



220 Bagley, Suite 900
Detroit, MI 48226

July 7, 2011

Mr. Keith Crain
President, DMC Legacy Board
Crain Communications, Inc.
1155 Gratiot Avenue
Detroit, MI 48207

Dear Mr. Crain:

We are writing to inquire about the DMC Legacy Board's plan to monitor the commitment of Vanguard Health Systems (VHS of Michigan) to continue providing charity care and core services. We are also writing to inquire about the DMC Legacy Board's plans to assure that VHS of Michigan hires Detroit residents for construction jobs pursuant to the goals outlined in the Detroit-Based Capital Innovation Program.

Our organizations represent constituencies that are especially concerned about the health and well-being of the citizens of Southeast Michigan, particularly Detroit. We represent faith-based, secular, and public organizations with an interest in strengthening the safety net for the uninsured and underserved of our region as well as eliminating racial, ethnic, economic, and geographic health disparities. We are collectively committed to building a more effective health care system locally and nationally. The Coalition to Protect Detroit Health Care was originally established when Vanguard first attempted to purchase the Detroit Medical Center out of a concern that for-profit health care would divert dollars away from health care services and towards profits and marketing. The Coalition's current goal is to ensure that as many dollars as possible are prudently used to provide access to care for all Detroit residents.

Charity Care and Core Services

The especially weak economy in Southeastern Michigan has exacerbated the double-barreled problem of a high number of people who need charitable care and few providers of such services. This problem makes it even more imperative for VHS of Michigan to honor its commitment to maintain the former Detroit Medical Center's (DMC) provision of charitable care and core services. It is our understanding that Vanguard bought the DMC with an understanding of the DMC's legacy and history in the City of Detroit.

As you know, Vanguard's acquisition of the former DMC involves several relevant contractual commitments and statutory obligations:

- Per §12.2 of the Purchase and Sales Agreement between DMC and Vanguard, Vanguard agreed to either adhere to DMC’s historic charity care policy or to use any Affiliate’s policy as long as it is no less favorable to low-income and indigent patients for at least ten years from the Closing date.¹
- Per §12.3 of the same agreement, Vanguard also agreed to continue providing core services at each hospital within the system for at least ten years from the Closing date.²
- VHS of Michigan also has an obligation to adhere to applicable Michigan law. For example, the Transfers of Clinic Building and Detroit Receiving Hospital Act states that Detroit Receiving Hospital must provide health services to all regardless of race, religion, ethnic identification, or economic status.³

The Michigan Attorney General’s report on the sale of DMC to Vanguard notes that the DMC-Vanguard collaboration is calculated to facilitate a “medical care delivery system aligned with the federal health care reform legislation.” Since VHS of Michigan relies on the Patient Protection and Affordable Care Act (PPACA) to provide the economic underpinnings for its profitability we believe it is only fair that the Legacy Board require VHS of Michigan to report data to the Board similar to the data that DMC would have been required to produce to the government. This data should also be shared with the community.

We are disappointed to report that we have already started to hear about incidents where uninsured patients have been denied care at facilities managed by VHS of Michigan. For example, it is our understanding that DMC Pharmacy is no longer providing case management to 10 uninsured Coumadin patients who had been receiving care from the DMC for a long time, and has asked Cabrini Clinic to assume care for those patients. These kinds of service denials are unacceptable, and an effective monitoring system must be in place in order to protect the provisions of the contract DMC ‘cut’ with VHS and to protect access to care in Detroit.

Additionally, over the past six months, we have heard more about uninsured patients being sent away from DMC emergency services with comments such as “DMC can do nothing more for you.” Many of these patients are being sent to already overburdened safety net providers. It is unclear why these patients were denied continued care. An effective monitoring system must be in place in order to protect the provisions of the contract DMC ‘cut’ with VHS and to protect access to care.

Legacy DMC has a legal obligation to monitor Vanguard’s post-closing commitments. The Michigan Attorney General will “require Legacy DMC to adopt policies and procedures to monitor and verify Vanguard’s adherence to contractual promise [sic] of charity care.”⁴ These obligations are listed in “Legacy DMC Monitoring Responsibilities” section of the Monitoring and Compliance Agreement Among the Department of Attorney General, The Detroit Medical Center, VHS of Michigan, Inc., and Vanguard Health Systems, Inc., and include the following:

- A. Legacy DMC shall diligently monitor compliance by Buyer with the Post-Closing Covenants. .
- ..

