Jersey Nonprofit Corporation Act," Title 15A of the New Jersey Statutes, and other applicable State statutes governing nonprofit entities, trusts, or charities;

(2) whether the nonprofit hospital exercised due diligence in deciding to effectuate the acquisition, selecting the other party to the acquisition and negotiating the terms and conditions of the acquisition;

(3) the procedures used by the nonprofit hospital in making its decision, including whether appropriate expert assistance was used;

(4) whether conflicts of interest were disclosed, including, but not limited to, conflicts of interest related to board members of, executives of and experts retained by the

nonprofit hospital, purchaser or other parties to the acquisition;

(5) whether any management contract under the acquisition is for reasonable fair value; and

(6) whether the acquisition proceeds will be used for appropriate charitable health care purposes consistent with the hospital's original purpose or for the support and promotion of health care and whether the proceeds will be controlled as charitable funds independently of the purchaser or parties to the acquisition."

The criteria found at N.J.S.A. 26:2H-7.11(d) are as follow:

"(1) whether the nonprofit hospital will receive full and fair market value for its assets. The Attorney General may employ, at the nonprofit hospital's expense, reasonably necessary expert assistance in making this determination;

(2) whether charitable funds are placed at unreasonable risk, if the acquisition is financed in part by the nonprofit hospital;

(3) whether a right of first refusal has been retained to repurchase the assets by a successor nonprofit corporation or foundation if, following the acquisition, the hospital is subsequently sold to, acquired by or merged with another entity;

(4) whether the nonprofit hospital established appropriate criteria in deciding to pursue a conversion in relation to carrying out its mission and purposes;

(5) whether the nonprofit hospital considered the proposed conversion as the only alternative or as the best alternative in carrying out its mission and purposes;

(6) whether the nonprofit hospital exercised due care in assigning a value to the existing hospital and its charitable assets in proceeding to negotiate the proposed conversion;

(7) whether officers, directors, board members or senior management will receive future contracts in existing, new, or affiliated hospitals or foundations; and

(8) any other criteria the Attorney General establishes by regulation to determine whether a proposed acquisition by any person or entity other than a corporation organized in this State for charitable purposes under Title 15A of the New Jersey Statutes is in the public interest."

In addition, in a proposed acquisition of a nonprofit hospital by an entity that is not a New Jersey nonprofit corporation, the Attorney General, after consultation with the principal parties to the transaction, shall make a determination as to the amount of assets which the nonprofit hospital shall set aside as a charitable obligation, based on the full and fair market value of the hospital at the time of the proposed acquisition as determined by the Attorney General. N.J.S.A. 26:2H-7.11 (g).

The criteria to be considered in a transaction reviewed under CHAPA depend on the corporate structure and the state of incorporation of the acquirer. The attention accorded to any single criteria in determining whether a particular transaction is in the public interest depends upon the specific facts and circumstances of the transaction under consideration.

The Proposed Transaction here involves the transfer of the assets of a New Jersey nonprofit corporation to a corporation which is not a New Jersey domestic corporation, i.e., the University is a Pennsylvania nonprofit corporation. Therefore, we will consider all of the factors found at N.J.S.A. 26:2H-7.11 (c) and we may also consider the factors found at N.J.S.A. 26:2H-7.11 (d) in our review of the Proposed Transaction and in making our recommendation to the Court. Nevertheless, because the Proposed Transaction does not constitute a "conversion" of PHCS' charitable assets, i.e., a change from nonprofit to for-profit control, and because PHCS and PHS will both continue to be operated as charitable corporations with a nonprofit entity as its parent corporation, under these specific circumstances only certain factors found in subsection (d) of CHAPA are applicable in this context.

The factors we will consider are those enumerated at subsection (d)(1) concerning the receipt of fair market value for the assets being sold and subsection (d)(7) concerning future employment contracts with the acquirer. We will also consider subsection (d)(4) to the extent that the establishment of appropriate criteria applies to a nonprofit to nonprofit transaction. The other subsection (d) criteria are specifically concerned with acquisitions by for-profit entities. The

criterion enumerated at (d)2 concerns financing of a proposed transaction by the selling hospital, and the criteria found at (d)(5) and (d)(6) specifically deal with "conversion" transactions," and none of which are relevant and won't be considered in our analysis in this case.

IV. Review of the Proposed Transaction Under CHAPA

This section examines the Proposed Transaction under each of the above-referenced statutory criteria.

(a) Compliance With the Nonprofit Corporation Act - CHAPA Subsection (c) (1)

Pursuant to N.J.S.A. 26:2H-7.11(c)(1), the Attorney General shall consider, "[w]hether the acquisition is permitted under the 'New Jersey Nonprofit Corporation Act,' Title 15A of the New Jersey Statutes, and other applicable State statutes governing nonprofit entities, trusts or charities." On July 11, 2016, the Princeton Boards approved and ratified PHCS' execution of a Letter of Intent between PHCS and the University, which was subsequently executed and entered into as of July 13, 2016. Further, by Resolution dated November 28, 2016, the Princeton Boards ratified, approved and adopted the Affiliation Agreement, and the agreements and instruments contemplated by the Affiliation Agreement, including the Amended and Restated Certificates of Incorporation and Amended and Restated Bylaws for each of PHCS and PHS, which were presented to the Princeton Boards for review, which reflect the agreed upon governance structure set forth in the Affiliation Agreement, and which, pursuant to the terms of the Affiliation Agreement, are to be approved by each of the Princeton Boards.

Based upon our review of the materials submitted and applicable law, the Proposed Transaction is permitted by the New Jersey statute governing nonprofit corporations.

(b) Due Diligence Criteria - CHAPA Subsections (c)(2), (c)(3), (d)(4)

Two significant due diligence criteria are found at N.J.S.A. 26:2H-7.11(c)(2) and (c)(3):

(2) Whether the nonprofit hospital exercised due diligence in deciding to effectuate the acquisition, selecting the other party to the acquisition and negotiating the terms and conditions of the acquisition; and

(3) The procedures used by the nonprofit hospital in making its decision, including whether appropriate expert assistance was used.

We also look at whether the nonprofit hospital established appropriate criteria in deciding to pursue a change in control in relation to carrying out its mission and purposes, N.J.S.A. 26:2H-7.11(d)(4).

These statutory criteria do not require the Attorney General to decide whether, as a factual matter, PHCS made optimal decisions in pursuing the Proposed Transaction. Rather, the statute simply requires, in part, that the Attorney General ascertain whether the trustees exercised their duty of care in deciding to pursue this course of action and in the process they used to effectuate it. Although the term, "due diligence," is not defined in CHAPA, the New Jersey Nonprofit Corporation Act provides at N.J.S.A. 15A:6-14, as follows:

> "Trustees and members of any committee shall discharge their duties in good faith and with that degree of diligence, care and skill which ordinarily prudent persons would exercise under similar circumstances in like positions."

