

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson III, Administrative Law Judge

RECEIVED

OCT 17 2014

Case No. 2012-ALJ-07-0090-CC

SC Court of Appeals

Grand Strand Regional Medical Center, LLCRespondent,

v.

South Carolina Department of Health and Environmental Control.....Respondent below.

Case No. 2012-ALJ-07-0091-CC

Grand Strand Regional Medical Center, LLCRespondent,

v.

South Carolina Department of Health and Environmental Control
and Carolina Regional Cancer Center..... Respondents below,

Of whom Carolina Regional Cancer Center is the.....Appellant.

**RESPONDENT'S RETURN TO APPELLANT'S PETITION FOR
SUPERSEDEAS PENDING FINAL RESOLUTION OF APPEALS PROCESS**

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Respondent Grand Strand Regional Medical Center, LLC (“Grand Strand”) submits its Return to Appellant Carolina Regional Cancer Center’s (“CRCC”) Petition for Supersedeas Pending Final Resolution of Appeals Process (“Petition”). Grand Strand respectfully requests this Court deny CRCC’s Petition because a supersedeas is not warranted in this case, as more fully explained below.

FACTUAL BACKGROUND

Grand Strand, a subsidiary of Hospital Corporation of America, is a 269-bed tertiary care hospital located in Myrtle Beach, South Carolina, that opened in 1978 at the request of local citizens to replace a non-profit community hospital. (ALC Amended Final Order, at 3, attached as Exhibit A to Appellant’s Petition for Supersedeas.) Grand Strand seeks to develop a comprehensive cancer center to provide interdisciplinary cancer care. (*Id.* at 8.) CRCC currently is the sole provider of radiation therapy services in Horry County, which has a population of nearly 270,000 people, and operates three linear accelerators at its location in Myrtle Beach. (*Id.* at 6–7.) There is currently not a hospital based radiation therapy center in Horry County, meaning inpatients with cancer in need of radiation therapy treatment may be transferred multiple times via ambulance for multiple treatments during the hospital stay. (*Id.* at 8–9.)

CRCC is 100% owned by a physician practice consisting solely of urologists, Atlantic Urology Clinics, LLC (“AUC”), which is 100% owned by 21st Century Oncology of South Carolina, LLC, which is in turn 100% owned by Radiation Therapy Service, Inc. (ALC Amended Final Order, at 3.) The urologists practicing at AUC have a financial incentive to refer patients to CRCC.¹ (*Id.* at 12, n.18.) The South Carolina Department of Health and Environmental Control (“Department”) is a state agency charged with, among other things,

¹ AUC referrals are projected to account for nearly half of all referrals to CRCC. (ALC Amended Final Order, at 14–15.)

implementing South Carolina's Certificates of Need ("CON") regulatory program, which includes issuing CONs to radiation therapy facilities. S.C. Code Ann. § 44-7-130, -140.

Both Grand Strand and CRCC applied under the 2010–2011 South Carolina Health Plan ("Health Plan") to locate radiation therapy facilities in the service area consisting of Horry, Georgetown, and Williamsburg counties ("Service Area"). (ALC Amended Final Order, at 5.) The 2010–2011 Health Plan sets forth the standards for Radiotherapy. (*Id.* at 5–6.) A CON application may only be approved if, among other criteria, the existing units in the Service Area are operating at 80% or greater capacity and the addition of the new facility would not bring existing units below that 80% threshold. (*Id.* at 5.) If more than one application for a service or facility is received and the approval of more than one would bring existing units below the 80% threshold, the applications are deemed to be "competing" and only one may be issued. (*Id.* at 14.) The determinations of whether existing units are operating above 80% and whether a new facility would decrease utilization below that threshold are fact-intensive inquiries.

The Department reviewed Grand Strand's and CRCC's applications, found them to be competing, approved CRCC's application, and denied Grand Strand's application. (ALC Amended Final Order, at 2.) The Administrative Law Court ("ALC"), after a nine (9) day *de novo* hearing that included testimony from eleven witnesses, found that the applications were not competing. (*Id.* at 14, 24–26.) The ALC thus reversed the Department's decision and ordered that both Grand Strand's and CRCC's projects be approved for CONs. (*Id.* at 24–27.) CRCC's appeal of that decision to this Court is currently in the briefing stage. On appeal, CRCC has the steep burden of proving that the ALC's order is not supported by substantial evidence in the record. Grand Strand's position, of course, is that the ALC's order is thorough and well supported by substantial evidence.

