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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge

APPELLATE CASE No. 2020-001323

ADMINISTRATIVE LAW COURT CASE No.: 18-ALJ-07-0358-CC
ADMINISTRATIVE LAW COURT CASE No.: 18-ALJ-07-0360-CC
ADMINISTRATIVE LAW COURT CASE No.: 18-ALJ-07-0366-CC

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

v.

South Carolina Department of Health and Environmental Control and
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents,

AND

Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center,.....Appellant,

v.

South Carolina Department of Health and Environmental Control and
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents,

AND

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

v.

South Carolina Department of Health and Environmental Control and
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents.

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1 MUHA's CON application, does it provide for any
2 teaching facility or activity in the purported
3 Berkeley County location?

4 A: Yeah. I look through the application and saw
5 nothing in terms of staff, facilities, or
6 operations that would be associated with
7 teaching or research.

8 Q: Okay. All right. We'll go back to your next
9 slide, which I think is Berkeley County
10 resident inpatient utilization. And explain to
11 us the data used and the conclusions reached on
12 that if you would, please.

13 A: Now, this is basically the entire Berkeley
14 County inpatient volume. And this is segmented
15 for residents that are age 16+, so this is all
16 Berkeley County residents 16 or older that
17 received inpatient -- received inpatient care
18 somewhere within South Carolina.

19 Q: Okay.

20 A: And what this basically shows is that -- and is
21 this the entirety of the slide or does it go
22 further down?

23 Q: I can ----

24 A: Okay. Perfect. Thank you.

25 MS. SHOUN: If I may approach, Your Honor, I give

1 him a hard copy of this if the slide is ---

2 THE COURT: It's already there.

3 MS. SHOUN: Okay.

4 **A:** What the data show is that the lengths of stay
5 -- and that's really what I'm focusing on with
6 this slide. An average length of stay
7 basically is that for, in this situation, for
8 all the Berkeley County residents that were
9 admitted some place in South Carolina,
10 basically how many patients were discharged,
11 how many patient days they accrued, which is a
12 summation of how many days each patient stayed
13 in an inpatient setting, and the calculation of
14 average length of stay, which basically is
15 taking the patient days and dividing by
16 discharges. And what this data show is that
17 the plural for all conditions, the length of
18 stay was 382. Mental illness is higher as it
19 typically is. The OB grouping was low at 233.
20 And the med/surg side, which would be the total
21 minus mental illness and minus OB was about
22 394.

23 **Q:** And what's the significance of those numbers,
24 Mr. Richardson, for instance, as to average
25 length of stay?

1 **A:** The significance is that one of my observations
2 from their initial application submission is
3 that the lengths of stay that are included in
4 the forecast for the project are high. Now,
5 they are expecting that the medical/surgical
6 book of business that received Berkeley County
7 residents age 16+ was 3.94, that's the actual
8 number. MUHA's forecasting in their project
9 that that type of business would be 5 -- a 5.2
10 length of stay.

11 **Q:** So a non-tertiary, non-specialty?

12 **A:** A non-tertiary. And the so what question is
13 that even if the volume forecast in terms of
14 number of discharges are correct, through the
15 use of a higher than appropriate length of
16 stay, they basically -- the patient day
17 forecast is inappropriately too high, and,
18 therefore, their total volume forecasted too
19 high and their revenue forecast is too high.

20 **Q:** So it was sort of a ripple effect of those
21 projections?

22 **A:** Yes.

23 **Q:** Okay. Anything else on that slide, Mr.
24 Richardson, that we need to -- as far as
25 conclusions or data gathered?

1 **A:** **No. The only other observation I would make is**
2 **that the -- in the bottom column there where**
3 **I've attempted to try to get a comparable to**
4 **MUHA's medical/surgical sort of forecast**
5 **approach and their information, included in**
6 **there is a lot of tert- -- is a lot of tertiary**
7 **business. I can't carve out transplant; I**
8 **can't carve out, you know, high end**
9 **interventional cardiology; I can't carve out**
10 **the tertiary conditions or the tertiary DRGs**
11 **that MUHA says they will not be doing out**
12 **there. So with length of stay, the higher**
13 **tertiary services tended to be higher than**
14 **average. My belief is, is that if I could**
15 **carve those out, this length of stay would be**
16 **down below a 3.94.**

17 THE COURT: What was, again, MUHA or MUSC's
18 projected average length of stay? It was 5.

19 ...

20 **A:** **Comparable to 3.94 was 5.2.**

21 THE COURT: Thank you.

22 **A:** **And comparable to the 2.33, the OB, was 2. ----**

23 THE COURT: No, I said their projected length at
24 this hospital.

25 **A:** **Yes.**

1 THE COURT: Okay.

2 A: Yeah. MUHA projected in their CON forecast ---

3 THE COURT: Yeah.

4 A: --- that the reality for Berkeley was 3.99,
5 they were 5.2 in their forecast.

6 THE COURT: Okay.

7 MS. CRUM: Your Honor, could we just take a very
8 brief break? We've been going about two hours.

9 THE COURT: Oh, yeah. Absolutely, yes.

10 MS. SHOUN: Sorry.

11 MS. CRUM: Thank you.

12 THE COURT: How brief do you want it? Five minutes?

13 MS. CRUM: Yes, sir.

14 THE COURT: Okay.

15 MS. CRUM: Thank you.

16 (A break was taken from 11:23 a.m. until 11:36 a.m.)