"Due diligence" is defined to be such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case. Black's Law Dictionary Free Online Legal Dictionary 2nd Ed., http://thelawdictionary.org/due-diligence.

Along with the duty of care, there are two other components to the trustees' fiduciary duty; the "duty of obedience" and the "duty of loyalty." The duty of obedience requires trustees to be faithful to the advancement of the hospital's charitable mission and purpose. The duty of loyalty requires that trustees must act solely in the interest of the hospital, which is the object of their fiduciary duty. To do so is the essence of acting in good faith.

In this case, we specifically inquire whether the Trustees of the Princeton Boards exercised their due diligence by: (i) establishing appropriate criteria and using appropriate procedures in deciding to effectuate the proposed acquisition

and considered how it would further PHCS'/PHS' mission and purpose; (ii) selecting the other party to the acquisition; and, (ii) negotiating the terms and conditions of the definitive agreement governing the Proposed Transaction.

(i) Effectuating the Proposed Acquisition - CHAPA Subsections (c)(2), (c)(3), (d)(4)

As described, in part, in the chronology set forth in Section I(c), above, as set forth in the minutes of the meetings of the Princeton Boards and the Medical Center, and as elucidated in PHCS' narrative responses to our inquiries, in January 2012, the PHCS Board established an ad hoc Strategic Planning Committee. From January 2012 through November 2013, the SPC developed an understanding of the changing healthcare landscape and decided to monitor the healthcare market and continue to strengthen PHCS's financial position rather than pursue an affiliation transaction with a third party.

On May 22, 2012, PHS successfully completed the relocation of its acute care hospital by opening the Medical Center on the Plainsboro Campus.

Beginning in July 2014, and over a period of months, PHCS, with the assistance of KH, developed and implemented a strategic plan intended to enable the Medical Center to provide accessible care in its service into the future. In implementing the strategic plan, the PHCS Board, in conjunction with the SPC and KH, engaged in a six-stage process which included an evaluation of PHCS's and PHS's existing operations and the current and future state of the healthcare industry.

For the calendar year ending December 31, 2014, PHCS reported an operating loss of $9.8 million.

The SPC held a series of meetings with KH. The minutes of the January 8, 2015 reflect the following "takeaways:"

- PHS' high debt (relative to historical debt) and liquidity position limits PHCS' access to capital;

- PHS' 2014 Days Cash on Hand ("DCOH") is 119.6, approximately seven (7) days below the median Standard & Poor's minimum investment grade rating

("BBB-"), despite 3 years of improved operating performance and a forecasted 118.2 DCOH in 2015;

- Given expected industry pressures, PHCS needs to generate approximately $7,000,000 in annual performance improvement to achieve a 9.0% EBIDA[3] margin to support routine capital needs, pension funding, and to refinance existing debt;

- Even if PHS were to generate approximately $7,000,000 in annual performance improvement and achieve a 9.0% EBIDA margin, this might not yield enough cash flow to build cash reserves and create the incremental capital capacity that is necessary to support strategic investments.

Attachments to the minutes include a substantial number of detailed slideshow presentations made by KH to the PHCS Board describing the six-stage strategic planning process. In addition to examining the current state of PHCS and the current and future state of the market, KH evaluated alternatives on how best to meet anticipated population demands, including remaining independent, merging with similarly sized organizations, or fully integrating with a larger not-for-profit or for-profit partner.

The strategic planning process also included an ongoing evaluation of PHCS' organizational strength in various key categories, including financial strength, clinical integration, network strength, brand strength, and clinical and business intelligence. KH determined that in each of these key categories PHCS was "unlikely" to be able to "do it alone." KH identified gaps in a number of organizational competencies PHCS would have to fill in order to succeed in the value-based environment. The SPC concluded that PHCS would not be able to fill many of these competency gaps independently. Further, KH determined that PHCS' projected financial strength would yield little to none in terms of excess cash generated from operations that can be used for reserve building and strategic spending.

At the May 11, 2015 PHCS Board meeting, the Board reviewed the strategic option assessment and detailed the strengths and weakness of each option, including a review of the degree of control retained by the Board under each. The SPC recommended to the PHCS Board that PHCS should seek to evaluate

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[3] Earnings Before Interest, Depreciation and Amortization.

a strategic partnership with a larger, non-profit healthcare system in order to maintain and advance PHCS' ability to carry out its mission in the evolving healthcare environment. The SPC reported that it believed that a strategic partnership is the most effective option, and any final decision by the Board should take into account how such partnership will affect the community overall, including patients, doctors and staff. The evaluation of the right partner should be based on established guiding principles and best practices.

As set forth in the Minutes of a Special Meeting of the PHS Board of Trustees held on June 25, 2015, Chairman Pimley noted that the SPC completed stages one through five of the strategic planning process. Mr. Rabner outlined the following guiding principles that would have to be met through integration with a larger not-for-profit partner to ensure that the charitable mission of the Princeton Health System would continue to be met into the future:

1. Improving the quality of clinical programs and services;

2. Ensuring that the healthcare needs of the communities that the parties serve are met through high-quality, coordinated care and services that are reasonably-priced;

3. Operating a fully-integrated, responsive, innovative, data-driven and patient health-focused health system;

4. Providing for a community voice in the decisions impacting the health of the communities served;

5. Building a strong, financially-sound health system;

6. Providing patient access to a broader continuum of services over an expanded service area;

7. Improving facilities, equipment and information technology platforms;

8. Strengthening physician recruitment, retention and integration initiatives;

9. Partnering with physicians in a manner that assures clinical and financial alignment in service to patients and in a manner that is attractive to payors;

10. Enhancing the parties' ability to develop and implement value-based pricing mechanisms, providing enough scale in Central New Jersey to be able to responsibly manage risk contracts, and expanding and improving relationships with payors and employers;

11. Creating operational efficiencies designed to improve performance and reduce costs;

12. Maintaining a strong academic and research platform that is essential to fostering clinical excellence and innovation;

13. Developing and maintaining an integrated delivery system in which patient care is coordinated across a full continuum of healthcare providers, thereby providing a foundation for responding to the opportunities and challenges posed by federal health reform legislation;

14. Achieving "employer of choice" status, ensuring that employees have opportunities to attain their professional goals in a supportive work environment;

15. Enhancing the Foundation's ability to achieve its objectives in the most efficient and effective manner possible; and

16. Providing responsible stewardship of charitable assets, ensuring that PHCS and UPHS collectively will maintain a strong financial profile to enable them to achieve their charitable objectives long into the future.