¹ , VANGUARD/DMC, PURCHASE AND SALE AGREEMENT BY AND AMONG THE DETROIT MEDICAL CENTER ET AL. AS SELLER, AND VHS OF MICHIGAN, INC. ET AL. AS BUYER (June 10, 2010)(on file with authors).

² *Id.*

³ Transfers of Clinic Building and Detroit Receiving Hospital Act § 4, MICH. COMP. LAWS ANN. § 331.624 (West 1999).

⁴ MIKE COX, MICHIGAN ATTORNEY GENERAL, REPORT ON THE PROPOSED SALE OF THE DETROIT MEDICAL CENTER HOSPITAL BUSINESSES TO VANGUARD HEALTH SYSTEMS, INC. (2010).

- C. [L]egacy DMC shall establish public Complaint-intake procedures at no or minimal cost. Such procedures shall include a telephone hotline and a permanent email address. Legacy DMC shall review, follow-up, and, if appropriate, investigate every Complaint filed with Legacy DMC.
- D. Legacy DMC staff will report monthly to the Legacy DMC Board regarding Buyer's compliance with the Post-Closing Covenants.
- E. Legacy DMC staff will produce written reports at least annually for use by the Legacy DMC Board in evaluating Buyer's compliance with the Post-Closing Covenants. Such reports shall include summaries of Complaints filed with Legacy DMC and the current status of such complaints.⁵

We want to know what monitoring infrastructure Legacy DMC has established in order to accurately discern whether patients are being denied care, at which facilities, and how. We believe that Legacy DMC should account for patients who are being denied care in either clinical or emergency settings and implement a claims process for them. We also believe that an independent monitoring plan needs to be established to ensure that VHS of Michigan continues to provide the core services protected by Schedule 12.3 of the Purchase and Sales Agreement. Legacy DMC also needs to make relevant information about this claims process available to everyone who may use services provided by the current DMC/Vanguard health system, and we want to know how that information will be disseminated in order to be useful to the communities this system intends to serve. DMC/Vanguard should be meaningfully involved in developing this infrastructure.

We would be glad to collaborate with Legacy DMC in creating and implementing this monitoring infrastructure. The alternative is for the community to create its own process and simply move any and all allegations of improper denials of care to the Attorney General's office. We would prefer a credible, local, and mutually agreed upon process that can react quickly and fairly, especially in light of the fact that some of these matters are literally "life and death."

§12.2 of the Purchase and Sales Agreement allows for VHS of Michigan to use the charity care policy of any of its affiliates as long as it is no less favorable to patients than the DMC policy. The charity care policy from 2009 that is included in the Attorney General's Exhibits⁶ is more favorable to patients than is the historical DMC policy also included in the Exhibits.⁷ Some differences include:

- The maximum income level that DMC will offer any charitable care to is 300% of the Federal Poverty Line.⁸ Vanguard's corporate policy reaches up to 500% of the Federal Poverty Line⁹, and also includes a Medically Indigent category for some people who are above 500% of the Federal Poverty Line.¹⁰

⁵ MICHIGAN ATTORNEY GENERAL, MONITORING AND COMPLIANCE AMONG THE DEPARTMENT OF ATTORNEY GENERAL, THE DETROIT MEDICAL CENTER, VHS OF MICHIGAN, INC., AND VANGUARD HEALTH SYSTEMS, INC. (2010), available at http://www.michigan.gov/ag/0,1607,7-164-17337_55911-246990--,00.html.

⁶ Mike Cox, *Attorney General Report on the Proposed Sale of the Detroit Medical Center Hospital Businesses to Vanguard Health Systems, Inc. – EXHIBITS* (Nov. 13, 2010), available at http://www.michigan.gov/ag/0,1607,7-164-17337_55911-246990--,00.html.

⁷ *Id.*

⁸ DETROIT MEDICAL CENTER, PATIENT FINANCIAL SERVICES OPERATIONAL POLICY – UNCOMPENSATED CARE Program 1 app. (2009).

⁹ Vanguard, Charity Care, Financial Assistance and Billing & Collection Policies for Uninsured Patients 1 (2009).

¹⁰ *Id.* at 6.

- DMC's policy only allows for United States citizens to use charitable care services¹¹, but the Vanguard corporate policy includes some options for international patients.¹²

Even though VHS of Michigan has publicly committed to using DMC's historic charity care policy¹³, we urge VHS of Michigan to adopt the policy that is more favorable to patients in need.

Additionally, we recognize that the enforcement power given to the Legacy Board needs more definition. That being said, we want to know how the Legacy Board understands the size and scope of its enforcement power as it applies to these areas.

