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Proposed Hospital Mergers Blocked by Community Action

Communities across the country have stopped proposed hospital mergers or other types of hospital transactions that would have imposed religious restrictions on non-religious hospitals and reduced patients' access to health care services. The following case histories demonstrate the different situations faced by each community and the strategies used to stop the proposed hospital action when hospital executives refused to consider alternative plans that would have protected patients' rights and access to services.

Location: Avon, Connecticut

Result: *State Certificate Of Need Denied to Proposed Outpatient Surgical Center*

In 1997, a coalition of women's groups defeated a proposal to build an outpatient surgical center in Avon, Connecticut, that would have banned tubal ligations and abortions.

The proposal was a collaboration of Hartford Hospital, New Britain General Hospital, UConn/Dempsey Hospital (a publicly-funded hospital) and St. Francis Hospital. At the insistence of St. Francis Hospital, which is affiliated with the Catholic Church, the new surgical center would have adhered to Catholic health care directives. Doctors would have been barred from providing women's reproductive health services that are disapproved by the church. Specifically banned would have been abortions and tubal ligations (the female version of a sterilization procedure.) However, male sterilizations (vasectomies) would have been permitted, even though those are also disapproved by Catholic health directives, under a plan demanded by certain influential doctors.

Upon hearing of the proposal, several women's groups formed the Coalition For Full and Fair Women's Health Care. Prominent people who joined in the opposition to the proposal include 40 state legislators and 50 doctors from Hartford Hospital who signed a letter opposing the center. The coalition worked to inform the community about the proposal and its restrictions on women's health care access. One of the key points of opposition was the fact that a publicly-funded hospital (UConn) was going to be a party to a health care facility that followed religious doctrine.

The coalition obtained intervener status in the required state hospital oversight proceedings and offered legal arguments and expert testimony. (MergerWatch presented

testimony at the invitation of the group.) Faced with significant opposition, the hospitals withdrew their plan. The state oversight board ultimately issued an official rejection of the plan, even though it had been abandoned.

Location: Wilmington, Delaware

Result: *Proposed Outpatient Surgery Center Negotiations Collapse*

Planned Parenthood of Delaware and a group of other community organizations effectively opposed a planned joint venture between a non-religious hospital and a Catholic hospital to build an outpatient surgery center that would have prohibited tubal ligations, abortions and contraceptive counseling. Their dedicated work and firm opposition resulted in a collapse of plans in the fall of 1997.

The non-religious Christiana Care Health System (formerly the Medical Center of Delaware) and St. Francis Hospital, which is part of the nationwide Catholic Health Initiatives network, submitted a Certificate of Need (CON) application to the state. Their plan was to build an outpatient surgery center in downtown Wilmington.

Because St. Francis Hospital is a Catholic institution, it adheres to the Religious Directives put forth by the United States Conference of Catholic Bishops. These Directives prohibit the hospital from providing many services that are vital to ensuring that a community has access to a full range of health care options. Contraceptive services, provision of emergency contraception in cases of sexual assault, sterilization (both tubal ligations and vasectomies) and abortion, as well as fertilization procedures and certain end of life choices may all be prohibited or restrictive at a hospital governed by Catholic health directives.

The terms of the joint venture between the two hospitals stipulated that the new surgery center would abide by the Catholic directives. Outraged community members, including non-Catholic clergy, came together in protest. With the assistance of MergerWatch, they worked to educate the public about the ramifications of such a venture, wrote letters to the editor and spoke out against the new center at the state CON hearing on September 3, 1997, providing those reviewing the application with suggestions about creative ways the hospitals could collaborate without restricting the provision of vital services.

Their dedication paid off. On September 11, 1997, just eight days after the CON hearing, Christiana Care backed out of the agreement. "In the internal review and approval process of the Christiana Care board it was determined that a joint venture with St. Francis would create problems that would outweigh the benefits," said a Christiana Care spokesperson.

Location: Pekin, Illinois

Result: *Proposed religious/nonsectarian merger averted when claim of financial necessity shown to be misleading*

A coalition of concerned citizens calling themselves Save Our Services (SOS)-Pekin successfully fought a proposal for nonsectarian Pekin Hospital and its parent company,

Progressive Health System, to merge with OSF HealthCare (Order of St. Francis), a Catholic system. Had the merger been finalized, the Progressive Health System, including Pekin Hospital, would have been required to adhere to the Catholic Ethical and Religious Directives, leading to bans on certain reproductive services.