Mr. Rabner reviewed the processes for approaching the market and noted that the SPC recommended a controlled competitive process, which would include a request for proposal from four (4) to ten (10) potential partners. This process consisted of seven phases, (i) planning, (ii) indications of interest, (iii) detailed exploration, (iv) negotiation, (v) regulatory approval, (vi) closing, and (vii) post-closing. The PHCS Board of Trustees expressed unanimous consensus that the SPC proceed with the planning phase of the partnership process (selecting advisors, identifying potential partners, developing disclosure materials and drafting a Request for Proposal).

At a November 9, 2015 meeting of the SPC, in preparation for discussions with potential strategic partners, the Committee met with representatives from Wells Fargo and

reviewed potential strategic alternatives ranging from a clinical affiliation to a full integration and the benefits and risks related to each. It was noted that although in the prior stage of the strategic planning process, the Committee concluded that a full integration with a partner was most likely to attain PHCS' goals, a clinical affiliation should not be ruled out, as it may allow PHCS to achieve its charitable objectives while retaining a level of independence that is unlikely if it were to pursue a full integration. It was determined that when meeting with potential partners, the team will advise that it believed a full integration is the likely structure needed to achieve its charitable objectives and goals, however, the Committee is open to alternative structures.

Based upon our prior review of transactions under CHAPA, we anticipate that counsel or consultants will advise the trustees to follow prescribed processes in embarking on a course of action which may eventually culminate in a decision to transfer a nonprofit hospital subject to CHAPA review. We recognize that use of these decision-making processes generally meet CHAPA's due diligence standards.

It is evident from our review of the meeting minutes that the Princeton Boards and senior management engaged in a deliberate and thoughtful process, with expert assistance from KH, to reach a decision to effectuate a strategic partnership. PHCS advised us that the guiding principles, best practices and the charitable objectives of PHCS and its nonprofit affiliates have been the lens through which the Princeton Boards have evaluated strategic alternatives and the terms of the Affiliation Agreement.

Based upon the foregoing, we find that the Princeton Board members exercised due diligence in deciding to effectuate the acquisition in accordance with N.J.S.A. 26:2H-7.11(c)(2). Furthermore, PHCS and PHS acted with due care in establishing appropriate criteria for evaluating a proposed partnership in furtherance of its mission pursuant to N.J.S.A. 26:2H-7.11 (d)(4) and used appropriate expert assistance in accordance with N.J.S.A. 26:2H-7.11(c)(3).

(ii) Selecting the Acquirer - CHAPA Subsections (c)(2), (c)(3), and (d)(4)

Based upon our experience with prior CHAPA transactions, ideally, once nonprofit hospital fiduciaries have reached a decision to effectuate a transfer of a hospital's

charitable assets (see, section IV,(b)(i), above), have determined the key characteristics it should look for in a strategic partner, and identified organizational goals and "must haves" to be attained from effectuating a strategic partnership, they will often engage an expert to prepare a Request For Proposal ("RFP") to solicit interest from potential buyers. Depending, in part, upon whether they are selling their assets to a nonprofit or for-profit buyer, hospital trustees may seek to establish an open public bidding process to maximize the purchase price for the hospital's assets. The hospital may also seek to obtain a valuation which would assist in establishing a base line for bidding.[4] Once bids are received, the fiduciaries, with the assistance of the expert, may compare and contrast the offers on the basis of pre-determined criteria, including price, mission compatibility, financial wherewithal, and many other factors, and negotiate the best possible terms for the sale of the assets.

As discussed above, in the fall of 2015, the Princeton Boards initiated a competitive process of evaluating potential partners and partnership structures. The Princeton Boards engaged the Outside Advisors, to advise the Princeton Boards with financial, legal and accounting advice, respectively, throughout the strategic affiliation process.

On October 26, 2015, the PHCS Board authorized the SPC to: (i) determine the list of potential strategic partners that would be invited to submit proposals; (ii) evaluate the proposals in light of the charitable objectives; (iii) request additional information and conduct due diligence; (iv) narrow the list to no fewer than two (2) potential partners; (v) present this list to the Board with analysis and recommendations; and (vi) provide regular updates to the Board.

PHCS advised that as the deliberative process progressed, the SPC provided regular updates to the Princeton

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[4] See, Eric S. Tower, Directors' Duty to Obtain a Fair Price in the Conversion of Nonprofit Hospitals, 6 Ann. Health L. 157 (1997), "... a hospital's assets should be sold only after the completion of a competitive bidding process, based upon fixed criteria upon which bids will be evaluated by independent directors, and by no means should the hospital be sold for less than its appraised value unless the community receives some other value as the result of the sale." Id, at 183-184.

Boards. PHCS also solicited physician and staff input from the Medical Staff.

As recounted in the February 26, 2016 Minutes of the SPC, Wells Fargo identified nineteen (19) potential strategic partners and initiated contact with the seventeen (17) of these potential strategic partners that best satisfied the guiding principles in October 2015. Wells Fargo sent a draft Confidentiality and Non-Disclosure Agreement to the eleven (11) potential strategic partners that expressed an interest in a fully-integrated strategic partnership, which were executed in October and November 2015. Upon receipt of, and subject to, the Confidentiality and Non-Disclosure Agreements, Wells Fargo provided Princeton's Confidential Information Presentation to eleven (11) potential partners. Following distribution of Princeton's Confidential Information Presentation, initial meetings were held with representatives of the ten (10) remaining interested potential partners, and were attended by a team consisting of PHCS management, PHCS Trustees, Wells Fargo advisors and senior leadership of the potential strategic partners. Wells Fargo subsequently sent a formal RFP to the nine (9) potential strategic partners on December 23, 2015 that best satisfied PHCS's guiding principles. Six (6) potential partners provided a written response to the RFP in February 2016. Wells-Fargo created a matrix to compare the key characteristics of these six (6) bidders.

Of the six (6) potential partners that responded to the RFP, three (3) were eliminated; Lifepoint, a for profit entity, was not considered in light of the strong interest from other nonprofit systems, Lehigh Valley Health was removed from consideration because of its distant location from PHCS and the limited nature of its proposed affiliation, and Virtua was not considered because it did not offer the same benefits that the other potential partners in the process could offer.

On March 14, 2016, the Princeton Boards agreed that the proposals from Penn Medicine on behalf of the University, Thomas Jefferson University, another Pennsylvania health system, and Hackensack Meridian Health, a large New Jersey integrated health system (the "Preferred Partners"), best met the potential partnership criteria developed by the Princeton Boards, had the most potential to meet the guiding principles, and were most in line with the best practices outlined by PHCS.

The Princeton Boards empowered the SPC to: (i) request from the three (3) Preferred Partners additional information to

further vet the partners and clarify their proposals; (ii) further evaluate the proposals and supplemental information received in light of the charitable objectives; (iii) recommend to the Princeton Boards a strategic partner the SPC believes would best advance the mission, meet charitable objectives and serve the community's healthcare needs; and (iv) provide regular updates to the Princeton Boards.