Detroit-Based Capital Improvement Program

Per §12.4 of the Purchase and Sales Agreement, Vanguard has committed to making significant investments in capital projects.¹⁴ On April 1, 2010, the Wayne County Commission approved a request for a Geographic Renaissance Zone Sub-Zone designate for DMC's central campus as part of Vanguard's purchase of the DMC.¹⁵ As of now, the construction projects are already under way.¹⁶

In public meetings prior to the sale, Vanguard made many verbal commitments to making jobs for Detroit residents a priority for construction projects. Attendees remember hearing that the sale would translate into thousands of jobs for Detroiters. Vanguard/DMC created the Detroit-Based Capital Improvement Program for the construction of DMC facilities. The program includes the following goals:

- The construction projects will be built with a goal that at minimum 30% of all construction dollars will be awarded to minority-owned, women-owned, and Detroit-based businesses.
- The workers will be employed in the construction of these projects with the following goals:
 - 25% of all workers will be minority
 - 25% of all workers will be City of Detroit residents
 - 50% of all workers will be Wayne County residents
- A minimum of 25% of the apprentices employed will be minority
- The parties will sign an agreement with the Greater Detroit Building Trades Council and appropriate organizations representing unionized laborers to ensure labor harmony throughout the construction period. The parties will work with the unions and solicit their full support to assisting Vanguard/DMC in achieving the specified goals for employment of workers and apprentices.
- Vanguard/DMC will contract with the independent firm of MMSDC (Michigan Minority Supplier Development Council) to monitor the compliance of Vanguard/DMC with the

¹¹ Detroit Medical Center, *supra* note 8 at 1.

¹² Vanguard, *supra* note 9 at 4.

¹³ *Vanguard Health Systems Commitment – Vanguard's Contractual Commitments to DMC's Historic Missions*, DMC.ORG, <http://www.dmc.org/NewPartnership> (last visited June 24, 2011).

¹⁴ Vanguard/DMC, *supra* note 1.

¹⁵ JOYUA A. BOULDES, ATTACHMENT A: CERTIFICATION OF RESOLUTION No. 2010-180, APPROVING A GEOGRAPHIC RENAISSANCE ZONE SUB-ZONE DESIGNATION FOR THE CENTRAL CAMPUS OF THE DETROIT MEDICAL CENTER (DMC) AS PART OF THE PURCHASE BY VANGUARD HEALTH SYSTEMS, INC. OF THE DMC (April 2, 2010), *available at* http://www.michigan.gov/ag/0,1607,7-164-17337_55911-236259--,00.html.

¹⁶ See Detroit Medical Center, *Reshaping the DMC: DMC/Vanguard's Children's Hospital Groundbreaking Event* (Nov. 1, 2010), <http://www.dmc.org/chmgroundbreaking>. See also Detroit Medical Center, *DMC Vanguard Construction Project Outreach*, <http://www.dmc.org/construction/> (last visited June 20, 2011),

requirements of this program and to provide quarterly reports to the Mayor of Detroit, the Detroit City Council, the Wayne County Executive, and the Wayne County Commission.

- Vanguard/DMC will work cooperatively with elected officials of the City of Detroit and Wayne County to establish outreach programs to provide maximum opportunity for targeted businesses, employees, and apprentices, in order to achieve these goals.¹⁷

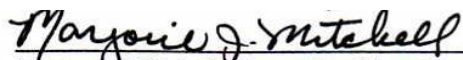
We believe that it is possible to meet and surpass these goals, and that doing so is necessary in order for Vanguard of Michigan to make a real investment in Detroit. We have seen promises of “jobs for Detroit” go by the wayside in the past – that should not happen again here. We want to know what the Legacy Board intends to do to hold Vanguard/DMC to the promises that it has made in the Detroit-Based Capital Innovation Program. We also want to know what the specific monitoring and reporting infrastructure will look like.

Conclusion

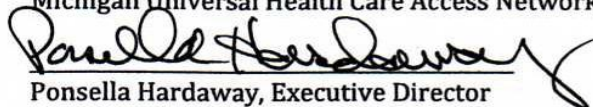
Our goal is to understand the processes that the DMC Legacy Board is going to implement in order to effectively monitor and enforce VHS of Michigan’s obligations to continue providing charitable care and core services as well as its obligations to prioritize giving construction jobs to Detroiters as it continues its building efforts.

Thank you for your time and consideration, and we look forward to hearing from you soon. You may reach us at (248) 880-2526.

