



HOAG MEMORIAL HOSPITAL PRESBYTERIAN
One Hoag Drive, PO Box 6100
Newport Beach, CA 92658-6100

December 17, 2020

Via Email

Mr. Richard Blair
Chairman
Covenant Health Network

Re: CHN

Dear Dick:

We received your request to schedule a meeting of the Board of Directors of Covenant Health Network ("CHN") for this month, but believe the time has come to regretfully acknowledge that this CHN Board can no longer properly function as was intended and that we should not and cannot proceed with the upcoming meeting.

To be clear, we are taking this position only as a last resort. In June 2019, Hoag's Board of Directors unanimously resolved, in the exercise of its fiduciary duties, that Hoag needed to disaffiliate and realign the relationship from one of control to one of contract. We attach that resolution to underscore the important reasons for that decision as well the stated imperative that it be done peacefully and collaboratively, if at all possible. Over these last eighteen months, we believed that we could find a path forward in close collaboration with the CHN Board, but we have met with no success despite repeated good faith efforts on our part to do so.

At this point, CHN is in a complete state of dysfunction, and we can no longer pretend otherwise. Under Providence's control, CHN has not made any meaningful efforts to further CHN's stated primary objective nor pursued its intended local focus. Not only is CHN an empty shell without staff or assets, it now lacks even basic functionality or purpose. It is being used by Providence to rubber stamp decisions made by Providence executives in Renton, Washington, as well as to keep Hoag a captive affiliate within the system.

Over the last several months, moreover, CHN's controlling partner, Providence, has actively undermined Hoag in the market at the expense of patients and providers alike, using its control of Hoag through CHN to facilitate that objective. Providence is actively dismantling any remaining pretense of integration, while telling the community we are "stronger together." Hoag stands powerless within CHN as Providence has, among

other things, terminated access for its patients to Hoag's leading specialists and facilities in the midst of a pandemic, notified patients that they may no longer be able to see their physician of choice, actively sought to prevent the health plans from contracting directly with Hoag (after agreeing with Hoag to allow them to do it) and partnering with Anthem Blue Cross in Orange County without seeking approval of CHN or involving or informing Hoag. Providence even insisted, over the written objection of the three of us for obvious conflict of interest reasons, to have its counsel represent CHN in the litigation. CHN now, through those lawyers, is using the litigation to frustrate access to basic information and slow down a resolution of the dispute.

To us, it is beyond question now that CHN continues to exist solely because Providence wants Hoag's locally-generated philanthropy, market share and strong operating results reflected in its financial statements. This treatment is a total fiction since, in reality, it is undisputed as reflected in the affiliation agreements, that all Hoag assets, cash and philanthropy are *exclusively* owned and controlled by Hoag and no cash or assets were exchanged in the creation of the original affiliation.

With this backdrop, the upcoming CHN meeting is an important inflection point. We are being asked to approve a strategic and financial plan that seeks to continue Providence's control of Hoag through CHN when Hoag's fiduciary board, of which we are its leaders, as well as Hoag's physician leadership, genuinely believe it to be against the interests of the patients Hoag serves. That conviction is further underscored by the recent activities by CHN's controlling partner to actively undermine Hoag. Any concern or suggestion by any one of us, moreover, that we might not go along with Providence's plan is met with warnings about our fiduciary duties to CHN, and the implied threat of action against us personally if we vote our conscience.

The dilemma, as we see it, is that, at this point, we don't believe the parties should proceed with a meeting where many of us serve as fiduciaries to two entities when those interests now directly conflict, as they do here. Each of us owe our primary fiduciary duty to Hoag, and were asked to serve on the CHN Board of Directors by virtue of our position as Hoag directors. That structure was intended to ensure active engagement by Hoag, but only makes sense when the interests of the principals to the affiliation are aligned. They simply no longer are. A similar issue arises on the Providence side. For two of you, your primary allegiance to Providence, prevents you from properly placing CHN's interests and what is right for the affiliation above those of Providence; you, because you serve on the Providence Board, and Mr. Wexler because he is a highly compensated executive of the system.

Under the circumstances, the prudent course compels deferring any further meetings until the Court can decide the issues before it. or we can resolve it ourselves. In that vein, the Founders plan to file a motion seeking an expedited trial, and we think Providence should join the Founders in that request. If interim measures are required,

we understand the Court has authority to appoint a receiver or take other actions pending a hearing.