Following this meeting, the Preferred Partners each provided a more detailed written proposal and several rounds of meetings were conducted with the Preferred Partners, including meetings held at the Preferred Partner hospitals. At these meetings each remaining partner was asked to discuss its strategic vision; future presence in Central New Jersey; IT approach; capital commitment; governance structure (including reserved powers); and operational structure.

Working with its Outside Advisors, the SPC and the Princeton Boards completed a detailed analysis of each of the three (3) Preferred Partners' proposals, evaluating whether each proposal would enable PHCS to fulfill the guiding principles and rating them against organizational competencies.

Summary financial data and pro-forma credit metrics of each potential partner also were presented. In response to our inquiry, PHCS advised that the SPC also reviewed comparative clinical quality data and heard feedback from the four Trustees who participated in separate meetings at PHCS with each of the three finalists, as well as follow-up meetings at both Philadelphia hospitals.

On May 23, 2016, the SPC voted to recommend that the PHCS Board enter into exclusive negotiations with the University for the following reasons:

1. Penn Medicine has the human, scientific, educational, financial and clinical resources necessary to enable PHCS to provide the highest level of accessible care to the communities it serves long into the future. Penn Medicine has demonstrated that it shares the PHCS values.

2. A partnership with Penn Medicine will enhance PHCS' ability to expand its clinical programs, care coordination and information technology and to provide its patients with better access to medical breakthroughs, clinical trials, cutting edge

technologies and more specialized clinical expertise.

3. For more than two centuries, Penn Medicine has been committed to the highest standards of patient care, education and research.

Other advantages we found in the materials for PHCS choosing Penn Medicine include: (i) Penn Medicine's recent experience in successfully integrating its governance with another system, (ii) Penn Medicine will give PHCS the most voice over its future, and (iii) the prominent national ranking and National Institute of Health funding for Penn Medicine's Medical School. Overall, Penn Medicine demonstrably had the strongest showing as compared to the other Preferred Partners when matched against PHCS' Guiding Principles, PHCS' Best Practices and PHCS' Key Organizational Competencies. These key competencies, including financial strength, clinical integration, network strength, brand strength, and clinical and business intelligence, were those competencies identified by KH as areas where PHCS could not "do it alone."

The SPC presented its recommendation to the Princeton Boards demonstrating how each of the Potential Partners satisfied the guiding principles. On July 11, 2016, upon the recommendation of the SPC, the Princeton Boards approved selecting the University as its partner for the reasons set forth above, and approved a non-binding LOI with the University. At the July 11, 2016 meeting of the PHCS Boards, the trustees also decided that in preparation for going forward with a potential affiliation the PHCS Board and the PHCS Holding Board should have the same members and, although remaining independent, should be able to meet jointly. The LOI was executed on July 12, 2016.

Following execution of the LOI, the Princeton Boards (via its Outside Advisors) conducted legal and financial due diligence of the University while simultaneously negotiating the terms of an Affiliation Agreement among PHCS, PHS and the University.

PHCS' advised us that its reverse due diligence focused on a high level review of the issues that would be material to an organization of the University's size, including any issues posing potential risk to the University's ability to fulfill the various financial commitments under the proposed Affiliation Agreement being negotiated by the parties.

The minutes of the Joint Meeting of the Princeton Boards held November 28, 2016, reported on the Withum due diligence. A Board member reported that Withum found Penn Medicine is financially strong compared to recent trends and benchmarks with respect to hospitals and healthcare systems. No material issues came to Withum's attention that would cause Penn Medicine to incur any significant tax liabilities or jeopardize its tax-exempt status. The report reviewed historical earnings and financial matters, including net patient revenues and receivables, fixed assets, long term debt and lease commitments, as well as tax matters including unrelated business income, IRC Section 501(r) compliance, executive compensation, lobbying, loans, conflicts of interest, foreign tax returns and joint ventures. Minor recommendations were made with respect to Penn Medicine's compliance with IRC Section 501(r) and Form 990 reporting. The Board also reviewed findings with respect to internal audit risk assessments and work plans, as well as Withum's review of independent auditors work papers. It was reported that Withum is following up on outstanding requests but does not anticipate that these items will have a material impact on findings.

In addition to engaging Withum to conduct financial due diligence, PHCS had McDermott conduct a legal due diligence review of Penn Medicine. The minutes of the November 28, 2016 Joint Meeting of the Princeton Boards, also report on McDermott's legal due diligence analysis of the University in relation to, and including, the various components and operations of Penn Medicine. The report includes findings with respect to (i) organizational matters; (ii) legal and regulatory compliance; (iii) financial matters; (iv) medical staff; (v) strategy and operations; (vi) tax matters; and (vii) employees and employee benefits. Although PHCS declined to make the McDermott report public as part of its CHAPA application on the basis that the resulting work product is subject to attorney-client privilege, PHCS advised that it did not find any material risks in due diligence that would cause it to delay, forgo, or restructure the Proposed Transaction.

Concurrently, PHCS conducted community outreach, including outreach to news media, employees, physicians, donors, business and clinical partners, community and political leaders. PHCS utilized a variety of communication methods, including website announcements, press releases, publications, social media posts, email blasts, direct mail pieces, phone calls,

personal meetings and presentations to community groups. Without exception, PHCS received positive feedback.

On November 28, 2016, after the Princeton Boards evaluated the strategic, financial and legal due diligence analyses conducted with respect to the University, considering both non-economic factors (such as culture, a commitment to shared principles and a focus on quality and mission) and economic factors (such as capital commitments and commitments to the PHS' facilities and service lines); the Princeton Boards decided that affiliating with the University represented the best means of assuring that PHCS, PHS and their affiliates could continue to fulfill their mission and charitable objectives in the future. The presentation included a review of the negotiating process, the material terms of the Affiliation Agreement, the scope and conclusions of the legal due diligence review, the amendments to PHCS and PHS's Articles of Incorporation and Bylaws, and the regulatory clearances required before the Proposed Transaction can be consummated.

Following approval of the Princeton Boards, and the approval of the University's and Penn Medicine's Boards, on December 22, 2016, PHCS, PHS and the University entered into the Affiliation Agreement.

