

WEST VIRGINIA

HEALTH CARE AUTHORITY

In re: **MCHCR-CP Holdings and  
HCR III Healthcare, LLC and  
PropCos and OpCos,**  
Applicants.

CON File #07-1/4/6/8/9-8590-A

**DECISION ON REQUEST FOR RECONSIDERATION**

---

By Petition received November 16, 2007, District 1199 through counsel, Vincent Trivelli, requested a reconsideration of the Authority's Decision issued October 19, 2007, which approved the buyout of the Manor Care nursing home chain by the Carlyle Group.

W.Va. C.S.R. § 65-7-17 sets forth the standards by which the Authority must review a Request for Reconsideration. W.Va. C.S.R. § 65-7-17 provides in pertinent part as follows:

**17.1 Any person may request, in writing, reconsideration of a decision rendered by the board on a certificate of need application. If the request for reconsideration establishes good cause for reconsideration, then the board shall grant the request. Upon request, the board may grant a public hearing to consider the request for reconsideration.**

**17.2 A request for reconsideration is considered to have shown good cause if, in a detailed statement, it:**

**17.2.a. Presents significant, relevant information not previously considered by the board, and demonstrates that with reasonable diligence the information could not have been presented before the board made its decision;**

---

**17.2.b. Demonstrates that there have been significant changes in factors or circumstances relied upon by the board;**

**17.2.c. Demonstrates that the board has materially failed to follow its adopted procedures in reaching its decision; or**

**17.2.d. Provides any other basis for a public hearing as the board determines constitutes good cause.**

District 1199 requests reconsideration on the following grounds:

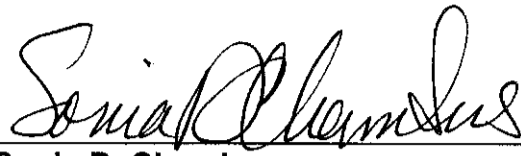
1. Quality of care will suffer;
2. The project is not financially feasible;
3. Care for Medicaid patients may be reduced;
4. Medicaid cases will increase;
5. Federal and state lawmakers are concerned about the buyout; and,
6. The application is incomplete.

District 1199 did not request reconsideration during the Certificate of Need review process. This normally would preclude the granting of reconsideration. However, due to the serious nature of the allegations, particularly the quality of care issues, the Authority finds that a hearing is warranted and that a full discussion of the issues is in the public's best interest.

Based upon the record, the Authority determines that District 1199 has presented good cause for reconsideration and a stay of the Authority's decision dated October 19, 2007 pending resolution of the request for reconsideration.

Accordingly, it is **ORDERED** that the Request for Reconsideration by District 1199 is **GRANTED**. It is further **ORDERED** that a stay of the October 19, 2007 decision is **GRANTED** pending the resolution of the Request for Reconsideration.

Done this 20<sup>th</sup> day of November, 2007.



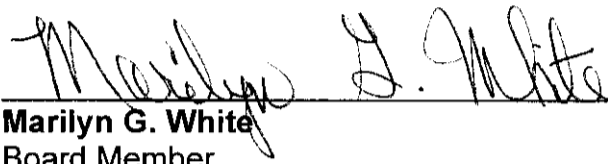
---

**Sonia D. Chambers**  
Chair



---

**Sam G. Kapourales**  
Board Member



---

**Marilyn G. White**  
Board Member

**DISTRIBUTION**

Patrick D. Kelly  
(Certified Copy)

Vincent Trivelli  
(Certified Copy)

The Honorable Betty Ireland  
Secretary of State

John M. Wilkinson, Director  
Office of Health Facility Licensure & Certification

I. Franklin Hartman, Director, Consumer Advocacy Division  
West Virginia Insurance Commission

Sonia D. Chambers, Chair  
Health Care Authority

Marianne Kapinos, General Counsel  
Health Care Authority

CON Analyst

CKW/MK/lh

CON Case File #07-1/4/6/8/9-8590-A