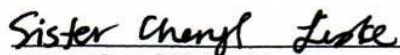
Sincerely,



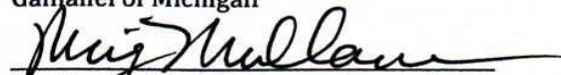
Marjorie Mitchell, Executive Director
Michigan Universal Health Care Access Network



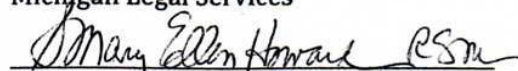
Ponsella Hardaway, Executive Director
Metropolitan Organizing Strategies Enabling Strength (MOSES)



Sister Cheryl Liske, Director
Gamaliel of Michigan



Marilyn Mullane, Executive Director
Michigan Legal Services



Mary Ellen Howard, RSM, Executive Director
St. Frances Cabrini Clinic

¹⁷ VANGUARD/DMC, VANGUARD/DMC DETROIT-BASED CAPITAL INNOVATION PROGRAM (July 14, 2010), available at www.dmc.org/upload/docs/VanguardDMC%20Capital%20Improvement%20Program.pdf.

c. Bill Schuette, Michigan Attorney General
 Tracy Sonneborn, Michigan Attorney General's Office Charitable Trust Division
 Robert A. Ficano, Wayne County Executive
 Mayor Dave Bing, City of Detroit
 Michael Duggan, President and CEO of the Detroit Medical Center

Charles Pugh, City of Detroit City Council President
 Gary Brown, City of Detroit City Council President Pro Tem
 Saunteel Jenkins, Detroit City Council Member
 Kenneth V. Cockrel, Jr., Detroit City Council Member
 Brenda Jones, Detroit City Council Member
 Andre Spivey, Detroit City Council Member
 James Tate, Detroit City Council Member
 Kwame Kenyatta, Detroit City Council Member
 JoAnn Watson, Detroit City Council Member

Gary Woronchak, Wayne County Commissioner Chairman and District Thirteen
 Timothy Killeen, Wayne County Commissioner District One
 Bernard Parker, Wayne County Commissioner District Two
 Martha G. Scott, Wayne County Commissioner District Three
 Jewel Ware, Wayne County Commissioner District Four
 Ilona Varga, Wayne County Commissioner District Five
 Irma Clark-Coleman, Wayne County Commissioner District Six
 Burton Leland, Wayne County Commissioner District Seven
 Alisha Bell, Wayne County Commissioner District Eight
 Diane Webb, Wayne County Commissioner District Nine
 Laura Cox, Wayne County Commissioner District Ten
 Kevin McNamara, Wayne County Commissioner District Eleven
 Joan Gebhardt, Wayne County Commissioner District Twelve
 Joseph Palamara, Wayne County Commissioner District Fourteen
 Raymond Basham, Wayne County Commissioner District Fifteen

Coleman Young II, Michigan State Senator District One
 Bert Johnson, Michigan State Senator District Two
 Morris W Hood III, Michigan State Senator District Three
 Virgil Smith, Michigan State Senator District Four
 Tupac A. Hunter, Michigan State Senator District Five
 Glenn Anderson, Michigan State Senator District Six
 Patrick Colbeck, Michigan State Senator District Seven
 Hoon-Yung Hopgood, Michigan State Senator District Eight

Timothy Bledsoe, Michigan State Representative District One
 Lisa Howze, Michigan State Representative District Two
 Alberta Tinsley Talabi, Michigan State Representative District Three
 Maureen L. Stapleton, Michigan State Representative District Four
 John Olumba, Michigan State Representative District Five
 Frederick C. Durhal, Jr., Michigan State Representative District Six
 James Womack, Michigan State Representative District Seven
 Thomas Stallworth III, Michigan State Representative District Eight

Shanelle Jackson, Michigan State Representative District Nine
Harvey Santana, Michigan State Representative District Ten
David E. Nathan, Michigan State Representative District Eleven
Rashida Tlaib, Michigan State Representative District Twelve
Andrew J. Kandrevas, Michigan State Representative District Thirteen
Paul Clemente, Michigan State Representative District Fourteen
George T. Darany, Michigan State Representative District Fifteen
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Richard LeBlanc, Michigan State Representative District Eighteen
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Kurt Heise, Michigan State Representative District Twenty
Dian Slavens, Michigan State Representative District Twenty-One
Douglas A. Geiss, Michigan State Representative District Twenty-Two
Pat Somerville, Michigan State Representative District Twenty-Three

Pat Anstett, Detroit Free Press
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Jay Greene, Crain's Detroit Business
Diane Bukowski, Voice of Detroit
The Michigan Chronicle
The Michigan Citizen
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