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### MEMORANDUM

Via Electronic Mail Only  
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TO: Roger Stock  
Superintendent  
Rocklin Unified School District  
2615 Sierra Meadows Drive  
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Board of Trustees  
Rocklin Unified School District  
2615 Sierra Meadows Drive  
Rocklin, CA 95677

FROM: Diane Marshall-Freeman  
Wesley King

DATE: December 15, 2015

RE: Proposed UHS Behavioral Health Hospital

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#### Introduction

Universal Health Services (“UHS”) plans to build a 102-bed behavioral and psychiatric health hospital on vacant land in the Orchard Creek Business Park on West Ranch View Drive in Rocklin, California. This parcel is located less than 600 feet from Whitney High School and less than a mile from Sunset Ranch Elementary School. Given the controversy of locating UHS’ facility so close to these schools, Rocklin Unified School District (“District”) has retained our law firm to provide a report evaluating the proposed development.

Specifically, we have been charged to develop questions regarding the proposed facility’s potential safety impacts on the District’s students, teachers, and staff, determine if UHS has adequately answered those questions, review UHS’ legal profile and history of legal compliance, and explore potential options with the District if it elects to formally oppose the construction of the facility.

The District would like to note that it has not yet taken a position on the proposed hospital and, at this time, does not support or oppose its construction. Moreover, the findings and recommendations made in the report will be made public as part of the District’s commitment to government transparency and partnership with the local community.

## **Company Profile and The Proposed Facility**

UHS is a holding company operating one of the nation's largest hospital chains. UHS is a Fortune 500 company publicly traded on the New York Stock Exchange.<sup>1</sup> UHS' annual revenue is greater than \$8 billion.<sup>2</sup> The company's subsidiaries include acute care hospitals, behavioral health centers, surgical hospitals, ambulatory surgery centers and radiation oncology centers located in 37 states, Washington, D.C., the United Kingdom, Puerto Rico, and the U.S. Virgin Islands.<sup>3</sup> The company currently owns and/or operates 24 acute care hospitals and 216 behavioral health centers.<sup>4</sup> UHS provides services to individuals covered under Medicare, Medicaid, and private insurance.

As stated above, UHS plans to build and operate the Northern California Behavioral Health Hospital on a 7-acre vacant parcel within the Orchard Creek Business Park in northwest Rocklin. The facility will be located on West Ranch View Drive near the intersection of University Avenue. The planned 120-bed 58,000 square foot hospital will be situated approximately 600 feet from Whitney High School and in proximity to a senior housing complex, an actively-used park, two elementary schools, and a middle school.<sup>5</sup>

UHS reports that the hospital will offer a range of "comprehensive behavioral health services to veterans, children, adolescents and adults." The company advertises that the facility's services would include: acute inpatient behavioral healthcare, partial hospitalization, outpatient, and residential treatment programs dedicated to addiction and chemical dependency, bipolar disorder, anxiety, depression, geriatric needs, post-traumatic stress disorder, mood disorder, psychosis, suicidal ideation, and specialty programs for autism spectrum disorders.<sup>6</sup> In the Sacramento region, UHS operates two other behavioral health hospitals, Heritage Oaks Hospital and Sierra Vista Hospital.

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<sup>1</sup> Universal Health Services, Inc. was incorporated on January 8, 1987, and is headquartered in King of Prussia, Pennsylvania.

<sup>2</sup> Figure derived from "*United Health Services Inc., Consolidated Results of Operations, As Reported and As Adjusted – Three month periods ended September 30- 2015 and 2014.*"

<sup>3</sup> U.S. Securities and Exchange Commission, UHS 2009-10-K, pt.3.

<sup>4</sup> *Id.*

<sup>5</sup> Two of those schools, Twelve Bridges Middle School and Twelve Bridges Elementary School, are located within the Western Placer Unified School District.

<sup>6</sup> Press Release # 15-17, revised on November 10, 2015 and issued by Troy Holt, Manager, Manager Special Project.

## UHS Litigation and Complaint History

Over the past decade, UHS has been involved in numerous lawsuits and agency complaints. This memorandum is not intended to opine on the merits of any lawsuit or complaint, but to simply note the nature of allegations involved. The range of legal matters include: mergers and acquisitions, licensure and accreditation, federal fraud investigations, wrongful deaths, and federal and state regulatory compliance.

