

Ohio Statehouse
One Capitol Square
Room 057
Columbus, OH 43215



Vern Riffe Center
77 S. High St.
11th Floor
Columbus, OH 43215

Honorable Mike DeWine
Governor's Office, Riffe Center
77 South High St., 30th Floor
Columbus, OH 43215

June 1, 2020

Dear Governor DeWine,

In a [May 6, 2015 letter](#), in your capacity as Ohio Attorney General, your office informed David Morlock, CEO of the University of Toledo Medical Center (UTMC) that there were “no present antitrust concerns regarding the proposed affiliation” between ProMedica and the University of Toledo (UT) for the UT College of Medicine and Life Sciences (COMLS). While the letter generally supported the agreement, it also warned that it must be carefully crafted to avoid conflicts and it stated that the Attorney General reserved the right to take **“future action, should the proposed affiliation prove to be anticompetitive in purpose or effect (emphasis added).”**

It is now clear that the *effect* of the affiliation agreement has been anticompetitive, and recent news reports about possible conflicts of interest involving two UT trustees raise questions whether one *purpose* for the agreement was to undermine UTMC. The 50-year agreement was marketed as a means to improve UT's strained finances and to help its COMLS enhance its academic mission. Neither has occurred.

While the list of how UTMC has been harmed is long and complex, allow us to provide you with one troubling example.

Many physicians have long argued that one essential step to improve UTMC's finances is preserving key services provided by its physicians and students in the Intensive Care Unit, Dana Cancer Center, and Orthopedics Center. **These services, however, are threatened by on-going efforts to transfer all physician teachers and learners in Critical Care, Hematology/Oncology, and Orthopedic services to the ProMedica Toledo Hospital by July 1.** If finalized, these relocations would further harm UTMC's finances and academic mission.

Moreover, a [recent analysis in Becker's Hospital Review](#) identified Hematology/Oncology and Orthopedic surgery among the physician specialties that “generated the highest average annual net revenue for hospitals.” **It is important for you to recall that plans to transfer specific physician specialties and students were not detailed in the affiliation agreement.** Plans to complete the transfer of these top revenue-generating specialties were developed later by a committee with equal numbers of representatives from ProMedica - a private hospital - and UT - a state institution paid for by Ohio taxpayers and owned by our state. **The committee's composition and provision allowing an arbitrator to break ties appear to violate the Letter of Intent that “specifies that UT will retain total control and discretion to unilaterally determine the future use and operation of the UTMC hospital facilities.”**

Raising new, troubling concerns is the following news report that questions whether two UT Trustees – both appointed by former Gov. John Kasich – had potential conflicts of interest that steered this agreement to unfairly favor ProMedica and undermine UTMC.

The [Chronicle of Higher Education reported on potential Trustee conflicts:](#)

One former trustee, Steve Cavanaugh, was a top executive with HCR ManorCare, a joint-venture partner of ProMedica's at the time. The two entities teamed up on a nursing home at another ProMedica hospital.

That means ProMedica was a business associate of Cavanaugh's company while he was serving on the university's board.

Cavanaugh nevertheless voted twice on the 2015 affiliation agreement between ProMedica and Toledo's medical school — first to begin negotiations in the spring and then to approve the contract that summer.

Both decisions were approved by the board unanimously. At the time, Cavanaugh was an executive vice president and chief operating officer for HCR ManorCare, the nation's second-largest nursing-home chain.

He was promoted to chief executive in 2017, two months after becoming chair of the university Board of Trustees.

The following year, his nursing-home company was teetering on the edge of bankruptcy. ProMedica bought the financially troubled firm. (The Chronicle lists the purchase price as \$1.4 billion although multiple other news sources have used figures of \$3.4 billion to \$4.4 billion.)

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Cavanaugh's successor as board chair is Mary Ellen Pisanelli. Pisanelli is a senior vice president at Welltower Inc., a business partner with ProMedica. The two firms teamed up in 2018 to buy the real-estate arm of HCR Manorcare, the nursing-home company that Cavanaugh led.

ProMedica and Welltower spun off that real-estate venture into a separate jointly held company called Meerkat.

In light of the alleged conflicts and well-documented harm the agreement has caused UTMC, we are asking you to closely examine this new information to confirm it does pose antitrust concerns, place a stay on all transfer of services, and halt the sale or lease of the hospital.

Respectfully,



Senator Teresa Fedor
Ohio Senate District 11



Representative Mike Sheehy
Ohio House District 46

CC:

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