The nonsectarian Progressive Health System claimed the merger was necessary because it was losing money. But SOS engaged an accountant to review Progressive's tax returns for the four most recent years. The analyst found that the system was financially healthy, despite claims to the contrary.

The SOS financial report, which was released to the public, showed that the claimed financial losses were, in part, the product of accounting methods designed to portray the system as a money loser. Among the items revealed by the report were the following:

- Pekin Hospital had transferred assets of \$15 million over a four-year period without suitable explanation;
- More operating expenses, inter-company management expenses and bad debt were recorded in 1999 (the year the hospital reported large financial losses) than in previous years;
- Operating and inter-company management expenses increased dramatically in 1999, the year in which the hospital reported large financial losses;
- The hospital wrote off \$3.7 million in bad debt in 1999, the only time in the four years examined that this form of write off was used. (Hospitals typically write off some bad debt yearly.)

Within a few weeks of SOS-Pekin's release of the financial analysis, the merger was called off. Pekin Hospital officials said they decided OSF was not a good fit because of an inability to come to agreement on seven key principles Pekin Hospital needed in order to agree to the merger. These principles included the following requirements:

- core services, including an emergency room, would remain in Pekin;
- continued physical presence of a hospital in Pekin; and
- local governance of the hospital.

This case provides a dramatic illustration of the importance of critically analyzing hospitals' financial claims.

Location: Cape Girardeau, Missouri**Result:** *Merger Blocked due to Antitrust Concerns*

Plans for the merger of Cape Girardeau's only two hospitals, nonsectarian Southeast Missouri Hospital and St. Francis Medical Center, a Catholic hospital, ended in January 1999 after two years of negotiations. The plans to merge the hospitals were dropped after Missouri state Attorney General Jay Nixon announced his opposition to the merger. The Attorney General said he would take legal action to prevent the proposal from being completed due to his concerns that the deal would be anticompetitive. Nixon believed the merger would result in higher prices and less choice in services for consumers. In a press release, Nixon said: "At a time when health care choices are dwindling, we need to work hard to preserve choice in health care, and the Attorney General's Office must be the agency that stands up for choice in health care."

Location: Batavia, New York**Result:** *Merger Plan Blocked, New Configuration Protects Services*

After more than a year of fighting a planned merger between St. Jerome's Hospital and nonsectarian Genesee Memorial Hospital, members of People Against Lost Services (PALS) won their struggle in early March 1999. Instead of the nonsectarian hospital merging with St. Jerome's and adopting the Catholic health care restrictions, Genesee Memorial (the stronger hospital financially) took over St. Jerome's in an agreement that ended community dissention.

People Against Lost Services (PALS) opposed the merger because it threatened women's reproductive services. Under the original plan, both hospitals would have followed the Ethical and Religious Directives for Catholic Health Facilities. This would have left the women of Genesee County without any reproductive choices.

Under the agreement, reproductive services were kept at Genesee Memorial. St. Jerome's was renamed, but was to continue to follow the Catholic Directives for five years.

Location: Gloversville, New York**Result:** *Planned Affiliation Called Off*

After more than four years of community opposition, a long-pending affiliation between nonsectarian Nathan Littauer Hospital in Gloversville, NY, and Catholic-affiliated St. Mary's Hospital in nearby Amsterdam, NY was called off. Activists were opposed to the idea of a single religious perspective controlling all health care in their community and were concerned that many reproductive services would be lost to the rural community. Although the deal allowed for the continuation of contraceptive services and sterilizations at Nathan Littauer, hospital officials refused to make assurances that maternity services would remain at the hospital after the affiliation.

The merger, which was delayed by a challenge from New York's attorney general, dissolved just as it seemed imminent. The deal appears to have fallen apart because St. Mary's Hospital's struggling parent system, Carondelet, decided to merge with the much

bigger Ascension Health System. Reportedly, Ascension wanted to remove the maternity unit from Littauer and locate it at St. Mary's Hospital, thus eliminating not only births but also the promised continuation of post-partum tubal ligations at Littauer.

Location: Kingston/Rhinebeck, New York

Result: *Activists tell their story in MergerWatch video*

A 40-minute video from MergerWatch tells the story of how people from New York's Mid-Hudson Valley waged a successful 16-month struggle against a planned merger of their three local hospitals.

