

# Kitsap Sun

## **Certificate-of-need process unresolved in Harrison proposal**

**Date now Aug. 16 for decision on public process**

By Rachel Pritchett

*Kitsap Sun*

July 20, 2013

BREMERTON — Raymond Koher says his wife needs knee surgery, but he's concerned how things may be handled once Harrison Medical Center affiliates with Franciscan Health System.

"I'll have to tell them flat, there's no nuns allowed in the room," the retired laborer from Port Orchard said.

No one — not even the top leaders of both organizations — knows what Harrison will look like in years to come when the secular community hospital with deep roots in Bremerton joins hands with the larger Tacoma-based Catholic system that's part of the national Catholic Health Initiatives.

Harrison Chief Executive Officer Scott Bosch has repeatedly said the intent is for Harrison to remain secular and independent, offering as full a range of services in the future as it does today. And both sides say they'll respect the other's traditions and interpretation of how services are delivered.

Certainly the proposal pending with the state allows for Harrison to continue as it is.

But it also appears to contain nothing that prohibits the possibility of a future sale and even the complete folding of Harrison into the Catholic system.

For some, that uncertainty brings the nuns a little closer to entering the room.

Alleging that the Harrison-Franciscan proposal was in fact setting the stage for a sale and concerned that local residents someday might have more difficulty accessing voter-approved services like abortion and death with dignity, the American Civil Liberties Union of Washington and others [last week petitioned the Department of Health](#) to put the proposal under the fullest scrutiny.

The ACLU is concerned that the recent flurry of secular-religious hospital partnerships and more that are planned will result in nearly half the hospital beds in Puget Sound coming under Catholic control.

It asked the department, which is the main regulator of hospital partnerships, to require Harrison and Franciscan to go through the far more stringent certificate-of-need (CON) process that is required under law if the proposal contains a sale, purchase or transfer of assets.

Harrison and Franciscan instead have asked to bypass the process that can require millions in additional cost, and are seeking a determination of non-reviewability (DNR).

The department has until Aug. 16 to issue a decision under a 30-day clock. Contrary to earlier reports in the Kitsap Sun, the clock starts running after the department determines the application is complete, not when [the proposal was filed, June 20](#).

## **THE COSTLY — AND RARE — 'CON' PROCESS**

Besides requiring an opportunity for the public to weigh in on the proposal, the CON process can involve many costly months of work for the parties to meet its criteria.

Washington's CON process has been widely criticized as too easily avoidable by proposed hospitals partnerships of all sorts that routinely receive the DNR instead. Some parties in those partnerships are said to write their proposals specifically to bypass the CON process.

The Harrison-Franciscan proposal was the only one pending with the department when Gov. Jay Inslee ordered a complete overhaul of the CON process in June. Watchers now wondered whether Harrison and Franciscan would succeed in bypassing the CON process.

For their part, Harrison and Franciscan have been trying. In their May application for a DNR, they stated their proposal contains no sale or transfer of assets and therefore isn't subject to the CON process.

They pointed to a long line of recent proposals they said are similar to theirs that received DNRs, including UW Medicine's affiliation with Northwest Hospital and Medical Center, PeaceHealth's affiliation with Southwest Washington Medical Center, MultiCare's affiliation with Good Samaritan Hospital, and Franciscan's just-completed affiliation with Highline Medical Center.

A 1974 federal mandate prompted states to begin CON processes. The idea was to control health care costs by preventing hospitals from expanding services when those same services already were being provided by other hospitals. The federal law was repealed in 1987, judged as ineffective. Today, about 36 states retain CON processes, according to the National Conference of State Legislatures.

## **THE HARRISON-FRANCISCAN PROPOSAL**

The proposal contains no discussion of a sale or asset transfer. Instead it calls for the formation of a new corporation called Franciscan Health Ventures (FHV). The new corporation would have a board that would consist of the Franciscan Health System, and two members of the Harrison

board of directors, James Civilla, current board chair, and James Smalley, secretary/treasurer. The Franciscan CEO, currently Joe Wilczek, also would be the CEO of FHV.

The 22-member FHV board would oversee Harrison's board, which would continue to oversee day-to-day operations of the Harrison system. But major decisions, including money matters and appointments to the Harrison board, would have to pass FHV muster.

Harrison, Franciscan and Catholic Health Initiatives would become legally tied to each other through common "corporate membership." Harrison would become clinically and financially integrated with FHS.

Detractors of that setup contend that FHV's membership is impossibly weighted to favor Franciscan Health System and Catholic Health Initiatives (CHI).

"Franciscan Health Ventures is set up to be a shell corporation through which Franciscan Health Systems and CHI will manage and control Harrison," said ACLU of Washington attorney Margaret Chen. The proposal, she said, gives no more than the "illusion of separation between Franciscan and CHI, and Harrison."

Proposal writers say the arrangement will help Harrison flourish in the environment of health care reform. Improvements in access, quality and coordination of care would happen, along with large efficiencies and cost-savings and a new medical-records system.

Above all, the proposal contains an undisclosed sum that Franciscan and its parent promise to invest soon in capital-hungry Harrison. Whether that sum weighs into state regulators' decision or whether the proposal truly is an affiliation or a sale simply is not known. Harrison and Franciscan attorneys aren't talking, nor are the regulators.

Which brings it all back to the nuns supposedly waiting at the door.

"If I want to go to church, I'll go to church," Koher intoned.

The fear may be understandable but baseless, with ever so much to gain as this small community hospital that started to handle the legions of Spanish Flu victims during World War 1 approaches its second century.

<http://www.kitsapsun.com/news/2013/jul/20/certificate-of-need-process-unresolved-in/#axzz2ZmXIMIpD>