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July 1, 2016

Wendi A. Horwitz
Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Via Email to: wendi.horwitz@doj.ca.gov

Re: Opposition to Proposed Change to the Attorney General's Conditions re: the Change in Governance of Saint Agnes Medical Center

Dear Ms. Horwitz:

Health Access California, the state health care consumer advocacy coalition working for quality, affordable healthcare for all Californians, is opposed to Saint Agnes' proposal to reduce the "Minimum Charity Care Amount" pursuant to Condition VII set forth in the Attorney General's "Conditions to Change in Governance of Saint Agnes Medical Center and Approval of Consolidation Agreement among Trinity Health Corporation, Catholic Health East, and CHE Trinity, Inc."

We strongly dispute Saint Agnes' assertion that there is less need for charity care because there are fewer uninsured people as a result of the Affordable Care Act (ACA). While Medi-Cal expansion and subsidized Covered California plans have given millions of uninsured Californians options instead of charity care, a sizable segment of the population remain uninsured and those who do have coverage all too often cannot afford care, particularly hospital care. As a result, hospitals such as Saint Agnes need to adjust to the new health care environment by redesigning its charity care program to meet the evolving needs of the remaining uninsured as well as the low and moderate income under-insured.

Health Access sponsored much of the underlying legislation which grants the Attorney General authority to review, approve, deny or impose conditions on nonprofit hospital transactions. We, and our coalition partners, have offered substantial comment on other nonprofit hospital transactions and health industry mergers, and offer our comments based on that experience.

Saint Agnes' Proposed Reduction in Charity Care is based on Limited Data.

Health Access urges the Attorney General to not rely on the limited information provided by Saint Agnes when considering Saint Agnes' request to reduce its minimum charity care amount.

Saint Agnes' request to reduce its minimum charity care obligations is based on information spanning the 18-months after California began implementing new coverage options available under the ACA. Condition VII requires Saint Agnes Medical Center to provide a minimum of $6,792,442 in charity care per year for six fiscal years beginning April 30, 2013. California began Medi-Cal expansion and enrollment in Covered California on January 1, 2014.

Saint Agnes asserts that in FY 2015, which ended on June 30, 2015, its charity care cost was approximately $2.1 million less than the minimum amount required in Condition VII. As a result, Saint Agnes wants to reduce the minimum amount of charity care provided based on information during a brief period in time that does not fully capture the ongoing need for charity care. In addition, Saint Agnes' request does not include any information regarding whether and how its charity care policies and benefits have changed to address the ongoing needs of the communities it serves.

Millions of Californians Still Uninsured.

While California's robust implementation of the ACA has reduced the rate of uninsured, there remains a sizable uninsured population, particularly in the communities served by Saint Agnes. Recent analyses indicate that nearly 3.5 million Californians remain uninsured[1], which includes the undocumented, who are legally excluded from coverage under the ACA, as well as individuals who are exempted from the ACA's individual mandate for affordability or other reasons.

- **Low-income Californians are still most likely to be uninsured.** Californians with family incomes under $25,000 experienced the largest drop in the likelihood of being uninsured from 2013 to 2014. Still, about 1 in 5 Californians with incomes under $25,000 was uninsured compared to about 1 in 15 with incomes of $75,000 or more.[2]
- **Uninsured people have poorer health status and no usual source of care.** According to a 2014 survey, uninsured Californians were more likely to report that their general health was fair or poor, compared to residents with insurance. More than 4 in 10 Californians without health insurance reported they had no usual source of care. [3]
- **Affordability is the main reason for not having health insurance.** Among uninsured Californians, lack of affordability was the main reason cited for going without health insurance.[4]

Insured Californians Still Face Affordability Concerns.

Consumers with employer-based coverage and new coverage options through Covered California still face affordability issues, particularly if they are enrolled in plans with expensive out-of-pocket costs, such as high deductibles and cost-sharing.[5] In addition, those who receive employer-based coverage are facing reduced coverage or increased cost sharing, which has major implications for household budgets. Therefore, consumers with coverage still need the financial assistance provided by hospital charity care programs.

- **Premiums continue to far outpace inflation.** Since 2002, health insurance premiums have increased by 216%, nearly six times the increase in the state's overall inflation rate.[6]
- **More Californians with employer-based coverage have high deductible plans.** Large deductible ($1000+) plans have become more common. The number of California workers with large deductible plans increased from 6% in 2006 to 22% in 2015. Half of those with a deductible for single coverage had a deductible of $1,000 or more, while 53% faced with an aggregate family deductible had deductible of $2,000 or more. Finally, the number of small firms offering large deductible plans increased from 27% in 2010 to 41% in 2015.[7]
- **Annual out-of-pocket limits have increased.** Although a large majority (96%) of workers had an out-of-pocket limit, for 30% of workers that limit was $3,000 or more.[8]
- **Employers likely to increase costs for workers.** Four in 10 California employers reported being very likely or somewhat likely to increase the amount that workers pay for premiums in the next year. Two in 10 employers stated that they are very likely or somewhat likely to increase employees' deductibles and what employees pay for prescriptions. Very few employers reported intentions to drop coverage entirely[9]

Charity care programs continue to be a needed and valued part of the safety net.