As required by section 44-7-220 of the South Carolina Code, CRCC posted the necessary bond when it filed its appeal—the bond, however, is more than \$2.5 million less than would be necessary to cover just the first year of Grand Strand’s projected earnings for its project. (See Joint Ex. 2 at 304, attached as Exhibit 1.) CRCC then moved the ALC to stay the effectiveness of its decision pending appeal, arguing, among other things, that its requirement to pay a bond somehow created an otherwise nonexistent requirement that the matter decided in the ALC’s order be stayed pending resolution on appeal. On September 26, 2014, the ALC issued its Order Denying Motion for Stay/Supersedeas Pending Appeal, addressing CRCC’s arguments and finding that: (1) the bond required under section 44-7-220 does not create a requirement the court issue a stay when no such language is found in the statute; (2) a supersedeas is not necessary in this case to preserve the court’s jurisdiction or to prevent the issue from becoming moot; (3) staying the progress of Grand Strand’s project does not harm CRCC, but does harm the public; (4) CRCC does not have a meritorious appeal; and (5) CRCC does not present any novel issues on appeal. CRCC presents similar issues to this Court. (ALC Order Denying Supersedeas, attached as Exhibit C to Appellant’s Petition for Supersedeas, pp. 2–7.) As shown below, CRCC’s arguments in favor of a supersedeas are baseless and are interposed merely to delay the construction and operation of Grand Strand’s project with litigation and appeals so that CRCC may continue its status as sole radiation therapy provider in Horry County as long as possible.

ARGUMENT

I. Section 44-7-220 Does Not Mandate the Imposition of a Stay or Supersedeas.

CRCC argues that a stay must issue if CRCC is required to pay a bond, and CRCC attempts to paint the ALC’s denial of its request for a stay as a denial of CRCC’s constitutional rights. This contention is without merit. The ALC’s Amended Final Order properly recognizes and applies the relevant law. That CRCC is required to post a bond pursuant to section 44-7-220

of the South Carolina Code and that Rule 241(a), SCACR, exempts this case from the imposition of an automatic stay are separate issues. This resulting situation is merely a function of the applicable statutes and Rules, and CRCC, under the present set of facts and law, is not entitled to supersedeas.

The words “stay” and “supersedeas” are conspicuously absent from the text of section 44-7-220. By its plain language, section 44-7-220 requires CRCC to post a bond in order to maintain its appeal of the ALC’s Amended Final Order. The statute does not state why the bond is required, and it does not specify the General Assembly’s intended purpose for requiring the bond. CRCC bases its entire argument that section 44-7-220 “is sufficient to impose a stay” on conjecture, rather than the language of the statute. Further, it is not reasonable to argue that the bond requirement in section 44-7-220 is intended to compensate a respondent for any delay in proceeding with its project—here, a radiation therapy facility—when there is no mechanism to automatically stay a respondent from proceeding with its project.

Section 44-7-220 does not provide expressly for a stay. Thus, neither CRCC, the ALC, nor this Court should read such language into the statute. *See Consumer Advocate for State v. S.C. Dept. of Ins.*, 397 S.C. 599, 725 S.E.2d 708 (2012) (“The court has no right to add the words [the legislature] omitted, nor to interpolate them on conceits of symmetry and policy.” (quoting *Kinard v. Moore*, 220 S.C. 376, 388, 68 S.E.2d 321, 325 (1951))). Finally, there is no evidence to support CRCC’s argument that requiring a bond without a supersedeas or stay will close the courthouse doors to affected persons. All the historical evidence shows that affected parties routinely appeal CON contested cases. Put simply: section 44-7-220 does not impose or otherwise independently authorize the imposition of a stay.

II. CRCC is Not Entitled to a Supersedeas Under Rule 241(c)(1) of the South Carolina Appellate Court Rules.

CRCC has not shown that it is entitled to a supersedeas. Rule 241(b)(11), SCACR, expressly exempts “[a]ppeals from administrative tribunals” from the general rule that a notice of appeal automatically stays the matter on appeal. CRCC offers no legitimate reason to deviate from the procedure established in the Rules.

