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October 1, 2012

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S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RE: Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center, Petitioner, v. South Carolina Department of Health and Environmental Control and Charlotte-Mecklenburg Hospital Authority, d/b/a/ Carolinas Healthcare System, Respondents
Appellate Case No. 2011-193828
Our File No. 05946/01513

Dear Mr. Shearouse:

I am in receipt of the September 27 letter wherein counsel for Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Healthcare System and Carolinas Physicians Network, Inc. ("CHS") asked the Court to allow CHS to file a respondent's brief and to otherwise be afforded respondent status in the above-referenced matter. I am writing on behalf of Respondent Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center ("PMC") to oppose CHS's request for the reasons set forth below.

First, only parties that oppose a petition for writ of certiorari have respondent status when a petition is granted. *See* Rule 242, SCACR. CHS did not oppose DHEC's petition for writ of certiorari that was granted, in part, by the Court on July 27, 2012. PMC did oppose DHEC's petition for writ of certiorari. Therefore, PMC is a respondent, and CHS is not.

Second, a respondent's brief contains arguments opposing the arguments made in a petitioner's brief. Because CHS would not be filing a brief with arguments opposing the arguments made by Petitioner DHEC, but instead would be offering arguments supporting Petitioner DHEC's arguments, CHS cannot file a respondent's brief or otherwise be a respondent.

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Third, to obtain review of a question on certiorari a party must have previously raised the question to the Court of Appeals and included the question in the party's petition for rehearing and petition for writ of certiorari. *See* Rule 242(d)(2), SCACR. With respect to the jurisdictional question CHS desires to brief now, CHS took none of these necessary steps.

Finally, allowing CHS respondent status would prejudice PMC. DHEC has already filed a brief supporting the position that this matter should be dismissed for lack of jurisdiction. Affording respondent status to CHS would allow CHS to submit an additional brief supporting this position that would be filed at the same time Respondent PMC files its brief. As PMC will have no apparent vehicle available to it to respond to CHS's brief, it would seem that CHS's brief is not appropriate. Moreover, allowing CHS respondent status could conceivably result in PMC having to split its oral argument time with a "respondent" that supports the position of the petitioner in this matter.

Because CHS appears to lack the fundamental prerequisites necessary to be a respondent in this matter, and granting CHS respondent status would be unfair to PMC, PMC respectfully asks that the Court not permit CHS to file a respondent's brief or otherwise participate in this matter as a respondent. Thank you for your assistance with this matter.

Very truly yours,



Travis Dayhuff

TD:jmh

cc: James G. Long, III, Esq. via Email and US Mail
Ashley C. Biggers, Esq. via Email and US Mail
Linda Allen