“Stand Up! Speak Out! How One Community Stopped a Hospital Merger” portrays the surprise and shock of local residents when they learned in May of 1997 that Kingston and Northern Dutchess Hospitals (both nonsectarian institutions) had agreed to ban contraceptive services, abortions, tubal ligations, vasectomies and infertility services in order to merge with Catholic-run Benedictine Hospital. The hospitals, citing mounting financial pressures, claimed they had no choice, proclaiming it was “merge or die.”

Concerned citizens came together in a grass roots coalition that worked with Planned Parenthood of the Mid-Hudson Valley over 16 months to educate and organize the community, voice public opposition to the plans, propose alternatives (such as mergers of the nonsectarian hospitals with other similar institutions), and contact the state and federal officials with power to approve or disapprove the merger plans.

The citizens gathered more than 10,000 signatures on petitions, staged rallies and public forums, took out full-page newspaper advertisements, visited newspaper editorial boards, wrote hundreds of letters to the editor and posted campaign-style lawn signs stating: “People of all faiths use our hospital!” and “No religious hospital merger.” They even took out five billboards on main roads (including one passed daily by a hospital CEO) warning that: “The hospital merger is taking us in the wrong direction!”

The coalition worked effectively with local media, and formed valuable alliances with physicians and nurses at the hospitals, as well as clergy of other faiths who viewed the merger plans as a violation of the religious freedom of their congregants. They also urged hospital donors to oppose the merger plans.

The increasing public opposition to the merger and lengthy reviews of the plans by state and federal officials took their toll. In August and September of 1998, amid bickering among hospital officials and boards, the merger fell apart. Then, the CEO of Kingston Hospital announced to the community a new policy adopted by the hospital's board: No future merger plans would be entertained if they required the hospital to adopt and follow the Catholic Ethical and Religious Directives.

After the merger fell apart, the hospitals finally began listening to their patients. Northern Dutchess Hospital surveyed local residents, met with them and ultimately announced a merger with nonsectarian Vassar Brothers Hospital, located in Poughkeepsie (southern Dutchess County). This was exactly the plan that had been recommended all along by the

merger activists as a viable and acceptable alternative to help the hospital financially. Kingston Hospital held focus groups with local residents and adopted an official mission statement proclaiming itself to be a nonsectarian facility. Meanwhile, Benedictine Hospital began talking to other Catholic hospitals and systems. All three hospitals remain open today.

To find out how to order a copy of the video, please email us at: info@mergerwatch.org.

Location: Enid, Oklahoma

Result: *Community Group Helps to Stop so-called "Women's Health Center"*

In March 1999, after a year of protest by The Oklahoma Coalition for Quality in Women's Health Care and local physicians, Enid's two hospitals scrapped their plan to form a joint venture to create a women's health center that would have banned reproductive health services.

St. Mary's Mercy Hospital cited financial changes in the healthcare industry as their primary factor in canceling the \$12 million project with Integris Bass Baptist Hospital. The hospitals' CEOs also stated that concerns expressed by physicians and the local residents played a role in the decision to end the project.

Integris Bass Hospital and St. Mary's-Mercy Hospital announced the plan for the joint venture in response to an announcement by a private company that it planned to open a women's health center that might have drawn business away from the two hospitals. In collaborating on the joint women's health center, each hospital would close its maternity ward and send patients to the center. St. Mary's officials demanded that the jointly-owned center follow the Ethical and Religious Directives for Catholic Health Care Services. The women's center would not have been allowed to provide tubal ligations to women immediately following birth.

With the announcement of the joint venture plans, the Enid community rallied around this issue, bringing local politicians, health care providers, pro-choice activists and local community members together to speak out. The group held numerous public meetings and press conferences addressing the matter. In response, the hospital executives devised a plan that would transport patients from the center to Integris Bass Hospital the day after delivery of a baby in order to undergo a tubal ligation. Not only did this plan fragment women's healthcare, it also would have increased women's health risks and asked a new mother to leave her newborn behind at the center.

More than 70 percent of the physicians in the Enid area signed a petition opposing the terms of the proposed "women's health center." One of the community activists opposed to the policies of the women's health center explained her position regarding the failed plan: "It was never my intent to stop building of the center but to make sure that physicians' concerns were addressed and patients' rights were preserved."