Rule 241(c)(1), SCACR, states that in “a case subject to an exception [under Rule 241(b), SCACR], any party may move for an order imposing a supersedeas of matters decided in the [decision] on appeal after service of the notice of appeal.” Further, Rule 241(c)(2) provides that in “determining whether an order should issue pursuant to [Rule 241(c)], the . . . administrative tribunal . . . should consider whether such an order is necessary **to preserve jurisdiction of the appeal** or **to prevent a contested issue from becoming moot**.” (emphasis added.)

In this case, neither jurisdiction nor mootness is in jeopardy. Even if Grand Strand were to construct, license, and begin operating its radiation therapy facility, CRCC’s appeal would not become moot, and this Court would not lose jurisdiction over the appeal. This Court does not lose its jurisdiction to decide whether the ALC’s decision should be upheld or overturned simply because Grand Strand begins the lengthy 18-month design and construction process or even if it begins operating its facility. *Skinner v. Westinghouse Elec. Corp.*, 380 S.C. 91, 93, 668 S.E.2d 795, 796 (2008) (“Subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong.”) (internal quotation omitted). In the unlikely event this Court decides the ALC’s Amended Order is not supported by substantial evidence in the Record and reverses the ALC’s well-reasoned decision approving Grand Strand for a CON, Grand Strand understands that it must cease operation of its radiation therapy facility. A supersedeas is not required to preserve this Court’s authority.

Nor is a supersedeas required to prevent the issue on appeal from becoming moot. Because this Court may still render a judgment with practical legal effect even if Grand Strand begins the design and construction process, or begins operating its facility during the pendency of the appeal, the issue before this Court will not be moot. Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006) (“A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court.”). Rule 241(b), SCACR and section 1-23-380(2)—both of which establish that the general rule for ALC appeals is that the appeal does *not* stay the ALC’s decision—envision that Grand Strand would be permitted to construct the facility, have it licensed by the Department, and begin operating after the ALC renders judgment in its favor, regardless of any resulting appeals. There is nothing to suggest that Grand Strand’s actions during the pendency of the appeal would moot the issue before the Court of Appeals or deprive the Court of Appeals of jurisdiction.

Finally, the supposed policy issues CRCC presents are not issues specific to CRCC and this case. Rather, they are common to *all* appeals from CON contested cases. CRCC essentially argues for an exception that carves out CON appeals from the established Rules, which would require automatic stays upon appeal and bring these cases back to the baseline that was specifically rejected by the General Assembly. CRCC presents no reasons why this Court should deviate from the prescribed procedure and judicially create an exception to the rule contained in Rule 241(b), SCACR, and section 1-23-380 of the South Carolina Code. Thus, the issuance of a supersedeas is unwarranted, and CRCC has failed to meet the standard outlined in Rule 241, SCACR for the imposition of a supersedeas.

III. There Will be no Irreparable Harm to CRCC.

CRCC cannot show that it will be irreparably harmed by the issuance of a CON to Grand Strand that would allow Grand Strand to begin the timely process of design and construction of its radiation therapy facility. The ALC found that the service area will support the addition of *two* linear accelerators. (ALC Amended Final Order, at 2–3.) Additionally, the ALC determined that CRCC would not be adversely impacted by the operation of CRCC’s project. (*Id.* at 14–17.) From an operational and financial standpoint, CRCC cannot reasonably argue to this Court that it will be irreparably harmed.

Further, CRCC’s argument that the citizens of South Carolina will be irreparably harmed by the issuance of a CON to Grand Strand is incorrect. In fact, the opposite is true: South Carolina’s citizens will be irreparably harmed if this Court imposes a stay. Once the Department issues a CON to Grand Strand, the design and construction process will take at least 18 months. (ALC Order Denying Supersedeas, at 5.) CRCC’s appeal of the ALC’s Final Order could take at least that long, or more, to run its course. The need for two linear accelerators is evidence of an access to care issue in the applicable Service Area consisting of Horry, Georgetown, and Williamsburg Counties. (ALC Amended Final Order, at 6–7, 14.) Requiring Grand Strand to delay construction until CRCC’s appeal fully runs its course could result in years of delay for a population that is in need of additional radiation therapy services.