Based on the foregoing[5] and under the specific circumstances of this Proposed Transaction, we find that in

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[5] Moreover, by letter dated March 31, 2017, from Mark E. Hopkins, Executive Director of the New Jersey Health Care Authority Facilities Financing Authority (the "Authority"), the Authority advised us that, "[t]he Authority staff has been made aware of the proposed establishment of The Trustees of the University of Pennsylvania as the sole member of Princeton HealthCare System Holding, Inc., which is the sole member of Princeton HealthCare System, each a New Jersey nonprofit organization. Princeton HealthCare System operates the University Medical Center of Princeton at Plainsboro, Princeton House Behavioral health and Princeton HomeCare. As of December 31, 2016, PHCS had $273,030,000 in principal amount of bonds outstanding with the Authority. The staff of the Authority has no objection to the proposed transaction and we have no reason to believe the Authority Members would object. In fact, the Authority staff believes that, under current market conditions and as a result of the evolution of the health care industry, the relationship with The Trustees of the University of Pennsylvania may benefit Princeton HealthCare System."

accordance with CHAPA sub-sections (c)(2) and (c)(3), the Princeton Boards engaged in a documented and reasoned decision-making process that was sensible under the circumstances. The directors exercised a reasonable degree of due diligence in adopting and following procedures in making its decision to select the University as the best possible strategic partner and employed expert assistance, as appropriate.

Although this is not a conversion transaction, in its decision to form a strategic partnership with a foreign nonprofit organization, the directors used expert assistance to develop appropriate criteria in order to differentiate from among the various potential applicants and select the University as its new sole member in furtherance of carrying out PHS'/PHCS' mission and purposes, pursuant to N.J.S.A. 26:2H-7.11(d)(4).

(iii) Negotiation of the Definitive Agreement - CHAPA Subsections (c)(2) and (d)(6)

As set forth above, following negotiation of the terms of the Letter of Intent dated July 12, 2016, the parties executed the Affiliation Agreement on December 22, 2016. The materials submitted by PHCS/PHS establish that the parties engaged in a negotiating process to reach a definitive agreement. For example, the minutes of September 14, 2016 meeting of the SPC, a Mr. Callahan provided an overview of the Affiliation Agreement negotiation process to date and reviewed some negotiated differences from the letter of intent. In particular, the Committee discussed the progression of the negotiations relating to the $200 million strategic capital commitment and the approvals that would be required to extend the 5-year period during which the capital is anticipated to be spent. The Committee discussed the proposal to change the composition of the Strategic Planning Committee post-closing to include two Penn Medicine representatives (the Class A representatives) and five PHCS representatives (the Class B representatives) with a majority of each of the Class A and Class B representatives required to approve a proposal to delay the 5-year expenditure period.

Mr. Callahan explained the process for capital spending post-affiliation, in particular under a consolidated balance sheet. He reported that the proposed capital commitment may be fulfilled by utilizing revenue and cash flow, or through capital provided directly from Penn Medicine. In all cases, however, the requisite level of capital would need to be spent on projects in the PHCS community.

The University made a substantial number of commitments favorable to PHCS/PHS. Under the terms of the Agreement, the University agreed that in order to ensure continued operations of the licensed health care facilities of PHS for six (6) years following the closing of the Proposed Transaction, the PHCS Board will retain the right to approve any closure or relocation of PHCS and its affiliates, to recommend and approve strategic plans for PHCS and its affiliates, and to approve the addition of new or expanded service lines within the PHCS service areas. Furthermore, at all times following the closing of the Proposed Transaction, PHCS will retain the power to approve and oversee PHCS's and its affiliates' promotion of access to care in the communities they serve, to approve and oversee community health needs and community service goals and priorities in the communities served by PHCS and its affiliates, to participate in annual review of the strategic plan and goals of PHCS and monitor progress toward achievement of those strategic goals, to approve any amendment to PHS's governing documents, and to review and have input into any substantive changes in the services provided by PHCS and its affiliates.

Further, for a ten (10) year period from closing, neither the University nor Penn medicine will enter into a direct or indirect change of control transaction or asset sale with respect to PHCS as a whole or with respect to a PHCS Affiliate then operating the Medical Center, unless such transaction is approved by the PHCS Board.

The University also made a number of financial commitments. In the first five (5) years post-closing, Penn Medicine will spend not less than $200 million to fund strategic capital projects for the benefit of the residents of the communities served by PHCS and to improve the financial performance of PHCS and its affiliates. The commitment with respect to strategic capital may be extended for limited periods in certain circumstances requiring PHCS Board approval. During the five (5) year period post-closing, the University has also committed that Penn Medicine will spend at least $12 million per year for routine capital expenditures on the Medical Center's campus. If at the end of any of the first five (5) years post-closing, any portion of the $12 million routine capital commitment for an applicable year is unspent, such unspent amounts will accrue and be spent on routine or strategic capital projects not later than eight (8) years after the closing.

In addition, Penn Medicine will, as of the closing, assume financial responsibility for PHCS's outstanding debt and pension obligations.

PHCS advised that as part of the Proposed Transaction, Penn Medicine also made a number of non-financial commitments to support PHCS's mission to provide comprehensive care for the communities it serves. Such commitments include centralizing certain administrative services, providing support to the Medical Center's residency program, and exploring research opportunities for PHCS and its affiliates.

In conjunction with, but not contingent upon, the Affiliation Agreement, the parties contemporaneously also entered into an agreement pursuant to which Penn Medicine will implement an EPIC medical records platform at PHCS and the PHCS affiliates.

All donor-restricted gifts made to PHCS and the Foundation will continue to be held and used for purposes consistent with the donor's intent after the closing. Any gifts received by PHCS through local fundraising efforts will be used locally for the benefit of PHCS and PHCS' affiliates.

With respect to corporate governance, two members of the PHCS Board of Trustees will be appointed by Penn Medicine. PHCS will retain local Board authority with respect to the operations of PHCS and its Affiliates, subject to certain powers reserved to Penn Medicine. PHCS will have two seats on the Penn Medicine Board at all times after the closing of the Proposed Transaction and representation on various major Penn Medicine Board committees.

Based upon our review of the Agreement, the materials submitted and PHS'/PHCS' responses to our inquiries, we conclude that the Princeton Boards acted with due diligence and in accordance with their duty of care in entering into and negotiating the Agreement in accordance with N.J.S.A. 26:2H-7.11(c)(2). We respectfully ask that the Court condition its approval of the Proposed Transaction on the following:

> The adoption by the governing bodies of PHCS, PHS and any Affiliates affected by the Proposed Transaction, of amendments to their respective Certificates of Incorporation and Bylaws, as submitted with their CHAPA application, effectuating the changes resulting from the

Proposed Transaction, provided that there be thirty (30) days prior written notice to and approval by the Attorney General of any material changes to the draft proposed forms of governing documents which were submitted in the CHAPA application process.

(c) Fair Market Value - CHAPA Subsection (d)(1) and Whether Charitable Funds are Placed at Unreasonable Risk - CHAPA Subsection (d)(2)

N.J.S.A. 26:2H-7.11(d)(1) asks us to consider whether the nonprofit hospital is receiving fair market value for its assets. By the plain language of the statute, CHAPA subsection (d)(1) is applicable to the Proposed Transaction, since control of charitable assets is being transferred from a New Jersey nonprofit hospital to a foreign nonprofit corporation. Nevertheless, here, where PHCS/PHS and the Affiliates will continue to use their charitable assets in furtherance of their charitable mission and purposes, we do not think that the same manner and level of scrutiny is warranted as would apply to a fair market value determination in a conversion transaction.