17 COURT REPORTER: All rise.

18 THE COURT: Y'all be seated.

19 POINT OF ORDER:

20 MR. THOMAS: One point of order. I just wanted to
21 hand you my deposition designations for one of
22 MUHA's witnesses.

23 THE COURT: Okay.

24 MS. CRUM: Actually, it's not a witness that we have
25 listed. We understand it's a MUHA employee.

1 MR. THOMAS: Right.

2 MS. JONES: And I'm gonna do the counter-

3 designations over the weekend or probably

4 Monday. And I will give them to the Court

5 Tuesday.

6 THE COURT: So you anticipate not being here Monday?

7 MS. JONES: Well, I was told we weren't having court

8 Monday.

9 THE COURT: We were just discussing that.

10 MS. JONES: Okay.

11 THE COURT: See, I have a position that is not very

12 popular among my court.

13 (Laughter.)

14 THE COURT: I think state employees get too many

15 days off, but that is not very well received.

16 (Laughter.)

17 THE COURT: Matter of fact, it was just ---

18 (Laughter.)

19 THE COURT: So yes, we're having Monday off.

20 MS. JONES: All right.

21 THE COURT: When I worked at the Attorney General's

22 Office, you know, even I think once here, I

23 can't tell you how many times I'd go in and I'd

24 be working away and then I'd notice how quiet

25 it was. And then I'd realize it was a state

1 holiday and I was the only one there.

2 MS. CRUM: Your Honor, I used to do that at the AG's
3 office. The difference was, I had either Bert
4 Goolsby or Randy Bell there, and they would be
5 there.

6 THE COURT: There you go, yeah.

7 (Off the record discussion.)

8 THE COURT: All right.

9 Q: Okay, Mr. Richardson, we're just gonna go
10 through the remainder of your slides and the
11 next one up is tri-county provider volume and
12 that's 2018 data from JAR. What is JAR?

13 A: JAR is the joint annual reports that are filed
14 by each individual hospital, but basically the
15 state defines a required reported data set and
16 the State -- actually, the individual providers
17 respond and give the state back a numerical
18 data driven profile of who they are and what
19 they're doing. And part of that is utilization
20 for each hospital.

21 Q: And you relied on this data in reaching your
22 conclusions in this matter?

23 A: The purpose of this -- I'm gonna start first in
24 terms of the -- I made a mistake, a scrivener
25 mistake, in terms of the top line row, says

1 **Roper Hospital Total. The patient ---**

2 THE COURT: She asked if you relied upon it.

3 **A: I didn't rely upon the wrong number.**

4 THE COURT: Okay. There's where you're going with
5 this. Okay.

6 **A: The -- there's a change there about I**
7 **transposed the numbers wrong. Length of stay**
8 **did not change and the length of stay is what**
9 **I --is why I put this up for a so what issue.**
10 **And this basically, again, presents an array of**
11 **lengths of stay for 2008 for the individual**
12 **providers. And the issue here, again, similar**
13 **to the prior slide is that when you look at all**
14 **of the other providers except for MUHA or MUSC,**
15 **you find that the length of stay is well below**
16 **what you observe at the MUHA operation. My**
17 **conclusion or my opinion is is that the -- the**
18 **MUHA is a unique and distinct operation. You**
19 **know, they do stuff that no one else does with**
20 **a lot of that being a longer length of stay, a**
21 **higher acuity, just a bigger book of care. And**
22 **I think that in looking at some of the other**
23 **comparables is a more appropriate way to try to**
24 **determine what the length of stay will be at**
25 **the Berkeley Community Hospital versus using**

1 MUHA's tertiary/quaternary mix of patients.

2 Q: And the higher length of stay for the things
3 that MUHA does that nobody else does that
4 you've just described, you would anticipate
5 reasonably those lengths of stay would be
6 higher?

7 A: Yes, they would.

8 Q: Okay.

9 A: And I also reasonably expect based on MUHA's
10 definition of the patients they'll treat, is
11 that that's not gonna be -- those type patients
12 are not gonna be treated at the MUHA Berkeley
13 facility.

14 Q: At the proposed community facility?

15 A: At the proposed community facility.

16 Q: Okay. All right. Next slide. Are you ready
17 for the next one?

18 A: Yes, I am, ma'am.

19 Q: Okay. In looking at the tri-county provider
20 volume, the 2018 data, again, from an annual
21 JAR ---

22 A: Correct.

23 Q: If you would explain to the Court your
24 conclusions reached as a result of the data
25 shown on this slide.

1 **A:** This basically is a summarization of all
2 providers excluding MUSC compared to MUSC, so
3 it's MUSC compared to all the rest. And the
4 data, I believe, show that as I've discussed is
5 that the lengths of stay, you know, for the
6 remaining facilities other than MUSC, is well
7 below what you observe at MUSC. A bit of a
8 qualifier, all providers excluding MUSC does
9 include Roper and Trident, which where they
10 don't provide the same high, high level of care
11 that MUSC does, they do provide a higher level
12 of care than what will be offered at the MUHA
13 Berkeley Community Hospital. For example,
14 interventional cardiology or higher level
15 neonatal care. So the all providers excluding
16 MUSC averages, the -- sort of that summation,
17 that row up, likely is a little higher than
18 would be if I could look at a pure set of
19 lengths of stay excluding the tertiary and
20 specialty patient base that MUHA has included.