However, if Grand Strand were to commence construction during the pendency of the appeal, it will be able to open its radiation therapy center in a timely manner. This outcome comports fully with the CON Act’s purposes. *See* S.C. Code Ann. § 44-7-120 (“The purpose of this article is to promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best

serve public needs, and ensure that high quality services are provided in health facilities in this State.”).

Finally, CRCC argues that the supersedeas is required to maintain the “status quo.” The Rules specifically, and with good reason, exempt administrative appeals from the automatic stay, thus recognizing that the ALC’s order creates the status quo that is to be preserved during appeal. Rule 241(c)(2), SCACR, is clear that a supersedeas should issue only if necessary to preserve the Court’s jurisdiction or to prevent an issue from becoming moot—not that a supersedeas should issue to preserve the situation that existed prior to the ALC’s order. Rule 241(c)(2) gives priority to the effect of the ALC’s decision, not the other way around, as CRCC incorrectly argues. Thus, CRCC’s argument regarding the necessity “to preserve the status quo” is misguided and the imposition of a supersedeas in this case is inappropriate.

The “status quo” CRCC seeks to protect is its own status as the sole provider of radiation therapy services in a county of 270,000 people.² As was apparent during the two week trial, CRCC is desperate to prevent any competing radiation therapy centers in Horry County. (*See, e.g.*, ALC Amended Final Order, at 20.) CRCC now argues that its \$489,000 bond is sufficient compensation for keeping Grand Strand out of the Service Area for the *years* it could take to appeal this matter. CRCC’s argument is difficult to accept, considering that \$489,000 will not cover Grand Strand’s projected first year operating earnings. (*See* Exhibit 1.) As Grand Strand argues to the ALC, if CRCC desires to maintain the “status quo,” it should post a bond of at least \$3,189,000 which represents the earnings Grand Strand will forego during the time

² In 2012, CRCC enjoyed operating earnings of \$10.4 million on \$18.7 million of revenue, an astounding 54.8% operating margin. (CRCC’s 2010–2012 Profit and Loss Statements, attached as Exhibit 2.)

period—the first three years of operation—that it will likely take for the appeals to be resolved if a stay is imposed.³ (*Id.*) Otherwise, the status quo is untenable.

IV. CRCC's Appeal is Not Meritorious.

It is unlikely that CRCC will prevail on appeal. CRCC's burden on appeal is daunting. The ALC's Final Order is thorough, well-reasoned, and supported by substantial evidence in the Record and CRCC's legal arguments are without merit, as demonstrated below. The exception to Rule 241(b)(11)'s automatic stay requirement in administrative appeals recognizes the high burden placed on an appellant and is an acknowledgement that the ALC is the final arbiter of the facts.

CRCC has argued that following the ALC's decision that the two CON applications were not competing, the ALC should have remanded Grand Strand's CON application back to the Department so the Department could make another decision on the merits of Grand Strand's CON application. This decision would be subject to appeal by CRCC. CRCC also argued that the ALC's consideration of a newly published Health Plan in making its decision was in error, despite a statute plainly allowing the ALC to do so.⁴

With respect to the remand issue, *Spartanburg Regional Medical Center v. Oncology & Hematology Associates of South Carolina*, 387 S.C. 79, 690 S.E.2d 783 (2010), is directly on point with the instant case and contradicts CRCC's assertion that the ALC should have remanded Grand Strand's CON application to the Department instead of approving the application based

³ If the stay is imposed, Grand Strand anticipates that, in the event this Court renders an opinion adverse to CRCC, CRCC would appeal that decision to the South Carolina Supreme Court, which would result in additional delay. Indeed, Grand Strand introduced evidence at the Contested Case hearing indicating that CRCC's strategy to "protect both [its] northern and southern service areas" was to "end up in court on both CONs and no one moves forward until the *courts* decide." See Pet. Ex. #54, at CRCC 1706 (emphasis added). If CRCC were to affirmatively state that it would not appeal an adverse decision from the Court of Appeals to the Supreme Court, then Grand Strand would be willing to accept a bond amount that does not include the EBITDA for the third year of operations.