It is unusual for cash consideration to be exchanged in transactions of this nature and, indeed, this Proposed Transaction is no different. Nevertheless, it is necessary for us to examine whether the Princeton Boards recognized the fiscal risks and benefits of the Proposed Transaction in furtherance of their fiduciary duties.

At our request, McDermott engaged Principle Valuation LLC to provide an estimate of the full and fair market value of the business enterprise of PHCS as of April 1, 2017 (the "Appraisal"). In performing its Fair Market Value ("FMV") analysis, Principle Valuation considered two generally accepted approaches to value; the income approach and the market approach.

For the purposes of its analysis, Principle Valuation developed a value of PHCS' business enterprise. Business Enterprise is defined as the combination of tangible assets and intangible assets of a continuing business.

Principle Valuation considered the following definition of "Market Value" as defined by Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice, 2016-17 Edition, as follows: "… the most

probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer whereby;

- Buyer and seller are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their own best interest;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash in U.S. dollars or in term of financial arrangements comparable thereto; and
- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Based upon its analysis, Principle Valuation concluded that the market value of the assets of PHCS, as of April 1, 2017, is reasonably represented in the market value range of $583,000,000 to $610,000,000.

The Appraisal references the Proposed Transaction and the Affiliation Agreement and states that, "[a]s part of the Affiliation, Penn Medicine will assume financial responsibility for Princeton HealthCare's outstanding debt and pension obligations. In addition, Penn Medicine will make a commitment consisting of $12.0 million per year for five years for routine capital expenditures and $200.0 million over five years for strategic capital improvements. In addition, Penn Medicine is obligated to implement the EPIC EMR system for Princeton HealthCare. Penn Medicine is spending a total of $62 million over the next six years for the implementation of the EPIC system. The implementation cost includes capital and operating expenses."

The Appraisal goes on to state that, "[a]s this is an affiliation agreement and not a direct purchase, there is no explicit purchase price outlined in the Agreement. However, as Penn Medicine will have material governance controls over the operations of the Hospital and its cash flows, we consider the member substitution, for valuation purposes only, to be an asset acquisition."

The Appraisal considers the effective purchase price to consist of the fair value of the outstanding debt obligations of PHCS, the strategic capital commitment of $200,000,000, and the dedicated commitment to the EPIC EMR system implementation of $62,000,000. As of December 31, 2016, liabilities totaled $429,406,000. The strategic capital commitment is a commitment over a five year term. As such, Principle Valuation calculated the present value of the commitment assuming a payment of $40,000,000 per year and a 5.0% discount rate to be $173,200,000. The dedicated commitment to the EPIC EMR is a six-year commitment which Principle Valuation computed the present value to be $52,400,000. The Appraisal concluded the estimated total effective purchase price for PHCS to be $655,006,000 ($429,406,000 plus $173,200,000 plus $52,400,000). Therefore, Principle Valuation concluded that based on its calculation of a fair market value range for PHCS from $583,000,000 to $610,000,000, "[t]he purchase price [being paid by Penn Medicine] falls above the range of the assets purchased value."

In our view, it would have been preferable for PHCS to have obtained the Principle Valuation Appraisal prior to its entering into the strategic partner process in order to establish a valuation threshold for negotiating the Proposed Transaction.[6] Nonetheless, we find that based on our examination of the activities of the fiduciaries in establishing criteria and negotiating the Agreement, as well as our review of the Principle Valuation and the evidence provided of the economic and non-economic benefits to be derived by PHS from the Proposed Transaction, the Princeton Boards were cognizant of the fiscal risks and benefits of the Proposed Transaction in furtherance of their fiduciary duties.

CHAPA subsection (d)(2) asks whether charitable funds are placed at unreasonable risk, if the acquisition is financed in part by the nonprofit hospital. N.J.S.A. 26:2H-7.11 (d)(2). We have considered this criterion in conversion transactions

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[6] See, fn.4.

where the selling nonprofit entity has offered a line of credit to provide a for profit buyer with initial working capital or where the seller has taken back a promissory purchase note secured by the hospital's assets. In this case, where the "buyer" is a foreign nonprofit corporation and no consideration is being paid, this criterion could also be construed as a concern with the potential "upstreaming" of funds in a nonprofit hospital transfer to a foreign nonprofit entity. In other words, the hospital being acquired will agree to the acquirer's use of the acquired hospital's assets to guarantee or fund liabilities of other members of the acquirer's health care system.

Here, in response to our inquiry, PHCS advised that it will not become part of the University's or UPHS's obligated group automatically upon consummation of the Proposed Transaction. Following closing, PHCS and Penn Medicine will consider, after taking into account the terms and conditions of the current indebtedness of the PHS entities and the prevailing financial, credit and capital market conditions, whether the University should refinance or restructure the existing debt of the PHS entities through UPHS. As such, PHCS' assets will not be placed at risk for the liabilities of the other members of UPHS.

In sum, the Princeton Boards have recognized the potential financial risks inherent from entering into the Proposed Transaction and have decided in the exercise of their business judgment that the benefits far outweigh the risks. PHS/PHCS is willing to give up some measure of control over its assets to the University as an investment in its future. The assets of PHS/PHCS will not be placed at unreasonable risk, pursuant to N.J.S.A. 26:2H-7.11(d)(2) and will continue to be used for charitable purposes. We find that the trustees acted within their duty of care and with due diligence in considering the fiscal risks and benefits of the Proposed Transaction.

(d) Conflicts of Interest - CHAPA Subsection (c)(4)

A trustee's duty of loyalty requires that he or she must act solely in the interest of the hospital, which is the object of their fiduciary duty. To scrutinize potential conflicts of interest in satisfaction of N.J.S.A. 26:2H-7.11(c)(4), we required all officers, trustees, and senior management of PHCS, PHS and the University, as well as the consultants used by the parties in relation to the Proposed Transaction, to disclose any potential conflicts they might have

concerning the Proposed Transaction. Each individual for whom a response was required submitted a completed Conflict of Interest Statement. Based upon our review of all of the certified responses, there appear to be no conflicts of interest or self-dealing relating to the Proposed Transaction among PHCS, PHS and the University or among their respective officers, trustees, senior management, or consultants.

(e) Management Contracts - CHAPA Subsection (c)(5)

N.J.S.A. 26:2H-7.11(c)(5) requires the Attorney General to consider "[w]hether any management contract under the acquisition is for reasonable fair value[.]"

PHCS advised that there is a Professional and Administrative Services Agreement between PHS and Clinical Care Associates of New Jersey ("CCANJ"), dated February 26, 2015, for the provision of administrative services in connection with antenatal testing. CCANJ is a subsidiary of UPHS. This agreement, which was originally entered into on September 12, 2011, pre-dates the negotiation of the Proposed Transaction.