Below is a sampling of various litigation and complaints involving Universal Health Services:

- On December 4, 2015 – the U.S. Supreme Court agreed to hear the case of *Universal Health Services v. United States and Commonwealth of Massachusetts, ex rel, Julio Escobar and Carmen Correa*, which involves the question of whether companies billing the federal government can face False Claims Act liability for implicit misstatement about compliance with regulations.
- March, 2015 – the U.S. Department of Justice Criminal Fraud Section commenced a “criminal investigation into whether the company fraudulently billed Medicare and Medicaid for behavioral health treatments.”<sup>7</sup>
- September, 2014 – the National Deaf Academy was cited by the Florida Agency for Health Care Administration for deficiencies related to child abuse & neglect, operating standards, and staff training.<sup>8</sup>
- June, 2013 – State inspectors determined that Arbour Health Services was not using properly licensed or supervised personnel in the treatment of mentally ill patients.
- June, 2013 – State regulators investigated the death of three patients. Complaints also included allegations of too few nurses and too much reliance on lesser-trained staff.<sup>9</sup>
- November, 2013 – Department of Mental Health stopped admissions into Brookline Hospital mental health facility operated by UHS due to unsafe conditions.<sup>10</sup>

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<sup>7</sup> <http://modernhealthcare.com/article/20150331/NEWS/150339968>

<sup>8</sup> Florida Agency for Health Care Administration, State Form 3020, dated September 25, 2014; FL SOD National Deaf Academy 2014.12.24

<sup>9</sup> Bryon Harris, “Former patients voice allegations against Denton mental hospitals,” WFAA ABC-8, June 4, 2013.

- In September, 2012 – UHS and two of its subsidiaries agreed to pay approximately 6.9 million to resolve allegations that they submitted false and fraudulent claims to Medicaid.<sup>11</sup>

In regard to its litigation challenges, the administration of UHS has stated, “We are subject to claims and suits in the ordinary course of business, including those arising from care and treatment afforded by our hospitals and are party to litigation.”<sup>12</sup>

#### *Information Regarding Heritage Oaks Hospital and Sierra Vista Hospital*

As stated above, UHS operates two behavioral health hospitals in the Sacramento region, Heritage Oaks Hospital and Sierra Vista Hospital.

Heritage Oaks Hospital, Inc. is located at 4250 Auburn Boulevard in Sacramento. Heritage Oaks Hospital possesses an active license issued by the state of California authorizing it to serve as an acute psychiatric hospital (License Number 030000357). The hospital’s license is set to expire on November 30, 2016. Heritage Oaks Hospital is licensed for 125 beds and serves patients with a variety of mental health needs. Between January 2011 and September 2015, 43 complaints have been filed with and investigated by the California Office of Statewide Health Planning and Development regarding Heritage Oaks Hospital. Of the 43 complaints, 37 were unsubstantiated and six were substantiated. Of the 6 substantiated complaints two pertained to “quality of care” and four pertained to “resident/patient/civil rights.”<sup>13</sup>

Sierra Vista Hospital is located at 8001 Bruceville Road in Sacramento. Sierra Vista Hospital possess a valid license issued by the state of California to operate a 120 bed acute psychiatric hospital serving patients with a variety of mental health needs. (License Number 030000290). The hospital’s license is set to expire on November 30, 2016. Since December 2010 and January 2014, 18 complaints have been filed and investigated by the California Office of Statewide Health Planning and Development regarding Sierra Vista Hospital. Of the 18 complaints, 14 were unsubstantiated and four were substantiated. Of the four substantiated complaints, one pertained to “resident/patient/civil rights” and three pertained to “quality of care.”<sup>14</sup>

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<sup>10</sup> Ignacio Laguarda, “*State order Brookline psychiatric hospital to stop admitting patients,*” Brookline Tab, November 27, 2013.

<sup>11</sup> Information derived from the Department of Health and Human Services and the Department of Justice Health Care Fraud and Abuse Control Program Annual Report for Fiscal Year 2012.

<sup>12</sup> Excerpt from UHS 10-Q filed May 8, 2009.

<sup>13</sup> <http://gis.oshpd.ca.gov/atlas/places/facility/106344021>

<sup>14</sup> <http://gis.oshpd.ca.gov/atlas/places/facility/106342392>

## **Community Support and Opposition to the Hospital**

The local community has had a strong reaction to UHS' proposal to build the behavioral health hospital. Community opposition to the facility has been substantial due to concerns regarding the safety of students who attend schools near the facility, as well as the safety of families that live nearby.

