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Apr 19 2021

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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

APPELLATE CASE NO.: 2020-001610
ADMINISTRATIVE LAW COURT 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 theAppellant/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 the
.....Respondents/Appellants.

**PETITIONER/RESPONDENT’S RETURN TO MOTION TO
WITHDRAW APPEAL FILED BY RESPONDENTS/APPELLANTS**

Pursuant to Rule 240(e), SCACR, Petitioner/Respondent, Lexington County Health Services District, Inc., d/b/a Lexington Medical Center (LMC), submits this Return to Respondents/Appellants Providence Hospital, LLC d/b/a Providence Health, Providence Health Northeast, Providence Health Fairfield (Providence Health), and Kershaw Hospital, LLC d/b/a Kershaw Health Medical Center (Kershaw Health) (collectively “LifePoint”) Motion to Withdraw Appeal (Motion) filed on April 9, 2021.

RESPONSE

LMC craves reference to and incorporates herein the Procedural Background and Standard of Review set forth in its Return to Appellant/Respondent Prisma Health-Midlands (PHM) Motion to Withdraw Appeal and Vacate Appealed Orders, filed contemporaneously herewith.

As with LMC's response to PHM's similar motion, LMC does not oppose LifePoint's Motion to the extent it seeks dismissal of its appeal¹, although LMC disagrees with LifePoint's assertion that the termination of the asset purchase agreement between LifePoint and PHM (and others) "moots the issues in this case." Mot., 1. Contrary to LifePoint's suggestion, a justiciable controversy still exists despite the unilateral actions of the parties to the proposed transaction that instigated the course of conduct leading to these appeals. "A justiciable controversy is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a contingent, hypothetical or abstract character." *Byrd v. Irmo High School*, 321 S.C. 426, 430-31, 468 S.E.2d 861, 864 (1996). As did PHM, LifePoint fails to appreciate LMC's rights (and the future interests of other persons affected by proposed combinations of competing hospital providers), to have this Court affirm the ALC and confirm that DHEC's decision was in error. Furthermore, as fully briefed in LMC's Return to PHM's Motion to Withdraw and Vacate Appealed Orders, even if the mootness doctrine were implicated, exceptions to the doctrine support the necessity for a ruling on the merits. *See* LMC Ret., 7-10.

CONCLUSION

As stated herein, LMC has no objection to LifePoint's request to dismiss its appeal, subject to the provisions of Rule 222, SCACR.

¹ LMC does not waive its rights under Rule 222, SCACR, should the Court grant the dismissal.

Respectfully submitted,

s/ Jennifer J. Hollingsworth

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Dated: April 19, 2021

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PROOF OF SERVICE

The undersigned hereby certifies that on April 19, 2021, she caused a copy of the foregoing
Petitioner/Appellant’s Return to Motion to Withdraw Appeal filed by Respondents/Appellants
to be served upon all parties of record by email addressed as follows:

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