There is also an FEHR Access and Services Agreement between Penn Medicine and PHCS, dated December 22, 2016. This agreement was entered into concurrently with the Affiliation Agreement and is provided for in the Affiliation Agreement. McDermott advised that at the end of 2018, Princeton's current EHR vendor will cease to support Princeton's current EHR software. The process for implementing a new EHR system takes approximately two years. In order to have a seamless transition and EHR available at the end of 2018, Princeton needed to begin its replacement process in early 2017. Consequently, Princeton solicited proposals from several different EHR vendors and health systems to provide an EHR system. Princeton determined that it would be most cost effective to purchase EPIC EHR through Penn. (These arrangements are common between unrelated health systems and are sometimes referred to as "EPIC community connect" arrangements.)

Because, at the time, Princeton and Penn had not fully negotiated the affiliation agreement and the larger affiliation transaction had not yet received regulatory approvals, Penn and Princeton needed to structure an arms-length agreement to address the circumstance in which Penn and Princeton did not complete the larger affiliation transaction. The EHR Access and Services Agreement between Penn and PHCS Holding was entered into for this purpose.

The purpose of this criterion is to make certain that fair market value is being paid in connection with arrangements between the transacting parties other than those governed by the definitive agreement. Neither of the referenced agreements raises any fair market value issues with respect to the Proposed Transaction.

(f) Use of the Acquisition Proceeds - CHAPA Subsection (c)(6); Funds to be Set Aside as a Charitable Obligation - CHAPA Subsection (h)

Subsection (c)(6) of CHAPA asks the Attorney General to determine whether the acquisition proceeds[7] will be used for appropriate charitable health care purposes and whether the proceeds will be controlled as charitable funds independently of the purchaser or parties to the acquisition.

As discussed above, there will be no payment of a purchase price for the change in control of the assets of PHCS, PHS, and the Affiliates and there will no "net proceeds" arising from the change in control. Even though we have deemed this transaction to be an "acquisition," as that term is broadly defined in CHAPA, PHCS, PHS, and the Affiliates will continue to operate as tax exempt, nonprofit corporations in accordance with their charitable mission and purposes under the ultimate corporate control of the University. The University will exert control over certain aspects of PHCS', PHS' and the Affiliates' governance through the exercise of its reserved corporate powers. In exchange for this control, the University has agreed to do a number of things to enhance PHCS', PHS', and the Affiliates' ability to provide health care, including assuming PHCS debt and pension funding obligations, funding PHCS', PHS',

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[7] In CHAPA conversion transactions, the selling hospital's assets will no longer be used for charitable purposes. The "net proceeds" from the sale of the assets would be the amount of consideration paid to the nonprofit seller by the buyer for the relinquishment of the hospital's charitable assets, plus the value of any excluded assets retained by the hospital, minus the hospital's debt and any other legitimate liabilities. Any net proceeds would be placed in a newly established or existing tax exempt charitable foundation with the proceeds dedicated to serving the health care needs of the community historically served by the predecessor nonprofit hospital. N.J.S.A. 26:2H-7.11(h).

routine capital expenditures and strategic capital projects enhancing the system's charitable mission.

Thus, we find that it is manifest under the circumstances of this transaction that the benefits to be conferred on PHCS, PHS, and the Affiliates in accordance with the Agreement will be used for appropriate charitable health care purposes. In addition, in accordance with N.J.S.A. 26:2H-7.11(b), appropriate steps have been taken to safeguard the value of the charitable assets of PHCS and PHS and their assets will continue to be used for appropriate charitable health care purposes consistent with their original purposes.

Further, CHAPA requires that in a proposed acquisition reviewed under N.J.S.A. 26:2H-7.11(d), the Attorney General, after consultation with the principal parties to the transaction, shall make a determination as to the amount of assets which the hospital shall set aside as a charitable obligation based on the full and fair market value of the hospital at the time of the proposed acquisition as determined by the Attorney General. N.J.S.A. 26:2H-7.11(g). The amount determined by the Attorney General to be set aside as a charitable obligation shall be placed in a nonprofit charitable trust. N.J.S.A. 26:2H-7.11(h).

For the reasons previously discussed, since the assets of PHCS/PHS will continue to be used in accordance with its mission solely for charitable purposes and there will be no net proceeds from this Proposed Transaction, we conclude that there is no necessity for any assets to be "set aside as a charitable obligation."

(g) Right of First Refusal (d)(3)

The Attorney General is asked to review whether a right of first refusal has been retained to repurchase the assets by a successor nonprofit corporation or foundation if, following the acquisition, the hospital is subsequently sold to, acquired by, or merged with another entity. This would be of greatest concern in a conversion transaction where the assets of a charitable corporation have been conveyed to a for profit entity. In that case, should the buyer desire to convey the assets of the hospital to another business corporation, concerns will arise as to whether the subsequent buyer will abide by the commitments made by the initial buyer, including the capital commitments and commitments to keep the hospital open. As such, it would benefit the community served by the hospital if a

charitable foundation held an option to match an offer to purchase the hospital.

The Proposed Transaction is not a conversion, thus a right of first refusal is not essential. However, the purchaser is not a New Jersey non-profit entity. As such, it is worth mentioning, as discussed above in Section IV(b)(iii), that in order to ensure continued operations of licensed health care facilities of PHS, for six (6) years following the closing of the Proposed Transaction, the PHCS Board will retain the right and power to approve any closure or relocation of PHCS and its affiliates, to recommend and approve strategic plans for PHCS and its affiliates, and to approve the addition of new or expanded service lines within the PHCS service areas.

(h) Future Contracts - CHAPA Subsection (d)(7)

CHAPA requires the Attorney General to consider whether officers, directors, board members or senior management will receive future contracts in existing, new, or affiliated hospitals or foundations. N.J.S.A. 26:2H-7.11(d)(7). Since the Proposed Transaction is the establishment of the University as the sole member of PHCS, with PHCS, PHS, and the Affiliates continuing to operate as nonprofit organizations under the ultimate control of the University, it is readily contemplated that the existing senior management and employees of PHCS, PHS, and the Affiliates would remain in place following the closing of the Proposed Transaction.