⁴ Section 44-7-225 specifically authorizes the ALC to consider newly enacted Health Plans when making its decision in CON cases: The department, the Administrative Law Court, and the Court of Appeals shall consider the South Carolina Health Plan in place at the time the application was filed *and may consider the current South Carolina Health Plan when making its decision.*" (emphasis added)

on a nine (9) day *de novo* hearing. In *Spartanburg*, which also involved CON applicants vying for linear accelerators, the Supreme Court endorsed the very action the ALC ordered in this case—reversing the Department’s determination that the applications were competing and issuing a CON to both applicants. The Department’s staff in the *Spartanburg* case concluded that the CON applications were competing, and then concluded that the existing provider’s CON application should be the only application approved. *Id.* at 81, 690 S.E.2d at 784. The provider whose application was denied requested review by the ALC. Ultimately, the ALC issued an order concluding that “the two CON applications were not competing ‘because granting both [CON a]pplications will not exceed the need for linear accelerator facilities and the services which they provide.’” *Id.* at 82, 690 S.E.2d at 785.

The ALC found that both CON applications were consistent with the Health Plan and ordered the Department to issue a CON for both of the proposed projects. *Id.* Thus, in the *Spartanburg* case, the ALC rendered a decision exactly like the decision the ALC issued in the instant case. On appeal, the Supreme Court affirmed the ALC’s decision, and stated:

the evidence substantially supports the legal conclusion that the two applications were not competing. Moreover, based on the evidence presented, the granting of both CONs does not violate the State Health Plan and will further the overall purpose of [the CON Act].

Id. at 83, 690 S.E.2d at 785. The *Spartanburg* case is on all fours with this case—both factually and procedurally—and it supports the ALC’s order. The Supreme Court did not order remand back to the Department for the CON applicant’s project that was originally denied by the Department for another staff level decision on the merits, because such a remand was not legally required.⁵ CRCC’s appeal lacks merit and has been filed for purposes of delay.

⁵ Forcing courts to constantly remand cases to the Department would result in an endless cycle of appeal and remand, which would be a disaster for judicial economy and efficiency and would wreak havoc with the regulated community’s efforts to provide necessary healthcare services to the public.

V. Alternatively, if this Court Grants CRCC's Petition, It Must Stay Both Grand Strand's and CRCC's Project.

CRCC's Petition for Supersedeas asks this Court to prevent Grand Strand from moving forward with its project, but CRCC does not mention the imposition of a stay or supersedeas regarding its own project. Rule 241, SCACR, speaks in terms of staying or imposing a supersedeas on *all matters* involved in the decision.⁶ CRCC appealed the entirety of the ALC's Final Order and, if a supersedeas is granted, the entire Order would be subject to the supersedeas. Therefore, if this Court decides that a stay or supersedeas is warranted, it must stay CRCC's project as well.

CONCLUSION

For the reasons set forth above, CRCC's Petition for Supersedeas Pending Final Resolution of Appeals Process should be DENIED. Alternatively, should the Court decide to impose a supersedeas on Grand Strand's project, then CRCC's project should be stayed as well, and CRCC should be required to post an additional bond in the amount of \$3,189,000 to cover Grand Strand's lost earnings for the next three years, which CRCC would forfeit if it were not successful in its appellate efforts.

[SIGNATURE PAGE FOLLOWS]

⁶ See Rule 241(c), SCACR ("In a case subject to an exception, any party may move for an order imposing a supersedeas *of matters decided* in the order, judgment, decree or decision on appeal after service of the notice of appeal. The effect of the granting of a supersedeas is *to suspend or stay the matters decided* in the order, judgment, decree or decision on appeal and, where a prior order or decision was in effect at the time the appealed order, judgment, decree or decision was filed, to revive the terms of the prior order or decision." (emphasis added)).