Sincerely,



George Wood



Dan Young



Karen Linden

cc: CHN directors
Mr. Rod Hochman
Providence Health Board members
Ms. Tania Ibanez

RESOLUTION of the
HOAG MEMORIAL HOSPITAL PRESBYTERIAN
BOARD OF DIRECTORS

Newport Beach, California
June 19, 2019

(Approval of Realignment of relationship with PSJH)

A. WHEREAS, Hoag Memorial Hospital Presbyterian (“Hoag”) is a California nonprofit public benefit corporation founded in 1952 to serve and benefit the Orange County community;

B. WHEREAS, Hoag was formed with the support of The George Hoag Family Foundation and the Association of Presbyterian Ministers, who became the original members of Hoag (the “Founding Members”);

C. WHEREAS, Hoag’s mission statement focuses on providing “the highest quality healthcare services” to the Orange County community (“Hoag’s Mission”);

D. WHEREAS, Hoag was initially formed as a community hospital, and has remained as such, while expanding its support and outreach services to better serve the Orange County community;

E. WHEREAS, Hoag has developed as a unique community health care institution by reason of its substantial community involvement, including its extraordinary community philanthropic success; its broad range of clinical service offerings; the distinctive credentials of its Medical Staff; the high level of “community benefit” contribution; its premier facilities; its innovative partnerships, including the formation of the successful Hoag Orthopedic Institute; and its culture of innovation and execution;

F. WHEREAS, in 2011 and 2012, although Hoag was operationally and financially successful, leadership determined after an internal planning process that healthcare was moving in the direction of caring for broad segments of populations to promote wellness through programs then generally termed “population health management,” and the Hoag Board believed that affiliating with another local health system would allow Hoag to implement a comprehensive “population health management” program for Orange County and advance Hoag’s Mission for the communities we serve;

G. WHEREAS, in October of 2012 Hoag entered into an Affiliation Agreement with the St. Joseph Health System (“SJHS”) then a nine-hospital Catholic health system headquartered in Orange County for the specific purpose of pursuing “population health management” and better supporting Hoag’s Mission (hereinafter, the “Affiliation”);

H. WHEREAS, Hoag did not sell its assets to SJHS nor receive any monetary consideration, nor did Hoag merge with SJHS or any of SJHS's affiliates, but rather retained its separate corporate status with its fiduciary board;

I. WHEREAS, Covenant Health Network ("CHN") was created as a separate not-for-profit corporation that was intended to locally govern Hoag and the four Southern California SJHS hospitals and pursue the "primary purpose" of creating an integrated community healthcare delivery system by, among other things, "developing new, innovative systems of care and advancing population health" focusing on Orange County;

J. WHEREAS, the governing board of CHN was structured with SJHS appointing a majority (four appointed by SJHS and three by Hoag) with defined supermajority rights for major decisions affecting CHN; and CHN became the majority corporate member of Hoag (with Hoag's Founding Members as minority members), thus giving CHN certain membership rights and controls over Hoag and the four SJHS Southern California hospitals, and effectively making Hoag a controlled affiliate;

K. WHEREAS, Hoag and SJHS intended CHN to be an actual operating company providing or directly planning, organizing and implementing health care services to the Orange County community under the name St Joseph Hoag Health;

L. WHEREAS, by 2015 Hoag leadership had become concerned about the lack of cultural alignment with SJHS, the structure and function of CHN, and the lack of progress in meeting the goals of the SJHS Affiliation, and initiated and held several meetings with SJHS's President and CEO regarding the above concerns;

M. WHEREAS, at roughly the same time in 2015, SJHS disclosed to Hoag that it intended to consolidate with a larger health system, and in October of 2015 effectively merged with Providence Health & Services, a twenty-nine hospital Catholic system operating in Alaska, Montana, Oregon, Washington and California, to form a new and larger health system, Providence St. Joseph Health ("PSJH"), which would succeed to SJHS' rights and responsibilities in the Affiliation;

N. WHEREAS, at the time of the PSJH merger, Hoag hoped that the initiatives and developments that had been delayed or deferred at SJHS might come to fruition in the new PSJH system, and attempted to work with PSJH to assure that the objectives of the Affiliation would be advanced and Hoag's unique position would be maintained with the larger health system;

O. WHEREAS, despite Hoag's efforts and notwithstanding the entry of PSJH, CHN has not been successful in realizing the goals of the Affiliation in transforming medicine in Orange County (through "population health" or "value based medicine");

P. WHEREAS, CHN has remained a shell corporation, without assets, management or staff and, in the judgment of this Board, has not provided the impetus, capital, planning or expertise to carry out its primary purposes, nor has the St. Joseph Hoag Health brand been successfully implemented;

Q. WHEREAS, CHN currently functions primarily as a mechanism for PSJH (through CHN) to exercise governance control over Hoag without the intended corresponding benefits to Hoag or the community more generally;