PHCS explained that as part of its process to evaluate strategic partners and partnership opportunities to help PHCS advance its mission, PHCS identified a number of key employees who would be important to retain for up to one (1) year following the closing of any transaction. The PHCS Board decided it was in the best interest of PHCS to offer a retention agreement to directors, executive vice presidents, and the chief executive officer. The retention agreement provides for a bonus, calculated as a percentage of the executive's salary, if the executive remains employed by PHCS through the third month following the closing of a transaction with a potential partner. The PHCS Board approved a severance agreement for the executive vice presidents and chief executive officer. The executive severance agreement provides contractual protections if the organization enters into a change in control transaction (for example, the agreement requires the employer to keep the agreements in place as enforceable contractual obligations after the effective date of a change in control). Whether or not a

change in control occurs, the agreement provides severance benefits only upon a qualifying termination of employment. The Chief Executive officer's employment agreement contains similar change of control provisions. No officer, director, board member, or senior level manager will receive a change in salary as a result of the Proposed Transaction. All employees of PHCS, PHS and the Affiliates are anticipated to remain employees of their current employer post-closing.

V. Findings of the Department of Health

In addition, the Department of Health has issued a finding pursuant to CHAPA, specifically N.J.S.A. 26:2H-7.11(b). Writing in regard to the proposed merger of Princeton Health Care System Holding (Princeton) and The Trustees of the University of Pennsylvania (Penn) in a letter dated October 13, 2017 to Christopher S. Porrino, Attorney General of New Jersey (attached hereto as Exhibit A), Cathleen D. Bennett, the Commissioner of the Department of Health, stated that, "[t]he Department has approved the licensure application regarding this transaction." Also, the Department participated in a public hearing held in accordance with the Community Health Care Assets Protection Act. "Princeton and Penn both represent that Princeton and its respective subsidiaries and affiliates will continue all services currently being provided at their facilities. Based upon the applicants' representations, and information reviewed in connection with the proposed merger, the Department believes the transaction will not result in the deterioration of the quality, availability or accessibility of health care services in the impacted communities."

VI. Review of the Acquisition of PHCS Affiliates by the University under the Common Law

PHCS' CHAPA application also seeks approval of the proposed transfer of control of the Affiliates via certain reserved powers the University will exert directly or indirectly through PHCS on the Affiliates. This transaction is inextricably intertwined with the transfer of the assets of PHCS and the materials supplied by PHCS provide sufficient documentation for us to concurrently review this aspect of the Proposed Transaction.

As the protector of the public interest in charitable trusts, see, In Re Katz Estate, 40 N.J. Super. 103, 107 (Ch. Div. 1956); In Re Estate of Yablick, 218 N.J. Super. 91, 98-99, 526 A.2d 1134, 1137 (App. Div. 1987); Passaic Nat. Bank, etc.,

Co. v. East Ridgelawn Cemetery, 137 N.J. Eq. 603, 608 (Ch. 1946), the Attorney General has a common law duty to oversee the disposition of the assets of charitable corporations, as in the case of the Proposed Transaction.

As nonprofit corporations, the assets of PHCS and its Affiliates are impressed with charitable purposes. As such, the Court may consider analyzing the change of control of the nonprofit corporations resulting from the establishment of the University as the sole member of PHCS under the cy pres doctrine.

As described above, changes in the nature of the delivery of health care have made it necessary for PHCS to find a strategic partner in order for it to continue to use its charitable assets in furtherance of its mission. In order to ally with this strategic partner and obtain the benefits of this strategic partnership, PHCS' Affiliates will indirectly give over control of their charitable assets to the proposed strategic partner. The cy pres doctrine provides that when a charitable trust can no longer carry out its intended purposes, its funds will be applied to a similar purpose. A. Clapp & D. Black, Wills and Administration §524 (rev. 3rd ed. 1984). However, only the Court has the authority to implement the cy pres doctrine after consideration of the facts and circumstances. Ibid.; Tp. of Cinnaminson v. First Camden National Bank & Trust, 99 N.J. Super. 115, 127-29 (Ch. Div. 1968).

There are several issues involved in the transfer of the assets of charitable corporations that are of concern to the Attorney General in accordance with his oversight role. These include, among others, whether the trustees of the charitable corporation exercised reasonable care in the performance of their duties concerning the proposed transfer, whether any conflict or duality of interest was disclosed, and, whether the assets of the entity being acquired will be used by the acquirer for a similar charitable purpose.

The issues we would examine in reviewing the proposed change in control of the PHCS' Affiliates under the common law are substantially similar to those we have already reviewed in depth in relation to the proposed change in control of PHCS/PHS under CHAPA. Thus, our findings are no different. In short, the fiduciaries have engaged in a due diligence process and have exercised reasonable care in the consideration of the change in control and corporate reorganization of the Affiliates.

Furthermore, we recognize that PHCS, PHS, and the University have agreed that the assets of the Foundation will continue to be used for the benefit of PHCS, PHS, and the Affiliates in accordance with the Foundation's articulated mission and purpose.

In view of the foregoing, we have no objection to the Proposed Transaction under the common law.

VII. Conclusion

When the Proposed Transaction is viewed in its entirety, the Attorney General finds that, under all the circumstances, appropriate steps have been taken to safeguard the value of the charitable assets of PHCS, PHS and the Affiliates, and to ensure that such assets are irrevocably dedicated for charitable health care purposes. As such, the Proposed Transaction appears to be in the public interest and, accordingly, it receives our support, provided that the following condition for approval shall be incorporated in the Court's Order approving the Proposed Transaction:

1. The adoption by the governing bodies of PHCS, PHS and any Affiliates affected by the Proposed Transaction, of amendments to their respective Certificates of Incorporation and Bylaws, as submitted with their CHAPA application, effectuating the changes resulting from the Proposed Transaction, provided that there be thirty (30) days prior written notice to and approval by the Attorney General of any material changes to the draft proposed forms of governing documents which were submitted in the CHAPA application process.

Respectfully submitted,

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: Michelle L. Miller
Michelle L. Miller
Acting Director
Attorney ID # 030621994

c: Commissioner Cathleen D. Bennett

EXHIBIT A

State of New Jersey
DEPARTMENT OF HEALTH
PO BOX 360
TRENTON, N.J. 08625-0360
www.nj.gov/health

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CATHLEEN D. BENNETT
Commissioner

October 13, 2017

The Honorable Christopher S. Porrino
Attorney General of New Jersey
R.J. Hughes Justice Complex
P.O. Box 112
Trenton, NJ 08625-0112

Re: Proposed Merger of Princeton HealthCare System Holding, Inc. and The Trustees of the University of Pennsylvania

Dear Attorney General:

I write regarding the proposed merger of Princeton HealthCare System Holding, Inc. (Princeton) and The Trustees of the University of Pennsylvania (Penn). The Department has approved the licensure application regarding this transaction. Also, the Department participated in two public hearings held in accordance with the Community Health Care Assets Protection Act.

Princeton and Penn both represent that Princeton and its respective subsidiaries and affiliates will continue all services currently being provided at their facilities. Based upon the applicants' representations, and information reviewed in connection with the proposed merger, the Department believes the transaction will not result in the deterioration of the quality, availability or accessibility of health care services in the impacted communities.

Sincerely,

Cathleen D. Bennett
Commissioner

c: J. Ganzman, DAG