

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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March 12, 2009

Robert L. Schuchard, Esq.
Davis Wright Tremaine LLP
865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566

RE: Request to Amend Conditions re: USC/Kenneth Norris Jr. Cancer Hospital

Dear Mr. Schuchard:

Our office has received and considered the request set forth in your December 8, 2008 letter to amend the Attorney General's conditions issued in the Attorney General's Decision dated May 30, 2003 concerning the proposed sale of USC/Kenneth Norris Jr. Cancer Hospital. Pursuant to title 11, California Code of Regulations, section 999.5, subdivision (h), the Attorney General agrees to amend the conditions as set forth in the attachment to this letter entitled "USC/Kenneth Norris Jr. Cancer Hospital Amended Conditions."

Sincerely,

151

WENDI A. HORWITZ
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

Attachment

cc: J. Brent McDonald, Vice President,
Acquisition & Development
Tenet Healthcare Corporation

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USC/ Kenneth Norris Jr. Cancer Hospital Amended Conditions

For the purposes of these conditions, and unless the context indicates otherwise, the term "Tenet" shall include Tenet Healthcare Corporation, Tenet HealthSystem Norris, Inc., USC University Hospital, Inc., and any other subsidiary of Tenet Healthcare Corporation associated in any way with the ownership or operation of USC/Kenneth Norris Jr. Cancer Hospital or USC University Hospital.

For the purposes of these conditions, and unless the context indicates otherwise, the term "USC" shall include the University of Southern California, the Keck School of Medicine, and the Kenneth Norris Jr. Comprehensive Cancer Center.

For the purposes of these conditions, and unless the context indicates otherwise, the term "Annual Period" shall mean a calendar year, and the term "2003 Conditions" shall mean the conditions issued by the Attorney General in his decision dated May 30, 2003 (attached hereto as Exhibit 1).

On May 30, 2003, the Attorney General conditionally approved the sale of USC/Kenneth Norris Jr. Cancer Hospital ("USC Norris Hospital") to Tenet. (See Exhibit 1.) Pursuant to the February 9, 2009 Asset Purchase Agreement entered into between USC and Tenet ("2009 Sale"), USC will repurchase USC Norris Hospital and purchase USC University Hospital. As of the date on which USC assumes ownership of said hospitals, the 2003 Conditions shall be amended to read in full as set forth herein.

I.

Until December 31, 2010, USC shall, in each Annual Period, provide at USC University Hospital and USC Norris Hospital combined charity care costs (not charges) of at least \$825,000. To the extent USC assumes ownership of USC Norris Hospital and USC University Hospital at any time other than the first day of the 2009 Annual Period, the \$825,000 obligation under the 2003 Conditions, and continued in this Condition, shall be prorated based on the number of days in such Annual Period USC owned and operated USC Norris Hospital and USC University Hospital.

For the time period that Tenet owned and operated USC Norris Hospital in the 2009 Annual Period, Tenet shall provide at least \$525,000 in charity care costs (not charges) as set forth in the 2003 Conditions, and continued in this Condition. The \$525,000 amount shall be prorated based on the number of days in the 2009 Annual Period Tenet owned and operated USC Norris Hospital.

The two charity care cost figures shall be annually increased (but not decreased) by an amount equal to the percentage increase, if any, in the annual average during the Annual Period from the annual average in the prior Annual Period in the "All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County Consolidated Metropolitan Statistical Area Base Period: 1982-84=100" (CPI-LA, as published by the U.S. Bureau of Labor Statistics). The definition and methodology for calculating "charity care" and the method for calculating cost shall be the same as that used by the Office of Statewide Health Planning and Development. If the minimum charity care cost level is not met by USC during an Annual Period, USC shall carry over and provide the difference between actual charity care costs and the minimum required charity cost in the next Annual Period until met. If the minimum charity care cost level is not met by Tenet during the 2009 Annual Period, Tenet shall pay to USC Norris Hospital the difference between actual charity care costs and the minimum required charity cost required under the 2003 Conditions and continued in this Condition to USC Norris Hospital within six months of the close of the Annual Period.

II.

In operating USC Norris Hospital and its cancer programs at USC University Hospital after the transfer of acute care services and patients from USC Norris Hospital to USC University Hospital, USC shall adopt policies facilitating physician, nurse and other employee and staff input into healthcare quality and staffing level concerns without fear of retaliation.

III.

