

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPELLATE CASE NO. 2020-001610

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Apr 09 2021
SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge

Case No: 20-ALJ-07-0108-CC

Lexington County Health Services
District Inc., d/b/a Lexington Medical Center..... Petitioner/Respondent,

v.

South Carolina Department of Health and Environmental Control,
Prisma Health - Midlands, Providence Hospital, LLC d/b/a Providence
Health, Providence Health Northeast, Providence Health Fairfield,
and Kershaw Hospital, LLC d/b/a Kershaw Health Medical Center.....Respondents,

OF WHICH

Prisma Health - Midlands is the Appellant-Respondent and
Providence Hospital, LLC d/b/a Providence Health, Providence
Health Northeast, Providence Health Fairfield, and Kershaw
Hospital, LLC d/b/a Kershaw Health Medical Center are theRespondents-Appellants.

**MOTION OF THE RESPONDENTS-APPELLANTS
TO WITHDRAW APPEAL**

The Respondent-Appellants Providence Hospital, LLC d/b/a Providence Health,
Providence Health Northeast, Providence Health Fairfield, and Kershaw Hospital, LLC d/b/a
Kershaw Health Medical Center (“LifePoint”) hereby move to withdraw their appeal filed in this
case on December 17, 2020. Respondents-Appellants request withdrawal of their appeal on the
grounds that the termination of the asset purchase agreement, which forms the basis of the
dispute below, moots the issues in this case.

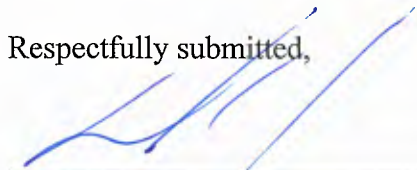
On December 13, 2019, the Appellant Prisma Health – Midlands (“PHM”) notified the Respondent South Carolina Department of Health and Environmental Control (“DHEC”) that PHM planned to purchase certain healthcare facilities (the “Assets”) from LifePoint and requested that DHEC review the proposed transaction and determine that the Assets would be subject to the existing Certificate of Public Advantage (“COPA”) granted to PHM. DHEC issued its decision on February 28, 2020 and determined that PHM’s operation of the Assets would be subject to the ongoing COPA conditions and to certain additional conditions DHEC added to the COPA to assure that the benefits of the COPA continue to outweigh the potential competitive disadvantages. The Administrative Law Court overturned the decision of DHEC and held that PHM could not operate the Assets it intended to purchase under its original COPA and further held that the purchase of the Assets as presented to the ALC could not be the subject of a new COPA.

The purchase of the Assets by PHM was governed by an asset purchase agreement (“APA”) between LifePoint and PHM. The APA included a termination clause that gave LifePoint the discretion to terminate the agreement for several reasons, including the passage of more than one year without consummation of the purchase of the Assets.

The first anniversary date of the APA has passed and LifePoint has opted to terminate the APA. Thus, the intended purchase of the Assets by PHM under the APA will not occur. As a result, the issues raised in this appeal are moot because there is no longer a need for any determination by DHEC, the ALC, or this Court in this matter. *Sloan v. Greenville County*, 380 S.C. 528, 535, 670 S.E.2d 663, 667 (Ct. App. 2009) (“An appellate court will not pass judgment on moot and academic questions; it will not adjudicate a matter when no actual controversy capable of specific relief exists. . . . A case becomes moot when judgment, if rendered, will have

no practical legal effect upon the existing controversy. Mootness also arises when some event occurs making it impossible for the reviewing court to grant effectual relief.” (citations omitted)). Because termination of the APA renders their appeal moot, the Respondents-Appellants respectfully request that the Court grant their motion to withdraw their appeal in this matter.¹

Respectfully submitted,



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Attorneys for the Respondents-Appellants

April 9, 2021
Columbia, South Carolina

¹ The Respondents-Appellants note that the Appellant PHM has filed with the Court its Motion to Withdraw Appeal and Vacate Appealed Orders.

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Hospital, LLC d/b/a Kershaw Health Medical Center are theRespondents-Appellants.

PROOF OF SERVICE

The undersigned hereby certifies that on April 9, 2021 he caused a copy of the foregoing **MOTION OF THE RESPONDENTS-APPELLANTS TO WITHDRAW APPEAL** to be served upon all counsel of record via electronic mail to each counsel's individual AIS email address pursuant to SC Supreme Court COVID Order 2020-05-29-02 addressed as follows:

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