R. WHEREAS, the goals of the larger PSJH system as a whole have become incompatible in many respects with Hoag's goals and Hoag's unique character in its community:

- Orange County is no longer a defined market with dedicated leadership and strategy derived by and through a CHN board. PSJH seeks to homogenize Hoag as an increasingly less important element of a larger, national, Catholic health system
- PSJH focuses on standardization of systems across regions in contrast to Hoag's patient centered approach to medicine that vests its healthcare professionals with substantial discretion and a broad variety of tools to care for the community
- PSJH and Hoag have, in some cases, competing clinical service offerings in Orange County, with PSJH planning or introducing partnered clinical products in Orange County that compete or potentially compete with Hoag offerings
- The cultures of Hoag and PSJH are not aligned in a manner that supports a control relationship
- While Hoag pays a substantial annual system overhead assessment to PSJH, PSJH standardized system support services have not produced material benefits for Hoag, including with respect to managed care contracting efficiencies, PSJH group purchasing, revenue cycle processing, or consolidated debt management
- PSJH's larger southern California goals potentially constrain Hoag's ability to adequately grow in the communities we serve and Hoag's capital growth projects are potentially put at risk in the current Affiliation;

S. WHEREAS, while this Board recognizes the important mission of PSJH and the efforts of the many persons associated with PSJH, this volunteer Board views its necessary priorities first and foremost as stewards tasked, on behalf of the community, with the fiduciary obligation and responsibility to protect Hoag's Mission, its unique character, and the assets which support Hoag and its Mission;

T. WHEREAS, this Board faces a critical decision with respect to whether it is in the best interests of Hoag and the community it serves for Hoag to continue within the Affiliation as a controlled subsidiary in the larger PSJH system without the governance independence to operate solely and primarily in the interests of the Hoag institution and the Orange County community, and to independently direct the future of the organization;

U. WHEREAS, taking the above considerations in total, this Board finds that with the passage of time, the institutional, corporate, hierarchical, strategic and cultural incongruities between Hoag and PSJH have persisted, and therefore this Board has determined in the good faith exercise of its fiduciary obligations that the above facts and circumstances, taken together, compel the Board to take all steps necessary to sever the PSJH/CHN governance-control relationship, as well as Hoag's subsidiary status within the PSJH system, and this Board finds that such actions, as reflected in the Resolutions below, are in the best interests of Hoag and the community it serves;

V. WHEREAS, notwithstanding the necessity of achieving institutional independence to protect Hoag and its Mission in the future, this Board recognizes that there are certain common interests between Hoag and PSJH, and now a common history, and, on that basis, the Board believes it essential to first try and work with PSJH on a collaborative basis to come to a voluntary agreement on realigning the relationship of the parties prior to taking any more formal action pursuant to these Resolutions; and

W. WHEREAS, this Board believes that there are specific collaborative activities that can be and are in fact being conducted on a contractual basis (partnerships, joint ventures, etc.) with PSJH that benefit the Community, and, where feasible, Hoag should attempt to seek out such opportunities and pursue them with PSJH, or others, where practical and beneficial, while preserving Hoag's independence and decision-making capacity.

NOW, THEREFORE, BE IT RESOLVED:

1. **Discontinuation of Controlled Affiliate Status.** This Board hereby resolves that all necessary steps must be taken to effect the discontinuation of Hoag's controlled affiliate status and the attendant discontinuation of any membership in, or other governance control of, Hoag by CHN, PSJH or any PSJH affiliate, (while retaining the membership in Hoag by its Founding Members), and Hoag Senior Management and counsel are hereby instructed to pursue and implement such steps as provided in Resolutions 4 and 5 below in the event that PSJH is unwilling to agree to a voluntary realignment of the interests as provided in Resolutions 2 and 3.

2. **Approval of Realignment.** A realignment of the relationship with PSJH, wherein Hoag's controlled affiliate status within the PSJH system is discontinued, and wherein Hoag proposes to become a voluntary partner strategically and/or contractually allied with PSJH and its affiliates in specific clinical and business relationships (the "Realignment") is hereby approved.

3. **Negotiation to Voluntarily Realign Hoag and PSJH.** Hoag Senior Management is hereby instructed to work together with a specially appointed Committee of this Board (the "Special Committee") to attempt to secure the Realignment through voluntary agreement with PSJH prior to taking any other Realignment actions authorized herein.

- a. The Board approves the terms of the Realignment proposal to be made to PSJH, as set forth in Attachment A (the "Offer").
- b. Hoag Senior Management assisted by selected Directors are instructed to convey the Offer to PSJH, and to do so in a positive, confidential and coordinated fashion,

stressing opportunities for success in future strategic alliances in the Orange County communities Hoag serves.