Location: Newport, Oregon

Result: *Plan for Catholic system to run public hospital is dropped*

A plan to use taxpayer funds to pay a Catholic health system to operate a publicly-owned 48-bed hospital and several clinics fell apart ((WHEN – NEED A DATE), to the relief of concerned citizens in Newport, Oregon. After months of criticism and the filing of lawsuits challenging the plan on church/state grounds, Providence Health Systems terminated its agreement with the taxpayer-funded Pacific Communities Health District to manage the district's hospital and clinics.

The proposed operating agreement would have placed Providence -- a large multi-state Catholic health system operated by the Sisters of Providence Order--in the position of managing services provided by the health district, a government entity that collects taxes from local residents to support the hospital and clinics. One of 17 public health districts in rural Oregon, this district serves about 25,000 coastal residents.

By terminating the agreement, Providence Health Systems may have been hoping to avoid a potentially landmark court ruling. Opponents had filed lawsuits challenging the proposal on several grounds, contending that the agreement would have violated:

- A state statute that requires the publicly-funded hospital to have a secular mission;
- A state statutory requirement that forbids health district hospitals from adopting policies that ban abortion services (the Catholic system planned on adopting a policy that would ban abortions); and
- Federal and state constitutional clauses relating to the separation of church and state.

Location: Burlington, Vermont

Result: *Hospital Withdraws Plan to Place Psychiatric Unit on Catholic campus*

A controversial proposal by the Vermont Fletcher Allen Health System to move its inpatient psychiatric unit from the system's main nonsectarian campus to a new facility on a Catholic-owned campus was withdrawn one week after a state oversight commission voted unanimously against it on May 8, 2002.

The proposal was met with opposition from patients, advocates and physicians for several reasons, including fears that religious doctrine could have limited counselors' ability to freely discuss sexuality issues and obstruct access to family planning services and counseling. The state Public Oversight Commission held public hearings to consider Fletcher Allen's CON application and heard testimony about the stigma of isolating psychiatric patients from the rest of the system's hospital services and problems likely to be posed by a lack of integration of psychiatric care with acute care services. Patients, advocates and physicians were also angry that system had developed the plan to relocate the facility without consulting those most affected, the patients and the physicians who treat them.

The case was one of the first in the nation involving questions about how religious health care doctrine can restrict access to reproductive services for women receiving inpatient treatment for mental illnesses. Studies show that women with serious mental illnesses are especially vulnerable to sexual abuse and face complicated issues concerning pregnancy, including potential negative interaction of drugs with a developing fetus.

The Fletcher Allen Health System was formed in 1995 by the Catholic-sponsored Fanny Allen Hospital and the nonsectarian Medical Center Hospital of Vermont and University Health Center. The University of Vermont College of Medicine is also part of the system, with its medical residents receiving training at the health system's facilities.

Negotiations at the time of the system's creation resulted in a "creative solution" agreement to maintain a full range of health care services and patient options at the nonsectarian hospital campuses, while preserving Catholic health care rules at the former Fanny Allen campus (named after the daughter of General Ethan Allen, who was the first woman born in New England to become a nun).

At the time of the affiliation, Fanny Allen Hospital gave up its license to operate a hospital, and leased its property to the new Fletcher Allen system, effectively becoming a landlord, instead of a direct health care provider. A provision of the lease forbids the provision of any health care services on the Fanny Allen campus that would conflict with the Catholic Ethical and Religious Directives. Fanny Allen, which still exists as a corporation with a board and CEO (as well as a Catholic parent company, the Covenant Health System), has the power to enforce lease provisions as the property landlord. Covenant also has significant power over what services are delivered on the Fanny Allen campus, by virtue of its ability to elect the directors and CEO of the Fanny Allen corporation.

At the request of the ACLU of Vermont, MergerWatch staff presented testimony at the state CON hearing addressing Fletcher Allen's attempts to assure the oversight commission that physician/patient counseling and contraceptive provision would not be restricted at the new psychiatric facility. These promises, MergerWatch staff suggested, could be overturned for three reasons:

- The Catholic Directives can change and become stricter, as was the case in June 2001, when the U.S. Conference of Catholic Bishops tightened up on rules governing the provision of sterilizations at Catholic-affiliated hospitals.
- Bishops, who interpret the Directives within their own dioceses, have varying interpretations. When a new Bishop is named, he can order changes based on his interpretation.
- The Vatican can overrule a Bishop's approval of a particular arrangement and demand that it be ended.

Following withdrawal of the CON application, Fletcher Allen officials said they will include patients, advocates and physicians in future discussions about where the psychiatric facility should be located.