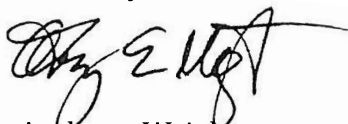
Charity care continues to play a critical role in the health care safety net, both for those who do not have coverage and those who have coverage that is unaffordable to them. The post-ACA landscape requires hospital charity care programs to evolve and adapt to meet the changing needs of the health care safety net. For example, charity care programs can continue to serve the uninsured in their communities, fill coverage gaps for the "churn" population (those who will continue to move in and out of eligibility for Medi-Cal or Covered California premium subsidies), or provide complementary services to those newly covered by Medi-Cal or Covered California.[10] In addition, hospitals can leverage the reductions in uncompensated care to offer more generous financial assistance to a broader range of patients, including those who have health plans but still struggle to pay medical bills.[11] Finally, hospitals can partner with local clinics to increase access to specialty care for clinics' Medi-Cal and uninsured patients. For example, in Contra Costa County, three local hospitals have matched county dollars to fund Contra Costa CARES, a coverage-like program where (mostly undocumented) uninsured patients are provided a medical home at local clinics.[12]

In addition to providing health care services for those that cannot afford them, hospitals such as Saint Agnes must continue working with their communities to support and create programs that improve the overall health of their communities by addressing health disparities that impact communities of color, low-income communities, and other underserved populations such as LGBTQ populations. Research shows that the social determinants of health, including low education, racial segregation, low social supports, income inequality, and area-level poverty negatively impact the health and well-being of the populations that constitute the majority of California.[13] These social and economic inequities are prevalent in Fresno, Madera, and Mariposa counties, communities served by Saint Agnes, and justify the need to maintain, if not increase, charity care and community benefit programs.

Thank you for giving these issues your highest level of scrutiny and for protecting the interests of consumers in this process.

If you have any questions or need further information, please contact Tam Ma, Policy Counsel, at tma@health-access.org or (916) 497-0923 x. 201.

Sincerely,



Anthony Wright
Executive Director

[1] UCLA Center for Health Policy Research and UC Berkeley Labor Center, *Which Californians Will Lack Health Insurance Under the Affordable Care Act,* January 2015. Available at:
http://laborcenter.berkeley.edu/pdf/2015/remaining_uninsured_2015.pdf
[2] California Health Care Foundation, California's Uninsured: Coverage Expands, but Millions Left Behind, March 2016. Available at:
http://www.chcf.org/~/media/MEDIA%20LIBRARY%20Files/PDF/PDF%20C/PDF%20CaliforniaUninsured2016.pdf
[3] *Id.*
[4] *Id.*
[5] New York Times, *Unable to Meet the Deductible or the Doctor*, October 17, 2014. Available at:
http://www.nytimes.com/2014/10/18/us/unable-to-meet-the-deductible-or-the-doctor.html
[6] California Healthcare Foundation, California Employer Health Benefits: Workers Pay the Price, June 2016. Available at:
http://www.chcf.org/publications/2016/06/employer-health-benefits
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] Center for Health Care Strategies, *Impact of the Affordable Care Act on Charity Care Programs,* September 2013. Available at:
http://www.chcs.org/media/Charity_Care_Brief__090413_FINAL.pdf
[11] For example, in California, Kaiser Permanente is offering free hospital care for individuals with incomes up to 350 percent of the federal poverty guidelines, which converts to annual income of $84,875 for a family of four in 2015. See: See:
http://share.kaiserpermanente.org/wp-content/uploads/2013/10/NCAL-Medical-Financial-AssistancePolicy-Final-9_1_14.pdf; and
http://share.kaiserpermanente.org/wp-content/uploads/2013/12/scal_MFA-Policy-_10-31-14.pdf
[12] *See* Health Access California, Profiles of Progress: California Counties Taking Steps to a More Inclusive and Smarter Safety-Net, May 31, 2016. Available at: http://www.health-access.org/images/pdfs/2016_Health_Access_Profiles_of_Progress_County_Report_5_31_16.pdf
[13] Office of Health Equity, California Department of Public Health, PORTRAIT OF PROMISE: The California Statewide Plan to Promote Health and Mental Health Equity, Report to the Legislature and the People of California, August 2015. Available at:
https://www.cdph.ca.gov/programs/Documents/CDPH_OHE_Disparity_Report_Final_Jun17_LowRes.pdf