Respectfully submitted,



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*Columbia, South Carolina
October 17, 2014*

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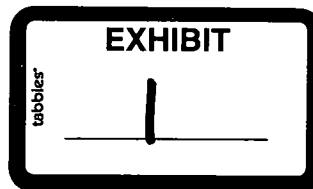
**GRAND STRAND REGIONAL MEDICAL CENTER
MYRTLE BEACH, SOUTH CAROLINA**

**CERTIFICATE OF NEED APPLICATION
FOR THE
ADDITION OF A LINEAR ACCELERATOR
AND CT SIMULATOR**

JUL 19 2011

Submitted To:

**South Carolina Department of Health and
Environmental Control
Division of Certification of Need
1777 St. Julian Place
Columbia, South Carolina 29201**



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**Grand Strand Regional Medical Center
Linear Accelerator Project
Three Year Budget - Linear Accelerator Only**

	2013	2014	2015
Outpatient Linear Accelerator Treatments	3234	4011	4620
Outpatient Diagnostic Tests (Lab)	462	573	660
CT Scans	154	191	220
Inpatient Revenues	\$ -	\$ -	\$ -
Outpatient Revenues	\$ 8,402	\$ 11,255	\$ 14,001
Total Patient Revenue	\$ 8,402	\$ 11,255	\$ 14,001
Other Revenue	\$ -	\$ -	\$ -
Total Gross Revenues	\$ 8,402	\$ 11,255	\$ 14,001
Contractual Adjustments	\$ 4,276	\$ 5,786	\$ 7,265
HMO/PPO Discounts	\$ 1,432	\$ 1,980	\$ 2,538
Self-Pay	\$ 144	\$ 193	\$ 241
Charity	\$ 112	\$ 151	\$ 189
Total Deductions	\$ 5,964	\$ 8,110	\$ 10,233
Total Net Revenue	\$ 2,438	\$ 3,145	\$ 3,768
Salaries & Wages	\$ 452	\$ 538	\$ 580
Benefits	\$ 118	\$ 140	\$ 151
Contract Labor	\$ -	\$ -	\$ -
Supplies	\$ 207	\$ 267	\$ 320
Professional Fees	\$ -	\$ -	\$ -
Contracted Physicist	\$ 175	\$ 180	\$ 186
Other Contract Services	\$ 140	\$ 173	\$ 202
Repairs/Maintenance	\$ 44	\$ 110	\$ 132
Rents & Leases	\$ 36	\$ 44	\$ 50
Utilities	\$ 71	\$ 74	\$ 78
Insurance	\$ 27	\$ 35	\$ 41
Bad Debt	\$ 73	\$ 94	\$ 113
Non-Income Taxes	\$ 69	\$ 70	\$ 70
Other Operating Expenses	\$ 515	\$ 51	\$ 536
Total Operating Expenses	\$ 1,927	\$ 1,776	\$ 2,459
EBDITA	\$ 511	\$ 1,369	\$ 1,309
Depreciation & Amortization	\$ 430	\$ 430	\$ 430
Management Fees/Interest Expense/(Income)	\$ -	\$ -	\$ -
Total Capital & Other	\$ 430	\$ 430	\$ 430
Operating Income	\$ 81	\$ 939	\$ 879

LTM

SC MYRTLE BEACH



ALL DPTS

1/25/2013
DEC LTM

	JAN 2012	FEB 2012	MAR 2012	APR 2012	MAY 2012	JUN 2012	JUL 2012	AUG 2012	SEP 2012	OCT 2012	NOV 2012	DEC 2012
REVENUE	1,616,521	1,712,226	1,732,319	1,262,061	1,593,942	1,693,145	2,041,231	1,939,606	1,227,959	1,444,886	1,341,084	1,356,338
MANAGEMENT FEE REVENUE	0	0	0	0	0	0	0	0	0	0	0	0
OTHER REVENUE	97	69	66	50	216	144	32	2,378	121	(5,243)	20	(2,050)
TOTAL REVENUE	1,616,618	1,712,295	1,732,385	1,262,112	1,594,158	1,693,289	2,041,262	1,941,984	1,228,079	1,439,643	1,341,104	1,356,338
BAD DEBT	22,886	(23,305)	75,971	1,374	22,701	22,796	22,774	36,360	10,392	41,926	2,982	16,462
NET REVENUE	1,593,733	1,735,600	1,656,414	1,260,738	1,571,456	1,670,493	2,018,489	1,905,624	1,217,688	1,397,717	1,338,122	1,339,875