21 **Q:** Okay. And when you were explaining the Roper
22 lengths of stay, you're -- and the higher
23 acuity care there, you're referring to the
24 downtown campus of Roper?

25 **A:** Yes, I am. I'm talking -- yeah, I'm sorry.

1 Q: Okay.

2 A: The -- yeah, the downtown Roper Hospital.

3 Q: Not the newly opened Berkeley facility?

4 A: No, no.

5 Q: All right. Next slide. And if you would, Mr.

6 Richardson, explain to the Court the

7 conclusions on this slide and the data

8 supporting it as it's shown.

9 A: This slide basically presents a -- sort of a
10 what if forecast scenario. Basically if one
11 assumes that MUHA's volume -- their discharges,
12 their forecast they have in the CON application
13 are correct, I think they're too high, but if
14 you assume that they are correct, and modify
15 their forecast based on these lower length of
16 stay that we've seen elsewhere within the
17 community, what you find is that their volume
18 forecasts are well below with what's in the
19 application. The example I will give is that
20 in this presentation -- this slide is just the
21 medical/surgical book of business. The example
22 I will give is that the length of stay that's
23 included in the MUHA application for the
24 medical/surgical type patients is 5.2 days.
25 The -- if, in fact, you bring it down to 4.5

1 days, the average daily census drops by about
2 eight average daily census, so that's about --
3 that's about 3,000 patient days. If it drops
4 from the 5.2 in the CON on down to the Berkeley
5 County resident length of stay of 3.9, what you
6 have there you've got -- approximately there
7 you've got a five to six thousand patient day
8 decline. The implication of the lower patient
9 day forecast or the patient day decline is that
10 translates into less of a bed need for MUHA if
11 you use this approach.

12 Q: Okay. And the 3.9 you referenced was the
13 bottom summary, if you will, on that particular
14 slide, that's the forecast modified to use the
15 3.9 ALOS, or average length of stay?

16 A: That's correct.

17 Q: Just for Berkeley County?

18 A: That was the Berkeley County resident length of
19 stay applicable to this.

20 Q: Okay. All right. Next slide is MUHA figure 19
21 and that's inpatient OB volume projections.

22 A: This is a similar projection basically
23 replacing MUHA's forecast length of stay for
24 obstetric type care of 2.9 days and reducing
25 that down to 2.4 or 2.3 days.

1 Q: That's reduced based on what, Mr. Richardson?

2 A: That's based on -- the source is shown under
3 each of the scenarios. Reducing to a 2.4
4 length of stay that was the length of stay
5 actually observed for all tri-county providers
6 excluding MUSC. The 2.3 length of stay at the
7 bottom grouping is basically the Berkeley
8 County resident and/or the same result or the
9 combined tri-county resident average length of
10 stay for OB, both were at 2.3. And the -- sort
11 of the implication of this is that while my
12 observation is that the MUHA volume forecast on
13 the medical/surgical work which was on the
14 prior page ten or on the OB side on eleven, if
15 you look in terms of what they're forecasting,
16 they're forecasting for year three of operation
17 only a 50 percent usage of the medical/surgical
18 beds and only a 61 percent usage of their
19 obstetric beds. That in itself is a low
20 marginal, you know, less than to be inspected
21 level of care for the 128 beds that are
22 proposed in this project. But if I substitute
23 what I expect to be more reasonable lengths of
24 stay, that drops both of those occupancies down
25 into the 40 percent level. Again, indicative

1 of not reasonable or appropriate utilization of
2 those proposed 128 beds linking me to believe
3 that even if you assume that the volume
4 forecast are correct, the lower lengths of stay
5 strongly show that there's not a need for 128
6 beds in this proposed project.

7 Q: Okay. And we've seen that 678 number in one of
8 your previous slides, correct ---

9 A: Yes.

10 Q: --- as far as OB discharges?

11 A: Yes. The first -- the first book of volume
12 basically is taken directly from the MUHA CON.

13 Q: Okay. And then if you'll look ---

14 THE COURT: Well, what would be a realistic bed
15 need?

16 A: For MUHA?

17 THE COURT: Yes, based on what you just did.

18 A: What I did here, basically would be in the --
19 if I assume that the vol- -- the discharge
20 volume is appropriate ---

21 THE COURT: Yeah.

22 A: I think it's too high, but if I assume that
23 that's correct?

24 THE COURT: No, if you assume your number.

25 A: Oh, if I assume that their discharge is where

1 they should be and the length of stay is where
2 they should be, I think MUHA's probably about
3 a 40 to 60 bed facility. The sideways check is
4 that their volume from Berkeley County is a
5 little less -- equal to a little less of
6 Roper's. Roper's got a 50-bed hospital, I
7 think that's probably appropriately sized. So
8 MUHA with just a slightly less volume coming
9 out of there, 50 beds, so 40 to 60 depending on
10 scenarios is ...