All of the net proceeds of the sale currently held by the USC/Norris Cancer Center Foundation (formerly known as USC/Kenneth Norris Jr. Cancer Hospital) will be distributed to USC to be used to purchase the USC Norris Hospital. If the Foundation has any remaining funds after the purchase of USC Norris Hospital, such funds shall be used for the following charitable purposes:

(1) Funding inpatient and outpatient cancer care, including cancer diagnosis and treatment, at USC Norris Hospital; and

(2) Funding clinical, therapeutic, specimen, and prevention research trials (including the development of such trials) that provide cancer care, including diagnosis and treatment, to patients at USC Norris Hospital.

IV.

Until December 31, 2013, USC shall, in its operation of USC Norris Hospital and the cancer programs at USC University Hospital after the transfer of acute care services and patients from USC Norris Hospital to USC University Hospital, provide an annual minimum of \$500,000 in funding for community benefit programs. To the extent USC assumes ownership of USC Norris Hospital and USC University Hospital at any time other than the first day of an Annual Period, the \$500,000 obligation under the 2003 Conditions, and continued in this Condition, shall be based on the number of days in such Annual Period USC owned and operated the USC Norris Hospital and USC University Hospital.

For the time period that Tenet owned and operated USC Norris Hospital in the 2009 Annual Period, Tenet shall provide an annual minimum of \$500,000 in funding for community benefits programs that are identified on page 43 and Exhibit 15 of the Lewin Group Report, dated March 1, 2003. The \$500,000 amount shall be prorated based on the number of days in the 2009 Annual Period Tenet owned and operated USC Norris Hospital.

V.

Within 120 days of the end of the 2008-2013 Annual Periods, USC shall submit to the Attorney General a report describing in detail its compliance with each of the 2003 Conditions and the amended conditions set forth herein for that portion of the Annual Period USC owned the USC Norris Hospital and the USC University Hospital. The Dean of the Keck School of Medicine shall certify that the report submitted by USC is true and correct.

Within 120 days of the end of the 2008 and 2009 Annual Periods, Tenet shall submit to the Attorney General a report describing in detail its compliance with each of the 2003 Conditions and the amended conditions set forth herein for that portion of the Annual Period Tenet owned the USC Norris Hospital. The chief executive officer of Tenet Healthcare Corporation shall certify that the report submitted by Tenet is true and correct.

VI.

In operating USC Norris Hospital and its cancer programs at USC University Hospital after the transfer of acute care services and patients from USC Norris Hospital to USC University Hospital, USC shall fully comply with any and all nurse-patient ratios established by law including, but not limited to, any such ratios that may hereafter be adopted by the Department of Public Health.

VII.

At the request of the Attorney General, Tenet and USC shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with the 2003 Conditions and the amended terms and conditions as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret, is privileged under state or federal law, or if the public interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

VIII.

The Attorney General reserves the right to enforce each and every condition set forth herein to the fullest extent provided by law.

IX.

As of the date on which USC assumes ownership of USC Norris Hospital and USC University Hospital pursuant to the 2009 Sale by Tenet to USC, Tenet and its affiliates shall have no obligation or responsibility or liability for any failure of USC to thereafter comply with these amended conditions unless otherwise stated herein. Consistent with the foregoing, (i) Tenet and its affiliates shall not be responsible in any respect for enforcing these amended conditions against USC, either in its own right, on behalf of the Attorney General or otherwise, (ii) the Attorney General acknowledges and agrees that no third party shall be permitted to state a claim or cause of action with respect to which relief can be granted against Tenet or its affiliates based in whole or in part on any act or failure to act on the part of Tenet and its affiliates with respect to these amended conditions. As of the date on which USC assumes ownership of USC Norris Hospital and USC University Hospital pursuant to the 2009 Sale by Tenet to USC, the Attorney General acknowledges and agrees that Tenet and its affiliates have fully satisfied and shall be released and forever discharged, in whole or in part as set forth below, from any liability arising from the following listed 2003 Conditions : Condition II for Annual Periods 2003-2007, Condition III for Annual Periods 2003 - 2007, Condition IV for Annual Periods 2003-2007, Condition VI for Annual Periods 2003-2007 and Condition VIII for Annual Periods 2003-2007.

EXHIBIT 1



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Telephone: 916-324-5347
Facsimile: 916-327-2319
E-Mail: Mark.Urban@doj.ca.gov

May 30, 2003

Sent Via U.S. Mail and Facsimile

Robert L. Schuchard, Esq.
Sonnenschein, Nath & Rosenthal
601 South Figueroa Street, Suite 1500
Los Angeles, California 90017

RE: USC - Kenneth Norris Cancer Center

Dear Mr. Schuchard:

The Attorney General hereby consents, pursuant to Corporations Code section 5915, to the sale of the assets of the University of Southern California-Kenneth Norris Jr. Cancer Hospital (USC Norris) to Tenet HealthSystem, Norris, Inc., a subsidiary of Tenet Healthcare Corporation (Tenet) as set forth in the written notice dated October 4, 2002. The Attorney General's consent is subject to the attached conditions, which are incorporated by reference herein.