	JAN 2012	FEB 2012	MAR 2012	APR 2012	MAY 2012	JUN 2012	JUL 2012	AUG 2012	SEP 2012	OCT 2012	NOV 2012	DEC 2012
COST OF THERAPY SERVICES	223,949	220,481	212,030	195,126	231,164	176,299	202,482	202,572	169,102	183,266	180,485	205,926
PHYSICIANS COMP	155,671	156,007	159,466	152,427	160,342	154,470	159,703	155,476	150,915	162,057	147,396	205,926
SALARIES & BENEFITS	22,127	33,108	30,838	13,899	32,544	25,884	18,820	16,821	24,892	15,156	4,771	8,853
MEDICAL SUPPLIES	46,230	42,964	42,764	43,843	43,843	43,843	43,843	43,929	43,929	43,929	43,929	43,929
OCCUPANCY COSTS - RENT	91,617	88,037	88,119	80,771	81,334	91,743	84,240	117,588	88,882	88,757	91,019	90,617
DEPR & AMORT	1,053	1,289	1,657	720	645	1,737	534	1,368	1,389	1,012	1,431	1,344
TRANSPORTATION	4,446	5,224	5,078	5,231	4,312	10,602	359	7,026	7,257	6,495	5,289	10,203
UTILITIES	0	0	0	0	0	0	0	0	0	0	0	0
MEDICAL EQUIPMENT RENT	19,557	25,847	39,701	33,804	34,065	30,742	30,283	30,742	35,749	34,440	37,496	30,217
R&M MACHINES	58,495	55,880	56,422	56,618	56,114	57,677	57,901	62,585	60,990	57,868	57,821	57,748
OS SERVICES	4,205	3,575	3,602	3,503	4,550	3,551	3,775	4,569	4,750	3,460	3,602	3,475
OTHER DIRECT	627,350	632,411	639,677	585,943	638,913	596,638	601,941	642,676	587,855	596,469	573,238	732,436
TOTAL DIRECT EXPENSE	989,268	1,079,884	1,092,708	676,169	955,245	1,096,651	1,439,322	1,299,308	640,224	843,174	767,866	623,902
FACILITY GROSS PROFIT %	61.19%	63.07%	63.08%	53.57%	59.92%	64.76%	70.51%	66.91%	52.13%	58.57%	57.26%	46.00%

	JAN 2012	FEB 2012	MAR 2012	APR 2012	MAY 2012	JUN 2012	JUL 2012	AUG 2012	SEP 2012	OCT 2012	NOV 2012	DEC 2012
GENERAL AND ADMIN	13,003	11,014	13,301	11,048	11,856	13,053	10,655	14,760	12,417	12,791	13,500	12,579
G&A SALARIES	773	773	773	773	773	773	773	773	773	773	773	773
DEPR & AMORT	0	0	0	0	0	0	0	0	0	0	0	0
OFFICE RENT / UTIL	2,714	4,220	4,022	2,906	4,813	5,734	2,684	5,012	5,240	9,187	(971)	4,244
TELEPHONE	3,699	1,917	2,829	2,390	3,173	2,727	2,730	2,674	2,898	2,536	2,516	3,421
TAXES	5,559	5,533	5,533	5,533	5,533	5,884	5,533	5,533	5,533	5,533	5,533	(21,549)
IMPAIRMENT LOSS	0	0	0	0	0	0	0	0	542,000	0	0	0
ACCOUNTING	0	0	0	0	0	0	0	0	0	0	0	0
LEGAL	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,382	3,000	3,000	3,000
REPAIRS & MAINT	7,563	6,269	6,672	7,860	4,111	10,574	3,515	5,650	5,873	10,978	6,162	3,000
CONSULTING	6,180	12,000	9,000	9,000	15,000	9,000	12,000	9,041	32,000	33,200	35,063	3,000
ENTERTAINMENT	0	0	0	0	0	0	0	0	0	0	0	0
OUTSIDE SERVICES	2,297	3,869	4,515	2,719	(2,221)	3,322	3,824	2,940	2,591	1,832	1,797	3,512
RECRUITING	0	633	0	184	22,406	0	0	0	0	0	0	0
TRAVEL MEETINGS	1,748	1,760	5,142	2,087	3,186	4,268	2,787	179	2,354	2,127	408	405
MARKETING	8,612	1,295	1,145	557	1,174	2,103	756	2,511	2,456	802	756	1,973
DONATIONS	477	1,750	0	25,500	0	0	0	1,750	0	0	0	802
CURRENCY EXCHANGE	2,828	1,407	2,441	1,464	1,178	1,644	2,866	8,000	1,040	381,069	37,772	141,711
DUES SUBS & LIC	2,735	1,726	1,647	2,545	691	1,162	1,454	1,748	2,569	2,222	2,378	2,700
TOTAL INSURANCE	6,556	6,556	6,317	6,635	6,454	6,585	7,185	6,585	6,585	6,585	6,639	6,639
TOTAL G&A EXPENSE	67,742	63,722	66,338	84,201	81,129	69,827	59,761	70,157	627,712	472,838	115,696	165,748
OPERATING INCOME	898,641	1,039,467	950,400	590,594	851,415	1,004,028	1,356,787	1,192,791	2,121	328,409	649,187	441,692
MINORITY INTEREST	0	0	0	0	0	0	0	0	0	0	0	0
EBITDA	991,031	1,128,276	1,039,291	672,138	933,522	1,096,544	1,441,800	1,311,152	91,776	418,145	741,348	533,452
EBITDA %	61.30%	65.89%	59.99%	53.26%	58.56%	64.76%	70.63%	67.52%	7.47%	29.05%	55.28%	39.33%