11 THE COURT: Okay.

12 A: My opinion is is that their sizing of this --
13 I think it's a problem with site and size, but
14 I think the sizing of this is well beyond what
15 it should be.

16 THE COURT: Okay.

17 Q: To the Court's question, if I might just
18 interrupt the progression of the slides and
19 show the witness Petitioner's 41?

20 A: Would I have that up there?

21 Q: It's in the Trident notebook; I'm sorry. It's
22 the MUHA -- oh, I'm sorry.

23 A: Is it white?

24 MS. MITCHELL: Trident is green.

25 A: Thank you. And what exhibit, please?

1 Q: It's Trial Exhibit 41.

2 A: Thank you. I'm there.

3 (Trident Exhibit 41 was referenced at this time.)

4 Q: Okay. And do you recognize this document, Mr.
5 Richardson?

6 A: I do.

7 Q: Okay.

8 A: I saw this coming through on the discovery
9 side.

10 Q: Okay. And tell us, if you will, what you
11 understand this document represents?

12 A: It appears to represent a profile of the -- let
13 me go back a second. In the MUHA application,
14 the year one medical/surgical volume forecast
15 is 2457 discharges.

16 Q: We've seen that number on your ---

17 A: Sure have.

18 Q: Okay.

19 A: That comes to MUHA. This is a breakout in
20 terms of what type patients are included in
21 that and there's a clinical definition on the
22 left side there ---

23 Q: Yes, sir.

24 A: And a couple of observations here is that the
25 -- in terms of children and women, which is,

1 you know, about a third of the volume that's
2 proposed here ---

3 Q: Yes, sir.

4 A: --- I'm surprised that children and women are
5 in this med/surg volume forecast because of two
6 reasons. One, the definition for the MUHA
7 hospital is treating patients age 16+ and
8 there's a separate forecast for obstetric care,
9 so the -- it appears that there may be some
10 overstatement of cases in this case.

11 Q: Well, the 741, is that the number that you have
12 seen previously and using in your slide?

13 A: No. This is new information that basically
14 presents a breakout like clinical -- there's
15 not a heading, it just says row labels, but the
16 data show that children and women were 741.
17 Also in there is mental health. Now, it's not
18 a large number, but the fact that it's there,
19 as well, just gives me some concern that the
20 volume forecast that all of this is based on
21 may be a bit too high.

22 Q: Okay. The 678 that we referenced just a minute
23 ago when I said we'd seen that OB number
24 before, do you recall where you got the 678 as
25 MUHA's OB projection?

1 A: Sure, if I could look at MUHA's application.

2 Q: It should be DHEC -- yeah, DHEC 1, page 40.

3 A: What page have you referenced? I'm sorry.

4 Q: That's okay. Page 40.

5 A: 40.

6 Q: Yes, sir.

7 (DHEC Exhibit 1 was referenced at this time.)

8 A: Yeah, the -- in MUHA's CON application, there's
9 a forecast for project year 1, 2, and 3 of how
10 many OB discharges -- it says volume, so I'm
11 assuming it means discharges. How many
12 discharges they expect for year one of their --
13 of their operation and that is the 678.

14 Q: Would you expect that 678 to be included in the
15 2457?

16 A: No, should not be. Those numbers should be ---

17 Q: Okay. Should not be. All right.

18 A: --- should be two distinct things ---

19 Q: Okay.

20 A: --- and it looks like there may be some
21 overlap.

22 Q: Okay. And so the 678 as shown on DHEC 1, page
23 40, is where you retrieve that number using in
24 your projections and your calculations and your
25 opinions?

1 A: DHEC 1 ---

2 Q: The 678, yes, sir, page 40.

3 A: Page 4-0, yes.

4 Q: Yes.

5 A: Yes, from figure 19 there.

6 Q: Okay. That was MUHA's number?

7 A: Yes.

8 Q: Okay. And then on 41, we have a different
9 number than showing up for children and women,
10 correct?

11 A: Exhibit 41, not page 41?

12 Q: I'm sorry, yes. They are very close. I'm
13 sorry.

14 (Trident's Exhibit 41 was referenced at this time.)

15 A: The -- they are different things, but I think
16 the issue here is that the 2457 is reflective
17 of -- in the presentation of just
18 medical/surgical exclusive of pediatric and
19 exclusive of obstetrics.

20 Q: Okay.

21 A: The fact that there's that number there just
22 leads me to believe there may be some double
23 counting that should not be there.

24 Q: As well as the mental health number?

25 A: Yes, mental health, yes.

1 Q: What about the transplant number?

2 A: Transplant's a large grouping. It says
3 transplant nephrology and hepatology, which
4 would be transplant, kidney and liver work. I
5 don't know how many of the 106 shown here may
6 be transplant. If there are any, they should
7 not be there. But this raises a question, but
8 I just don't know.