Corporations Code section 5917 and section 999.5, subdivision (f) of Title 11 of the California Code of Regulations set forth factors that the Attorney General must consider in determining whether to consent to a transaction between a nonprofit corporation and a for-profit entity. The Attorney General has reached the following conclusions regarding these factors:

- (1) The terms and conditions of the transaction are fair and reasonable to USC Norris.
- (2) The transaction will not result in private inurement to any private person or entity. None of the officers or directors of USC Norris have a material financial interest in the transaction.
- (3) The value of the consideration that USC Norris will receive from Tenet for its assets is within the range of the fair market value of those assets.
- (4) The parties to the transaction have not manipulated the market value of the USC Norris assets in a manner that causes the value of the assets to decrease.

Robert L. Schuchard, Esq.
May 30, 2003
Page 2

(5) The proposed use of the transaction proceeds, as conditioned, is consistent with the charitable trust obligations of USC Norris. The transaction does not involve any breach of trust.

(6) The transaction, as conditioned, will not have any immediate adverse effect on the availability and accessibility of health care services to the affected community.

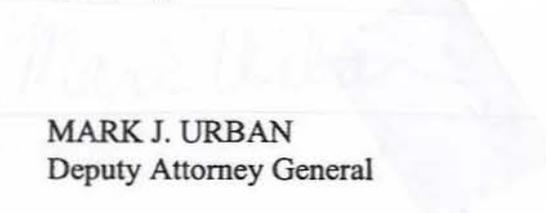
(7) The transaction, as conditioned, will not have a significant anti-competitive effect on healthcare services in the relevant geographic market.

(8) Sufficient information has been provided to the Attorney General for an adequate evaluation of the transaction and its effects on the public.

(9) The transaction, as conditioned, is in the public interest.

Thank you for your cooperation and that of your client and the purchaser throughout the review process.

Sincerely,


MARK J. URBAN
Deputy Attorney General

For BILL LOCKYER
Attorney General

MJU:mb

Attachment

USC Norris Cancer Hospital Conditions

For the purposes of these conditions and unless the context indicates otherwise, the term "Tenet" shall include Tenet Healthcare Corporation, Tenet HealthSystem Norris, Inc., USC University Hospital, Inc., and any other subsidiary of Tenet Healthcare Corporation associated in any way with the ownership or operation of USC Norris Hospital or USC University Hospital.

For the purposes of these conditions and unless the context indicates otherwise, the term "USC" shall include the University of Southern California, the Keck School of Medicine, and the USC Norris Cancer Center.

For the purposes of these conditions and unless the context indicates otherwise, the term "Transition Period" shall be the period between the closing of the proposed transaction and the transfer of acute care services and patients from USC Norris Hospital to the new USC University tower.

I.

The transaction between Tenet and USC approved by the Attorney General consists of the Asset Purchase Agreement, the Cancer Center Support Agreement, the Norris Agreement, the Lease Agreement, the License Agreement and the Indemnification Escrow Agreement, all as filed with the Attorney General. Tenet and USC shall fulfill the terms and conditions of the transaction. Tenet and USC shall notify the Attorney General in writing of any proposed modification of the transaction, including a proposed modification or rescission of any of the agreements. Such notification shall be provided at least 30 days prior to such modification taking effect to allow the Attorney General to consider whether the proposed modification affects the factors set forth in Corporations Code section 5917.

II.

The agreements set forth a procedure for the termination or material reduction of any "core programs and services" of USC Norris Hospital after the Transition Period. "Core programs and services" shall include, but not be limited to, anatomic and surgical pathology, bone marrow transplantation, breast cancer, gastro-intestinal cancers, dermatology and melanoma, genetic testing and counseling, gynecologic oncology, hematology, lung cancer, medical oncology, neuro-oncology, plastic and reconstructive surgery, orthopedic oncology, otolaryngology, radiation oncology and urologic oncology.

III.

During the Transition Period, Tenet shall provide at USC Norris Hospital at least \$525,000 in charity care costs (not charges) for each year from the date of closing (Annual Period). After the Transition Period and until seven years after the date of closing, Tenet shall provide at the consolidated USC University Hospital/USC Norris Hospital at least \$825,000 in annual charity care costs. Tenet's charity care cost obligation shall be prorated during the Annual Period in which the Transition Period ends.

