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Jun 05 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson, Administrative Law Judge

APPELLATE CASE NO.: 2020-001072

ADMINISTRATIVE LAW COURT CASE NO.: 17-ALJ-07-0441-CC
ADMINISTRATIVE LAW COURT CASE NO.: 17-ALJ-07-0444-CC

Trident Medical Center, LLC, d/b/a Trident Medical Center
and Summerville Medical Center,.....Petitioner/Respondent,

v.

South Carolina Department of Health and Environmental Control
and Medical University Hospital Authority d/b/a
MUSC Health Emergency Services,.....Respondents,

Of Which, Medical University Hospital Authority d/b/a
MUSC Health Emergency Services is the.....Appellant.

AND

CareAlliance Health Services, d/b/a Roper St. Francis
Healthcare, Roper Hospital, Inc., Bon Secours-St. Francis
Xavier Hospital, Inc., Roper Mount Pleasant Hospital and
Roper St. Francis Berkeley Hospital,.....Petitioner/Respondent,

v.

South Carolina Department of Health and Environmental Control
and Medical University Hospital Authority d/b/a
MUSC Health Emergency Services,.....Respondents,

Of Which, Medical University Hospital Authority d/b/a
MUSC Health Emergency Services is the.....Appellant.

CONSENT MOTION FOR VOLUNTARY DISMISSAL OF APPEAL

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MOTION AND MEMORANDUM

The Appellant Medical University Hospital Authority d/b/a MUSC Health Emergency Services (“MUHA”) and the Petitioner/Respondents Trident Medical Center, LLC d/b/a Trident Medical Center and Summerville Medical Center (“Trident”) and CareAlliance Health Services, d/b/a Roper St. Francis Healthcare, Roper Hospital, Inc., Bon Secours-St. Francis Xavier Hospital, Inc., Roper Mount Pleasant Hospital and Roper St. Francis Berkeley Hospital (“Roper St. Francis”) and the Respondent Department of Health and Environmental Control (“Department”) (collectively, the “Parties”), by and through their undersigned attorneys, hereby respectfully move the Court pursuant to Rules 222, 240, 260(b) and 261, SCACR, for an order dismissing this appeal upon such terms as have been agreed to by the Parties as set forth below.

On September 25, 2017, the Department issued its staff decision approving MUHA’s Certificate of Need (“CON”) application for a freestanding emergency department (“FSED”). Trident and Roper St. Francis requested contested case review of that decision before the Administrative Law Court (“ALC”). After consolidating the cases and conducting a hearing on the matter, the ALC reversed the Department’s decision and denied MUHA’s CON application to establish its FSED. MUHA appealed the decision of the ALC to this Court. On May 16, 2023, Governor McMaster signed into law Act No. 20, 2023 S.C. Acts ___, which, among other things, repealed the requirement that a provider seeking to establish a FSED must first obtain a Certificate of Need. As a result of the passage and signing of Act. No. 20 repealing the CON requirements applicable to MUHA’s FSED project, the Parties agree that MUHA’s appeal is moot.

Therefore, in light of the impact of the new law, the parties jointly move the Court for voluntary dismissal of this matter with all parties to bear their own costs, fees, and expenses incurred with respect to this appeal.

Respectfully submitted,

s/Daniel J. Westbrook

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PROOF OF SERVICE

The undersigned hereby certifies that on June 5, 2023, a copy of the *Consent Motion for Voluntary Dismissal of Appeal* was served on all counsel of record via email addressed as follows:

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June 5, 2023

VIA E-MAIL (ctappfilings@sccourts.org)
The Honorable V. Claire Allen
Chief Deputy Clerk
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CareAlliance Health Services, d/b/a Roper St. Francis Healthcare, et al. v. South Carolina Department of Health and Environmental Control, et al.

Appellate Case No. 2020-001072

Dear Ms. Allen:

In connection with the above-referenced appeal, enclosed please find for filing the Consent Motion for Voluntary Dismissal of Appeal and Proof of Service.

With best regards, I am

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. R. Thomas', written over the word 'Sincerely,'.

William R. Thomas

WRT/jcp

cc: David B. Summer, Jr., Esquire (*via email*)
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