9 Q: Okay. Again, it's not clear?

10 A: Right.

11 Q: Okay. Sorry I lead us down a different path.
12 If we could go back to the next -- on the
13 slides, I apologize. I think we're on MUHA
14 combined medical/surgical and OB and OB
15 projections.

16 A: The slide that's on the screen is ---

17 Q: Yes.

18 A: --- is just OB.

19 Q: Oh, okay. Yeah. I think that's -- yeah, I
20 think we've got to do that. And, again, if you
21 will as in the previous slides, explain to the
22 Court the data used and your conclusions or
23 opinions drawn as a result of that.

24 A: Sure. This basically is a summation of the
25 prior two slides that basically presents and

1 the first grouping, where it says projected
2 volumes for MUHA CON figures 18 and 19, this is
3 the forecast that MUHA has presented in this
4 application through the third year of
5 operation. My first observation would be,
6 again, with a 73 average daily census and
7 that's an overall occupancy of their 128 beds
8 of 57 percent, which is a telltale that the bed
9 sizing in this proposal is not reflective of
10 even their forecast, which I think is too
11 rigorous. So I think they got too many beds
12 even based on their volume numbers.

13 Q: Yes, sir.

14 A: If you replace lengths of stay and there's two
15 combinations here, there's a change in med/surg
16 and OB and then there's the more aggressive
17 change med/surg and OB, what you find is that
18 the average daily census drops from 73 percent
19 up at the top, which is pure MUHA forecast, on
20 down to 63 average daily census in the second
21 block are down to 55 down in the third block.
22 So basically, again, contracting what the
23 volume forecast is, therefore, contracting what
24 their revenue forecast should be, as well as
25 basically further eroding the basis for their

1 128-bed need.

2 Q: And just so we know, we haven't done this
3 before, if we have, my apologies for being
4 repetitive, explain average daily census.

5 A: Sure. And I apologize, I use this too often.
6 Average daily census is a very commonly used
7 metric, it basically takes average -- takes the
8 lengths of -- takes the patient days within a
9 given twelve-month period. For here, we're
10 talking about fiscal year 23, 24, 25, which are
11 the twelve months ending midyear in those time
12 frames. Basically, it's twelve months worth of
13 data, total patient days divided by the number
14 of discharges that were seen that generated
15 those patient days. Basically, it's how many
16 patients -- compares how many patients were
17 actually treated in your hospital and a
18 summation of all the patient days, all those
19 patients consumed or incurred and dividing the
20 patient days by the patients to give you on
21 average how long a patient stayed as an
22 inpatient in your facility.

23 Q: Okay. And, again, that's significant -- that
24 is significant as to many of the elements that
25 go into a bed need, if you will?

1 **A:** Sure. And you could take it even further in
2 terms of we heard yesterday Mr. Johnson talking
3 about Roper Berkeley's budget in play right now
4 length of stay projections for ---

5 **Q:** Yes, sir.

6 **A:** --- Roper's Community Hospital right there next
7 to this one. I think he said it was gonna be
8 that his budget forecast was three or 3.1 days,
9 which is even well below what I've shown here
10 in terms of my scenario. Using the Roper
11 Berkeley Community Hospital length of stay
12 would drives these volumes down even further
13 and show even further overstatement by MUHA.

14 **Q:** Would the 3.1 that Mr. Johnson addressed be, in
15 your professional opinion, a reasonable length
16 of stay for a community hospital offering the
17 services that Roper St. Francis Berkeley
18 offers?

19 **A:** It would be a range. I'm seeing lengths of
20 stay decline overall over time. In terms of if
21 I'm looking at community hospital, I'm looking
22 at low threes in terms of an average length of
23 stay.

24 **Q:** Okay.

25 **A:** So where he's at 3.31, you know, that's within

1 band.

2 Q: In your professional opinion, would that be a
3 reasonable length of stay for the community
4 hospital offering the services you understand
5 MUHA proposes to offer at its proposed Berkeley
6 site?

7 A: I think it would. I think what I have seen is
8 that there's an almost 100 percent overlap in
9 services or products that are offered -- that
10 are proposed to be offered at the MUHA hospital
11 -- community hospital as what is offered at
12 Roper Berkeley. If, in fact, this is going to
13 be a community hospital, then that's going to
14 be carving out all of the specialty and
15 tertiary DRGs, I think that the real-life, not
16 the plannings, not what people -- but the real-
17 life expectation of the 3.31 length of stay at
18 Roper Berkeley, I think is pretty good
19 predictive of what we will see.

20 Q: Okay. And if we can look at MUHA's non-
21 tertiary Berkeley County resident volume which
22 should be the next slide.

23 A: I'm there.

24 Q: Okay. And, again, if you will, as in the
25 preceding slides, Mr. Richardson, give us the

1 data from conclusions and the data supporting
2 this as evidenced on the slide.