- c. Hoag Senior Management is instructed to seek agreement with PSJH with regard to the material terms of the Realignment by September 1, 2019, unless otherwise extended by this Board or the Special Committee (“Target Date”).
- d. In the event PSJH signals a willingness to agree upon the core terms of the Realignment, Hoag Senior Management and counsel are hereby authorized and instructed to negotiate a term sheet and/or definitive agreements and other documents (including amendments to the Hoag Articles and Bylaws) that set out the specific terms, process and timing for implementing the Realignment, with any such term sheet or definitive agreements to be subject to the approval of this Board.
- e. The Board directs that the Hoag Directors and Hoag Senior Management shall keep these Realignment matters and the discussions with PSJH leadership confidential through the Target Date, to the maximum extent feasible and practical, and unless otherwise required by law or mandatory disclosure obligations.

4. **CHN Board Vote.** In the event Hoag and PSJH are unable to come to voluntary agreement on the core terms of the Realignment by the Target Date, the matters herein shall be brought to a vote by Hoag before the CHN Board.

5. **Deadlock and Other Action.** In the event of a deadlock at the CHN board, Hoag Senior Management and counsel are hereby authorized and instructed to follow the dispute resolution procedures contemplated in the Affiliation Agreement, and if those processes are unsuccessful, are instructed to work with the Founding Members to pursue a formal dissolution of CHN and/or to pursue such other remedies available in equity or under the law.

6. **Growth Plan Budgeting.** Hoag Senior Management is authorized to begin, effective immediately, with implementing the Hoag growth plan, to include planning, budgeting and, when appropriate, requesting of PSJH capital spending and borrowing authorization for the major capital expansion and improvements at Hoag Hospital and for the acquisition of the Irvine property, collectively in an amount not to exceed \$1 billion, with final implementation thereof to be subject to approval of this Board.

7. **Intent to Finance.** This Board hereby expresses its intent to finance the growth plan referenced in Resolution 6 through one or more issuances of tax exempt bonds or similar tax exempt debt, and for Hoag to reimburse itself from the proceeds of such future tax exempt financing for qualifying interim expenditures Hoag expends with respect to such growth plan.

8. **Debt and IT Implementation Actions.** In the event the Realignment is agreed upon among Hoag and PSJH (as a result of any of the processes described above) and as a means to implement such Realignment, Hoag Senior Management is hereby authorized to: (a) negotiate with PSJH and the relevant bondholders, issuing authorities and others for Hoag to withdraw from the PSJH Obligated Group by refinancing its outstanding debt under the PSJH Obligated Group (and thus repaying and relieving PSJH of such Hoag debt), with Hoag paying the relevant PSJH transaction costs associated with such withdrawal and refinancing; and (b) continue the assessment

and begin the implementation of available means for Hoag Hospital and Hoag Clinic to install and use the relevant Epic IT platforms, whether through an agreement among Hoag, PSJH and Epic allowing Hoag to participate in the PSJH "instance" or through a separate and independent Hoag "instance" of the relevant Epic platforms, or through some other reasonable arrangement, with Hoag paying the transaction/transfer costs thereof, including PSJH's where appropriate.

9. **Expenses and Costs.** Hoag Senior Management are hereby authorized to incur and pay all expenses and costs related to the above Resolutions as they may deem necessary or advisable to implement and give effect to the proposed Realignment, and to act in all such matters on behalf of this Board consistent with these Resolutions.

10. **Ratification.** All prior actions taken by Hoag Directors and Hoag Senior Management consistent with the authority conferred herein are, ratified, confirmed and approved in all respects by this Board.

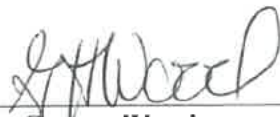
11. **Special Committee.** A Special Committee of this Board is hereby appointed with the dual purpose of: (a) acting for this Board to provide guidance to Hoag Senior Management and counsel with respect to the Realignment process during times when the full Board is not in session; and (b) assisting Hoag Senior Management in initial communications and on-going negotiations with PSJH as requested by Hoag Senior Management; provided, however, that the full Board must approve any final definitive agreement(s) implementing the Realignment and any judicial litigation filed with respect to the Realignment. The persons listed on attachment B are hereby appointed to the Special Committee, and the Committee's term shall be for the duration of the Realignment process unless earlier terminated or extended by the Board.

12. **Conflict of Interest.** The findings and recommendations of the Governance Committee are accepted that, due to unavoidable conflict of interest, Director Rod Hochman may not participate in the Board's substantive deliberations or vote regarding the Realignment.