In our review, we have found that opposition to the proposed hospital is coalescing online in several different groups. On Facebook, there are multiple groups that oppose UHS' facility. The largest group, entitled "Concerned Families of Greater Whitney Ranch Area," is a closed page with 1,215 members listed.<sup>15</sup> Another Facebook page, titled "Concerned Families of Whitney Ranch," has 274 "likes."<sup>16</sup> This page is affiliated with WeProtectOurChildren.com, a website dedicated to opposing the hospital.<sup>17</sup> There is also a Change.org petition entitled "Stop Building of an Inpatient Psychiatric Hospital Next to Parks and Schools" that currently has over 1,500 signatures.<sup>18</sup> Moreover, a group of concerned citizens has appeared at City of Rocklin ("City") meetings and District Board meetings expressing their opposition to the facility.

Those that support the facility note that there is an acute need for additional mental health services in the Sacramento region. Sean Silva, the Chief Executive of UHS' Heritage Oaks hospital, is quoted in a November 19, 2015, article in the Sacramento Business Journal, stating that there was a "...significant lack of mental health resources to serve Roseville, Auburn, Lincoln and Rocklin."<sup>19</sup> Further, Mr. Silva stated in the same article that, "Heritage Oaks is at 90 percent capacity, [and] Sierra Vista is close to capacity as well."

Moreover, there are currently no behavioral health hospitals in Placer County and patients must go to Sacramento to seek treatment.<sup>20</sup> In review of the relevant news stories regarding UHS' proposed facilities, and the social media presence of the facilities' supporters, there seems to be a notable minority of community members that support the proposed facility and generally believe the safety concerns regarding the hospital's patients to be "fabricated" or "overblown." Notably, supporters of the facility attribute the oppositions' concerns to people's misunderstanding of

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<sup>15</sup> <https://www.facebook.com/groups/WhitneyRanchFamilies/>

<sup>16</sup> <https://www.facebook.com/WhitneyRanchFamilies/?fref=nf>

<sup>17</sup> <http://www.weprotectourchildren.com/>

<sup>18</sup> <https://www.change.org/p/rocklin-planning-commission-stop-the-building-of-an-inpatient-psychiatric-hospital-next-to-parks-and-schools>

<sup>19</sup> <http://www.bizjournals.com/sacramento/news/2015/11/19/another-psychiatric-hospital-proposed.html>

<sup>20</sup> <http://sacramento.cbslocal.com/2015/10/16/rocklin-parents-leery-of-pick-for-new-mental-health-facility-location/>

mental illness and the City's affluent property owners.<sup>21</sup> However, these supporters too have no cited authority regarding their claims.

### **Questions the District Should Consider**

The District is proud of its role in the community and holds the safety of its students, teachers, parents, and staff as its highest priority. Accordingly, the District takes the safety concerns regarding UHS' proposed facility very seriously. Given the continued controversy surrounding the proposed project, UHS must bear the responsibility to inform the public and provide adequate assurances that its proposed facility will not adversely impact the safety of the community.

As part of our review of UHS' proposal, we have developed a series of questions for UHS that would help the District better understand the nature of the hospital and its potential to create unsafe conditions for our students. While the information about the project provided by the City gives basic answers to some of these questions, the materials fail to fully satisfy the District's concerns regarding the site.<sup>22</sup> As such, the following are the questions the District may wish to address with UHS.

- *What kinds of patients will be treated at the hospital?*

UHS claims that the proposed facility will serve non-violent, non-criminal patients for short-term stays relating to addiction and chemical dependency, bi-polar disorders, anxiety, depression, geriatric needs, post-traumatic stress disorder, mood disorders, psychosis, suicidal ideation, and autism. The ages for these patients will range from children to the elderly, and also include veterans.

Despite UHS' claim that individuals treated at the proposed facility will be non-violent, it is unclear how the hospital will screen patients for violent behavior. While the aforementioned mental illnesses carry negative societal connotations, it is important for the District to fairly consider the potential risks posed by the proposed facility's patients without bias. Only a mental health professional can truly opine on the risks such illnesses carry to the greater public. However, UHS has not provided any information from its mental health professionals regarding these patients or elaborated on the screening procedures that will be used to prevent violent patients from entering the facility.