Each of the two charity care cost figures shall be inflated at the end of the Annual Period at the "All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County Consolidated Metropolitan Statistical Area" (CPI-LA, as published by the U.S. Bureau of Labor Statistics). The definition and methodology for calculating "charity care" and the method for calculating cost shall be the same as that used by the Office of Statewide Health Planning and Development.

If the minimum charity care cost level is not met during an Annual Period, Tenet shall pay the difference between actual charity care costs and the minimum required charity cost to the foundation established under Condition V. Such payment shall be made within six months of the close of the Annual Period.

This condition shall be in addition to the requirements set forth in section 13.13 (Maintenance of Charity and Indigent Care Policies) of the Asset Purchase Agreement, dated September 30, 2002.

IV.

In operating USC Norris Hospital during and after the Transition Period and its cancer programs in the new USC University tower after the Transition Period, Tenet shall adopt policies facilitating physician, nurse and other employee and staff input into healthcare quality and staffing level concerns without fear of retaliation.

V.

USC shall establish a foundation incorporated as a nonprofit public benefit corporation that has the following charitable purposes:

(1) Funding inpatient and outpatient cancer care, including cancer diagnosis and treatment, provided by nonprofit or public entities located in Los Angeles County, including USC, USC Norris Cancer Center and their nonprofit affiliates.

(2) Funding of clinical, therapeutic, specimen, and prevention research trials (including the development of such trials) that provide cancer care, including diagnosis and treatment, to patients.

All of the net proceeds of the sale received by USC Norris Cancer Hospital Corporation shall be used to fund the foundation. The foundation may make such expenditures as necessary to carry out its charitable purposes, including but not limited to the costs of physicians, research nurses and allied health professionals that provide or manage treatment to cancer patients; the costs of collectors of patient data; related administrative expenses; costs to manufacture or purchase compounds used to treat cancer patients; and the related portion of the costs of equipment and software. No foundation funds shall be paid, directly or indirectly, to Tenet or its affiliates, or to any hospital or clinics owned or operated by Tenet, including but not limited to USC Norris Hospital and USC University Hospital.

USC shall be the sole corporate member of the foundation. Except for the USC Norris Cancer Center Director and the Dean of the Keck School of Medicine, no member of the governing board of either USC Norris Hospital (after the date of closing) or USC University Hospital, and no officer, director, or employee of Tenet or any of its affiliates shall be a member of the board of the foundation. The foundation shall have a diversity of interests represented on its board, and at least two board members shall not be associated with USC, USC Norris Cancer Center or the Keck School of Medicine.

USC shall submit a petition to the Los Angeles County Superior Court for approval of the charitable purposes of the foundation as successor-in-interest to USC Norris Cancer Hospital Corporation and for approval of the foundation articles of incorporation. Such petition shall not be submitted without prior review and approval by the Attorney General of the articles of incorporation. Any modification in the foundation's articles of incorporation shall require Attorney General consent and court approval.

The foundation shall submit each year to the Attorney General a copy of its annual report and its IRS Form 990 filing.

VI.

For 10 years from the date of closing, Tenet, in its operation of USC Norris Hospital during the Transition Period and the cancer programs in the new USC University tower after the Transition Period, shall provide an annual minimum of \$500,000 for those categories of community benefit programs that are identified on page 43 and Exhibit 15 of the Lewin Group Report dated March 1, 2003.

VII.

Within 120 days of the end of each year from the date of closing, Tenet shall submit to the Attorney General a report describing in detail its compliance with each condition set forth herein. The chief executive officer of Tenet Healthcare Corporation shall certify that the report is true and correct. The report shall include a letter from the director of the USC Norris Cancer Center setting forth his or her opinion regarding Tenet's compliance.

VIII.

In operating USC Norris Hospital both during and after the Transition Period and its cancer programs in the new USC University tower after the Transition Period, Tenet shall fully comply with any nurse-patient ratios established by law, including but not limited to any such ratios that may hereafter be adopted by the Department of Health Services.

IX.

The covenant not to compete set forth in paragraph 13.11 of the Asset Purchase Agreement and in paragraph 2 of the Norris Agreement shall be modified to reduce its term from seven years to five years.

X.

At the request of the Attorney General, Tenet and USC shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these terms and conditions of the sale of USC Norris Hospital to Tenet as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret, is privileged under state or federal law, or if the public interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

XI.

The Attorney General reserves the right to enforce each and every condition set forth herein to the fullest extent provided by law.