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September 30, 2015

Anne Cramer
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150 So. Champlain Street
P.O. Box 1489
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SENT ELECTRONICALLY

Re: Request for Jurisdictional Determination – Proposed Affiliation between VNH of VT and NH and Dartmouth-Hitchcock Health System

Dear Anne:

Thank you for providing us with additional information regarding the proposed affiliation between Dartmouth-Hitchcock Health (D-HH) and the Visiting Nurse Association and Hospice of Vermont and New Hampshire (VNH). Based on the information you provided and our discussion with the Department of Disabilities, Aging and Independent Living (DAIL), this transaction, as represented in your correspondences, is not a “new health care project” requiring CON review under 18 V.S.A. § 9434 at this time.

According to the information provided, VNH is not transferring or conveying an ownership interest of 50% or more to D-HH. 18 V.S.A. § 9434(a)(3) (transfer of 50% ownership requires CON review). There is no monetary consideration for the transaction, no requirement of a new license, and although there is a change in the governance structure that affords D-HH significant authority over decision-making—D-HH will appoint one-third of the VNH board members and will approve and ratify the VNH Board’s actions related to its budget, material borrowings, material program decisions, Board nominations, CEO selection and amendments to corporate documents—the change will not fundamentally alter VNH’s financial stability or its legal liability as a Section 501(c)(3) nonprofit corporation. *See* GMCB Rule 4.00, §§ 4.203.1 (new licensure triggers CON review); 4.203.2 (transfer of ownership interest that fundamentally changes financial stability or legal liability triggers review). Additionally, our understanding is that DAIL is requiring that VNH complete and submit an updated Designation Application; redesignations are excluded from CON review pursuant to statute. 18 V.S.A. § 9435(d). I have copied DAIL’s legal counsel and request that he inform us in writing if our understanding of DAIL’s intent is incorrect.

If any of the facts as stated are inaccurate or the terms of the proposed affiliation change, please contact Donna Jerry or me as soon as practicable in order to reassess whether a CON is required.



Feel free to contact me if you have questions or concerns.

Sincerely,

Judy Henkin, Esq.
Health Policy Director

cc: Donna Jerry, GMCB
Stuart Schurr, DAIL
Suzanne Leavitt, DAIL