3 A: Sure. The information that's presented here
4 basically is my inquiry as in terms of -- you
5 know, in healthcare, there's always a lot of
6 different ways to look at things. So, rather
7 than looking at the RFA data, which is the
8 public data, MUHA in discovery presented
9 information which is reflected to show the
10 number of non-tertiary -- basically, it's all
11 of their discharges from throughout metro area,
12 the tri-county area, but I'm able to carve down
13 to identify patients age 16+ so all I'm looking
14 at are just the 16+ patients, and all I'm
15 looking at are the non-tertiary discharges
16 defined by MUHA in their CON application. So
17 I'm looking -- the book of business I'm looking
18 at is the 16+ and non-tertiary patients and
19 what I've done is that I've arrayed those by
20 the zip codes that are shown in Mr. Levitt's
21 information as Berkeley County zip codes. It's
22 important to note that there are two zip codes
23 that Mr. Levitt had in his zip code array,
24 which when you run the pivot table on his
25 information shows no volume coming out of those

1 zip codes, so I think this is a reflective, a
2 reasonable presentation of what MUHA is
3 treating from Berkeley County residents age 16+
4 non-tertiary, what they did serve during the
5 year 2018.

6 Q: Okay.

7 A: The bottom part of this goes in terms of the --
8 as we've said many times since we started this
9 morning, I don't think it's reasonable that
10 MUHA will capture 100 percent of their volume
11 from Berkeley County, so I've done some
12 scenario analysis there. If they achieve 65
13 percent capture of their volume or 50 percent
14 capture, their average daily census would be in
15 the 14-15, 18-19 range versus the 74 range,
16 which is in the CON application.

17 Q: Okay. And then your next one is the MUHA non-
18 tertiary 10 mile, 20-minute resident volume.

19 A: Sure. The -- my inquiry here is that the -- if
20 as an alternative to the Berkeley County area,
21 the -- I set the service area basically by
22 identifying those zip codes from MUHA's
23 hospital site, how many zip codes as identified
24 by MUHA are either within 10 miles or 20
25 minutes. So I usually use a seven to ten mile

1 distance to define my service area, but I've
2 expanded it here to also allow for zip codes
3 that may be 20 minutes away. So it expanded
4 the number zips in the geography a little bit.

5 Q: If I could stop you just a minute. You're
6 talking about the purposed site?

7 A: Yes, I am.

8 Q: Okay.

9 A: I'm trying to find the geography that's
10 appropriate for analysis based on MUHA's
11 proposed Berkeley County site. So what I'm
12 doing, I'm using MUHA's definition of how many
13 zip codes are within ten miles as they present
14 data that show that. I've expanded that also
15 to include zip codes that may be within 20
16 minutes travel of that. So, small community
17 hospitals such as this, I think that's a
18 reasonable -- I think it's a little broader
19 than I typical would, but I think it's a
20 reasonable presentation of what a service area
21 may be. And if I do that, if I define the
22 geography that way, then once again I look at
23 just the non-tertiary patients, which is the
24 apples and apples that they'll be serving up
25 there, and I look at just the age 16+ patients,

1 which is apples and apples to what's proposed
2 there, what I find is that the data show that
3 -- and this is from Mr. Levitt's data, that
4 3316 discharges were served at MUHA's
5 facilities from the zip codes which are
6 descriptive as 10 miles and 20 minutes away
7 from the proposed site.

8 Q: In reaching similar conclusions on the bottom
9 of this slide as before, that those numbers as
10 they decrease for reasonable numbers, then the
11 average daily census decreases correspondingly?

12 A: Yes, it does.

13 OBJECTION:

14 MS. CRUM: Object to the form of the question. It's
15 leading.

16 THE COURT: Leading.

17 MS. SHOUN: I'll withdraw it.

18 THE COURT: Okay.

19 Q: All right. The next one is MUHA volume
20 forecast assuming no impact on other providers.

21 A: Yes, the basis for this is that again an
22 important sort of way they've set up all their
23 modeling is the assumption that MUHA will only
24 treat their own. I mean, are they not gonna --
25 they're not gonna cannibalize or they're not

1 gonna grab any sort of patient volume that may
2 be served at other facilities. They're not
3 gonna effect a market share grab by this
4 operation. It's just gonna be their own.
5 That's a big part of what they're proposing.
6 If you accept that, what you see here
7 basically, what I've done, is that from their
8 prior page, what I have shown is that from the
9 zip codes that are ten miles or 20 minutes away
10 from the proposed MUHA Berkeley site ---

11 Q: Yes, sir.

12 A: --- the -- if assume that 50 percent or 65
13 percent of that volume that they've
14 historically served would be captured at the
15 new site, again Roper Berkeley we forecast at
16 50 percent of our volume would stay, so I'm
17 saying, let's say that 50 or 65 of the volume
18 would stay ---

19 Q: Of MUHA's volume?

20 A: MUHA's volume would stay, I've then done some
21 calculations to determine what the average
22 daily census may be based on a couple of add-on
23 factors. So starting with the 2018 book of
24 business, 50 percent or 65 percent of it gonna
25 be kept at their hospital in Berkeley County,

1 I've basically said, okay, first off, let's
2 assume that it's gonna be either 10 or 20
3 percent of MUHA's Berkeley County volume will
4 come beyond this geography. In the Berkeley --
5 the original Berkeley Roper -- Roper Berkeley
6 case, we're assuming ten percent were beyond
7 Berkeley County, so I'm assuming here is that
8 either 10 or 20 percent of the volume will come
9 beyond that 10 mile, 20 minute area.