ATTORNEY EXPERT EYES ONLY
CRCC 000069

THE STATE OF SOUTH CAROLINA

RECEIVED

In the Court of Appeals

OCT 17 2014

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson III, Administrative Law Judge

SC Court of Appeals

Case No. 2012-ALJ-07-0090-CC

Grand Strand Regional Medical Center, LLCRespondent,

v.

South Carolina Department of Health and Environmental Control.....Respondent below.

Case No. 2012-ALJ-07-0091-CC

Grand Strand Regional Medical Center, LLCRespondent,

v.

South Carolina Department of Health and Environmental Control
and Carolina Regional Cancer Center..... Respondents below,

Of whom Carolina Regional Cancer Center is the.....Appellant.

PROOF OF SERVICE

The undersigned hereby certifies that on October 17, 2014 he has caused a copy of Respondent's Return to Appellant's Petition for Supersedeas Pending Final Resolution of Appeals Process to be served upon all parties of record by hand delivering a copy of the same, addressed as follows:

James G. Long, III, Esquire
Jennifer J. Hollingsworth, Esquire
Tanya A. Gee, Esquire
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201

Edward Wade Mullins, III, Esquire
Bruner Powell
1735 St. Julian Place, Suite 200
Columbia, South Carolina 29204

Ashley C. Biggers, Esquire
Vito Wicevic, Esquire
South Carolina Department of Health
and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201



William R. Thomas



William R. Thomas
Partner
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willthomas@parkerpoe.com

Charleston, SC
Charlotte, NC
Columbia, SC
Raleigh, NC
Spartanburg, SC

October 17, 2014

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RECEIVED

OCT 17 2014

SC Court of Appeals

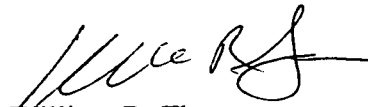
Re: *Appellate Case No. 2014-000973*
Grand Strand Regional Medical Center, LLC v. South Carolina Department of Health and Environmental Control and Carolina Regional Cancer Center

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of Respondent's Return to Appellant's Petition for Supersedeas Pending Final Resolution of Appeals Process in the above-referenced matter. By copy of this letter to all counsel of record, a copy of this Return is being served on them via hand delivery this afternoon.

Should you have any questions regarding this matter, please do not hesitate to contact me. With best regards, I am

Sincerely,



William R. Thomas

WRT/kch
Enclosures

cc: James G. Long, III, Esquire (*with enclosure via hand delivery*)
Jennifer J. Hollingsworth, Esquire (*with enclosure via hand delivery*)
Tanya A. Gee, Esquire (*with enclosure via hand delivery*)
Edward Wade Mullins, III, Esquire (*with enclosure via hand delivery*)
Ashley C. Biggers, Esquire (*with enclosure via hand delivery*)
Vito Wicevic, Esquire (*with enclosure via hand delivery*)

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