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<sup>21</sup> See <https://www.facebook.com/groups/WhitneyRanchFamilies/>

<sup>22</sup> Press Release # 15-17, revised on November 10, 2015 and issued by Troy Holt, Manager, Manager Special Project.

UHS will also accept a variety of health insurance, including Medicare, Medi-Cal and Medicaid. Moreover, as this will be the only facility of its kind in Placer County,<sup>23</sup> it is anticipated that the facility will accept patients countywide. Also, given the overcrowding in similar facilities in the Sacramento region, it will likely accept patients from a wide geographic area in Northern California.

Of note, the City's informational material states that the hospital will treat involuntarily committed individuals.<sup>24</sup> The community has taken issue with this and the Change.org petition mentioned above specifically discusses the hospital taking patients under involuntary medical holds with "homicidal ideation."<sup>25</sup> However, City spokesman Troy Holt said the petition's claim that the hospital's patients would be "on an involuntary medical hold due to illness such as active suicidal/homicidal ideation" was "absolutely incorrect."<sup>26</sup>

While the District understands the need for additional mental health services in the region, there is some uncertainty as to exactly why a patient would be "involuntarily" held. When discussing "involuntarily" held patients, it is assumed this includes patients held under 5150 of the California Welfare and Institutions Code, which authorizes a qualified officer or clinician to involuntarily confine a person suspected to have a mental disorder that makes them a danger to themselves or others. While the vast majority of these patients are likely to be harmless, the possibility of escape of a patient that is considered potentially "harmful to others" is indeed a concern. UHS has not identified the number of involuntarily held patients that will be served by the facility.

Thus, the question arises: is it ever acceptable to house 5150 patients in close proximity to school children? What kind of additional safety precautions would be in place in such a facility compared to one that does not hold 5150 patients? Moreover, how does UHS' claim of housing non-violent patients comport with its acceptance of patients under involuntary holds?

Finally, while UHS is claiming that the facility will not be used to incarcerate the criminally insane, it has been silent on whether or not it will accept patients with criminal histories relating to their mental illnesses. Additionally, UHS has not discussed its procedures, if any, relating to evaluating potential patients' criminal histories, including an individual's sex offender status, and

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<sup>23</sup> <http://sacramento.cbslocal.com/2015/10/16/rocklin-parents-leery-of-pick-for-new-mental-health-facility-location/>

<sup>24</sup> Press Release # 15-17, revised on November 10, 2015 and issued by Troy Holt, Manager, Manager Special Project.

<sup>25</sup> <https://www.change.org/p/rocklin-planning-commission-stop-the-building-of-an-inpatient-psychiatric-hospital-next-to-parks-and-schools>

<sup>26</sup> <http://www.placerherald.com/article/10/29/15/proposed-mental-hospital-rocklin-causes-controversy>

how those patients' sex offender status comports with California laws regarding sex offender housing in relation to parks and schools. Summary assurances from UHS would be very helpful in this regard.

- *What kind of security precautions and procedures will be in place at the proposed facility?*

At best, the publicly available reports regarding the proposed facility have been vague on the exact security precautions and procedures that will be in place at the facility. Media reports have stated that the facility will be "locked and fenced" and have "24-7 security."<sup>27</sup> This appears to be the bare minimum for any hospital of this nature and the District should question these security features and develop a better understanding as to how they are being implemented. Simply stating that the "facility will meet or exceed industry-wide safety standards" does not provide the detail that the District will need in order to fully evaluate the risks of UHS' proposal.<sup>28</sup> There is also no indication that the facility will meet the basic security requirements under California law.

Given that there will be some patients held involuntarily, what specific additional physical security measures does UHS intend to provide to prevent escapes? What kind of security staff will the facility employ? And, how will the facility's staff treat the involuntarily held patients differently from the voluntarily admitted individuals, if at all? These are all questions that should be answered.

Further, UHS has disclosed that the company expects to have one escapee a year.<sup>29</sup> However, UHS has not given any specific information regarding its escape record at its Sierra Vista or Heritage Oaks facilities. It is unclear what policies and procedures will be in place if and when such an escape were to occur and how such an escape would impact the District's nearby schools. Will the District receive notice if such an escape were to occur? How would the police be notified? Given that UHS is unable to disclose a patient's health information pursuant to the Health Insurance Portability and Accountability Act, otherwise known as HIPAA, UHS may be unable to disclose to the public information regarding an escapee's violent tendencies. As such, if the District did receive notice of such an escape, the District would likely have no choice but to instigate a lockdown procedure at its nearby schools.