13. **Hoag Best Interests.** This Board finds that the resolutions herein are: (a) taken in good faith; (b) in the best interests of the corporation and community; (c) are fair and reasonable; and (d) represent the best path forward for the future of the institution and the community.

14. **Founding Members Approval.** This Board hereby requests approval of Resolutions 1 through 5 above by the Founding Members.

Passed and adopted at a duly noticed and held meeting of the Hoag Board of Directors on June 19, 2019, at which a quorum was present and acting throughout.

By: 
Name: George Wood
Title: Board Chair

By: 
Name: Denise Donnelly
Title: Assistant Secretary, Hoag Hospital Board

Attachment A
Realignment Proposal

Hoag Realignment Proposal

- A. **CHN.** The strategic, governance and operational vision and objectives of CHN have not been realized as originally intended.
- i. Hoag, SJHS and PSJH have made multiple efforts to course correct without success.
 - ii. CHN has failed to realize its goals (including those in the Affiliation Agreement of transforming medicine in Orange County through a “population health” strategy).
 - iii. CHN currently functions as a holding company for PSJH to exercise control over Hoag, as well as to comply with the Catholic “material cooperation” rules.
 - iv. CHN’s separate board and corporate structure appear to be inconsistent with PSJH’s intention to streamline corporate governance.
 - v. CHN no longer maintains governance and oversight over a distinct and separate Orange County market.
- B. **Ongoing Successful Relationship.** Hoag proposes an active regional network partnership defined by specific contractual agreements in a variety of clinical services and strategic initiatives, including PSJH’s recently proposed Clinically Integrated Network (CIN).
- i. Our existing partnerships, outside of the controlled affiliate relationship, have been the most successful elements of our relationship, including Hoag Orthopedic Institute, collaborative planning to serve the residents of south Orange County, the regional mental health co-sponsorship, and clinical improvement projects (e.g., Sepsis, TAVR, clinical trials, perinatal and neonatal care, etc.). Hoag proposes to continue these existing successful relationships and expand in other targeted areas that will strengthen coordinated care to the communities we serve.
 - ii. We are in the process of mutually developing new partnership-type arrangements, such as the three-way cancer program among Hoag, PSJH and USC and certain digital health and wellness tools. Hoag proposes that we continue with these in-process relationships and collaborations to attempt to bring them to fruition.
 - iii. We can partner in a significant way in value-based medicine on a regional basis in Orange County through co-sponsorship of the CIN, which does not require Hoag to be a controlled affiliate. Regarding CIN development, Hoag would be prepared to explore co-sponsorship and/or co-ownership of such a CIN development on a regional Orange County-wide basis, should PSJH desire.
 - iv. In addition, we believe other initiatives in the future will become available, including the potential creation of sustainable payor products which create value for Orange County employers.

- C. **Subsidiary Status - Realignment.** Hoag desires a strong coordinated relationship with PSJH but in a different form than exists today. Hoag does not wish to abandon a relationship with PSJH, but rather to redefine it. Hoag proposes that the parties dissolve CHN, or in the alternative, have CHN relinquish its membership in Hoag, in either case with the result that Hoag would cease to be a controlled affiliate within the PSJH system.
- i. Hoag proposes that this would be done on a collaborative basis, without any inference of a dispute or disagreement among PSJH and Hoag, and describing the change as a “realignment” (or in similar terms agreeable to PSJH). Hoag emphasizes its intent and preference that the realignment can and should be described in positive and collaborative terms, focusing on the proposed on-going relationship where the parties wish to succeed together in the Orange County market.
 - ii. Hoag proposes that, in connection with the change in CHN membership, Hoag would withdraw from the PSJH Obligated Group on a mutually agreed-upon date certain, with Hoag refunding its existing Obligated Group debt.
 - iii. Hoag proposes that Hoag and PSJH would work together collaboratively on how Hoag might participate in the PSJH Epic IT installation at Hoag Hospital and at the Hoag Clinic, to the extent feasible and to the extent PSJH is willing, with Hoag paying related costs, as applicable.
- D. **Process.** Hoag proposes that Hoag and PSJH work together expeditiously, confidentially and in good faith to reach conceptual agreement by September 1, 2019 as to the matters referenced herein. If we are able to reach agreement, we would reduce our points of agreement and our path forward to a formal term sheet and/or definitive agreement.

Attachment B

Special Committee members

The persons listed below are appointed to the Special Committee:

- Gary McKitterick
- Miles Chang, MD
- Karen Linden
- Jeff Margolis
- Pamela Massey
- George Wood
- Dan Young
- Jamie Shepherdson