10 THE COURT: Which one? Or do you have both?

11 A: Which ---

12 THE COURT: 10 or 20 percent.

13 A: I think it's probably gonna be closer to --
14 lower to the 10, but, you know, give it a 15.
15 I think 20's too high. Even giving them 20,
16 you can do the other analyses, they cannot
17 support their 128 beds.

18 Q: And finally, Mr. Richardson, was there anything
19 else that particular slide?

20 A: no, the calculations that I've done there is
21 that one I've said -- I've made an assumption
22 in terms of how much business will they get
23 from beyond their defined service area.

24 Q: Yes, sir.

25 A: 10 or 20 percent. I've then layered on a

1 population growth because -- based on what I
2 have here, 2018, so I want to make sure I'm
3 looking in terms of the future, so I've used a
4 1.7 percent growth per year to bring that -- to
5 grow it forward to make sure I'm giving effect
6 to population growth. And what that shows
7 basically is a forecast at block three that's
8 there, is that basically on my assumptions, I
9 expect that MUHA will get between 9,788 patient
10 days which is ten percent from beyond the 10
11 mile/20 minutes zips at a 50 percent market
12 share, 50 percent redirection as a low or a
13 high, 14,313 patient days, which assumes 20
14 percent from beyond the defined service area.
15 Meaning that they'll capture 65 percent or be
16 able to keep 65 percent of their business. So
17 the range that I'm going to use on the next
18 page is that I think that MUHA's gonna get
19 between 9,788 and 14,313 patient days.

20 Q: And that's the final slide?

21 A: Yes.

22 Q: Okay. So your conclusion, based on your
23 education, experience, and your review of the
24 relevant data is?

25 A: That the -- my conclusion and the ---

1 **OBJECTION:**

2 **MS. CRUM:** Your Honor, I'm gonna object to leading
3 again. I'm sorry; at least it gives me a
4 chance to stand up.

5 **Q: What conclusions ---**

6 **THE COURT:** Well, on that one area, from what I've
7 read, in your conclusion is not necessarily
8 leading until she finishes the question.

9 **MS. CRUM:** Okay.

10 **Q: Can you give us the conclusions that are**
11 **evidenced on the last slide of your set of**
12 **slides, Mr. Richardson?**

13 **A: Sure. I'll start with the conclusion on the**
14 **slide before and then bring it forward?**

15 **Q: Yes, sir. Thank you.**

16 **A: The so what question is, my estimate is that**
17 **the volume for the MUHA facility is gonna be**
18 **between that 9,700 and the 14,000, and the so**
19 **what there is that that is significantly below**
20 **what's included in the financial forecast --**
21 **the patient days forecast are well below what's**
22 **included in the initial forecast and,**
23 **therefore, drives a lower -- it should drive a**
24 **lower revenue forecast. And the so what is**
25 **this forecast basically supports well less than**

1 **128 beds. This is, you know, the 40, 50, 60-**
2 **bed hospital, nowhere near the 128 hospital.**

3 **Q: Okay. All right, we have one more slide.**

4 MS. SHOUN: I thought that was the last one, I'm
5 sorry.

6 THE COURT: Yeah, you started with finally and then
7 you went to conclusion.

8 MS. SHOUN: I understand and I created false hope,
9 Your Honor. It was the last thing I think I
10 had.

11 THE COURT: Okay.

12 MS. SHOUN: I do apologize. That was cruel. I'm
13 sorry.

14 THE COURT: Go ahead.

15 MS. SHOUN: All right. I think we've done that
16 actually. No, no. Okay.

17 **Q: All right. Look at your last slide, Mr.**
18 **Richardson.**

19 **A: I have it.**

20 **Q: I don't. Thank you.**

21 **A: It's what's up on the screen.**

22 **Q: Okay.**

23 **A: The -- basically what I've presented here is**
24 **that I've compared the fact that MUHA in its**
25 **CON application has proposed that they will**

1 treat 26,805 patient days in 2025 and that's
2 what all the financials are based on; that's
3 what they've used to support the need for 128
4 beds, and I think it doesn't support the 128
5 beds but that's what they've used as sort of
6 the basis for their volume forecast, their
7 financial forecasting, and showing the need for
8 128 beds. I think a realistic estimate is the
9 97 to the 14 -- 14,000 patient days.

10 Q: Yes, sir.

11 A: My what if is that well, let's assume that MUHA
12 gets what they say they're gonna get. Let's
13 assume that MUHA gets that 26,805, in my
14 opinion, the only way they get that 26,805 is
15 basically by effecting a market share grab from
16 existing providers and those providers are --
17 if it's not -- if their patient market grab is
18 not self-direction from MUHA, it's gonna be
19 either from Trident or it's gonna be from
20 Roper, Roper St. Francis. So ...

21 Q: Can it get the 26,805 patient days from its
22 patients -- from hitting its own projections?

23 A: The -- the -- I don't think so in terms of
24 based on the fact their service area is too
25 big; their length of stay is too high. Bottom

1 line, I don't think they can achieve that, but
2 if they can -- because they need to get that
3 basically to show a positive bottom line. If
4 they get that, I think we need to -- you know,
5 if they get it -- the only way they get it is
6 by stealing from Trident and from Roper.