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<sup>27</sup> <http://sacramento.cbslocal.com/2015/11/16/opposition-growing-to-rocklin-behavioral-health-hospital-near-school/>

<sup>28</sup> Press Release # 15-17, revised on November 10, 2015 and issued by Troy Holt, Manager, Manager Special Project.

<sup>29</sup> <http://fox40.com/2015/12/09/rocklin-police-chief-weighs-in-on-proposed-mental-health-facility/>



In the same line of questions, the District should know if UHS has dealt with any escaped patients at its nearby Heritage Oaks and Sierra Vista facilities. Without violating the patients' identities, it is important to know how these escapes occurred, what kind of safety precautions or procedures were implemented to prevent an escape from occurring again, and were any nearby schools notified regarding the escapee?

It is very important to note that, despite the justifiable concerns the public has about the facility's safety, there is no evidence that any escaped mental health patients from a UHS hospital have injured anyone.

- *How and where will patients be released?*

The publicly available reports on UHS' proposed facility's discharge procedures do not provide the District with enough information to adequately evaluate the safety of such procedures. The City's materials state that UHS' patients will be released to family members or care providers.<sup>30</sup> However, the City's documents state that, "[F]or the most part, [patients] will return to where they came from or to an appropriate placement." This lack of specificity is concerning. The District needs to know exactly how patients, especially patients who are involuntarily held, are released into the public in order to assess the likelihood of those patients approaching the District's schools on foot. In our review of the material, it appears possible that a patient could be discharged without transportation into the local community as UHS has not disclosed what transportation options will be available at the site.

- *Are there potential alternative locations for hospital?*

On its face, UHS' decision to locate a behavioral health hospital in such close proximity to a high school raises serious questions. Pursuant to our investigation, the District has not been advised that UHS has considered any other potential locations for the facility. Moreover, the site appears to be owned by Orchard Creek Investors, LLC,<sup>31</sup> the same owner of the Orchard Creek Business Park, and UHS has yet to take ownership of the underlying property.

In an October 29, 2015 Placer Herald article, Troy Holt, acting as the City's spokesman, stated that the chosen site was ideal because of its proximity to Highway 65 and a nearby future interchange planned for construction and because of Placer County's lack of short-term mental

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<sup>30</sup> Press Release # 15-17, revised on November 10, 2015 and issued by Troy Holt, Manager, Manager Special Project.

<sup>31</sup> 11/17/15 City of Rocklin Planning Commission Agenda.

health care options.<sup>32</sup> Aside from this statement, we have not been able to ascertain any further concrete justification for the site's selection for the proposed hospital.

### **Potential Opposition to the Hospital**

Until UHS provides further detail regarding the planned facility and provides more information relating to the above questions, we recommend that the District take a cautious approach to the approval of UHS' proposed behavioral health hospital. There are too many unanswered questions regarding the safety of the facility and the wisdom of locating it so close to large student populations. If the District elects to do so, the aforementioned questions and concerns could be posed directly to the City's Planning Commission so they may be addressed at the proposed hospital's approval hearing.

Further, the Rocklin City Police Department is currently evaluating the safety implications of the proposed hospital and the Rocklin Police Chief Ron Lawrence will be making a report in "several weeks."<sup>33</sup> This report will be very important as law enforcement will have a unique perspective and qualification to opine on this issue. The City's Planning Commission meets on January 19, 2016 to make a decision regarding the hospital.<sup>34</sup> As such, we recommend that the District and its Board continue to collect information and make an ultimate decision after it reviews the police department's report and after UHS provides additional information regarding the above-mentioned subjects.

Should the District choose to respond to the construction of the hospital, we will be able to discuss several alternative options that the District can take. We hope you find this memorandum helpful. If you have questions, please do not hesitate to call.

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<sup>32</sup> <http://www.placerherald.com/article/10/29/15/proposed-mental-hospital-rocklin-causes-controversy>

<sup>33</sup> <http://fox40.com/2015/12/09/rocklin-police-chief-weighs-in-on-proposed-mental-health-facility/>

<sup>34</sup> *Id.*