7 Q: Okay.

8 A: And if one assumes that some of that net they
9 have to make, which is the comparison of what
10 they're forecasting versus what I think they're
11 gonna get, so basically there's a gap there of
12 12,000 to 17,000 patient days. If 25 percent
13 comes out of Roper's side, about 33 percent
14 from Roper's side, a 50 percent from Roper's
15 side, what would be the patient day sort of
16 cannibalization by Roper as shown there, 25
17 percent would be three to four thousand, 33
18 percent would be four to five thousand, and 50
19 percent would be six to eight thousand patient
20 days that they have to grab from Roper. And I
21 think probably Roper Hospital is the most
22 proximate to this facility in terms of its, you
23 know, three or four miles away, because it's
24 right there in southern Berkeley County. So
25 from a -- from a proximate issue in terms of

1 what's the closest, of course, you know, Roper
2 Berkeley is the closest. But if you look in
3 terms of current market share, current market
4 share in Berkeley County without MUHA in terms
5 of like, you know, who's got the rest, it's
6 about -- Roper has about a third and Trident
7 has about two-thirds. So that's, I think, the
8 33 percent makes that rational. I think it's
9 between the 50 percent because they're right
10 there and the 33 percent based on market
11 shares. Bottom line is that the -- my
12 expectation is that there's going to be a Roper
13 Berkeley patient day grab of between three and
14 eight thousand patient days and the so what
15 question with that is that Roper's forecasting
16 12,775 patient days year three in all of its
17 forecasting and in its estimates. You know,
18 the loss of the lowest number, 3,000, is, you
19 know, close to 25 percent loss. Maximum of
20 8,000, that's, you know, well more than half,
21 two-thirds.

22 **Q:** Is that adverse affect?

23 **A:** I believe it is.

24 **MOTION TO ADMIT RSF 14:**

25 **MS. SHOUN:** Your Honor, we'd move this Exhibit

1 consisting of Mr. Richardson's slides, I think
2 it's been marked as 14, into evidence.

3 MS. CRUM: Your Honor, we would like to reserve my
4 objection until I've had the opportunity to
5 cross him about these Exhibits.

6 THE COURT: That's an interest- ---

7 MS. CRUM: I'm continuing objections to legal
8 opinions.

9 THE COURT: Okay. On that ground.

10 MS. CRUM: Yes, sir. And several of them I don't
11 know the source of them. He said he'd seen it
12 before, but didn't identify it, didn't say what
13 it was, where it came from. So just because
14 you've seen it before doesn't mean it should be
15 admitted as an exhibit.

16 THE COURT: Any response to that?

17 MS. SHOUN: I do have a response to that, Your
18 Honor. He's been qualified as an expert. An
19 expert is allowed to consider the documents,
20 the data, the research or any other information
21 that leads him or assists him in reaching a
22 professional opinion or an expert opinion. He
23 has done that. And that's allowed whether the
24 underlying information is admissible or
25 inadmissible. He can do that.

1 THE COURT: That's all well and true, but that
2 doesn't mean it comes in as an exhibit.

3 MS. SHOUN: It's not. His compilation is what's
4 being offered as an exhibit. His compilation
5 and his conclusions as they relate to the data
6 compilations shown on the individual slides.

7 MS. CRUM: Your Honor ---

8 MS. SHOUN: I mean, adversely, Your Honor, I'll have
9 to go through the slides and get him to read
10 into the record every data set he's entered and
11 every conclusion he's made.

12 THE COURT: And that we don't look forward to.

13 MS. CRUM: Your Honor, I couldn't read it from here,
14 but on the bottom of the exhibit it says, draft
15 subject to revision. This isn't ---

16 **Q: Okay. Are you gonna revise this, Mr.**
17 **Richardson?**

18 **A: No, I'm not.**

19 MS. SHOUN: Okay.

20 MS. CRUM: Your Honor, I still have my objection.
21 Just because he relied on it doesn't make it
22 admissible. His testimony is admissible. But
23 just because he relied on a document that he
24 doesn't know the source of, where it came from,
25 doesn't make the document admissible. It could

1 be hearsay for all we know. But it doesn't
2 make the document admissible.

3 MS. SHOUN: Actually, Your Honor, In Re Manigo, our
4 court determined that it is admissible,
5 frankly, if it's been relied upon by an expert
6 even if that's hearsay evidence and even if it
7 ---

8 THE COURT: In Re ...

9 MS. SHOUN: In Re Manigo, A-N-I-G-O.

10 THE COURT: I tell you what, I'll just look at that
11 over lunch and I'll decide because we're at a
12 lunch break now anyway, right?

13 MS. SHOUN: I've got just a couple.

14 THE COURT: Let me just withhold my ruling on this
15 over lunch.

16 MS. SHOUN: Okay.

17 THE COURT: Now, when you say In Re Manigo ---

18 MS. SHOUN: I think it's M-A-N-I-G-O.

19 THE COURT: Just give me the cite.

20 MS. SHOUN: I'm gonna ask my colleague to pull it up
21 real quickly. That's probably faster than me
22 finding my copy of it.

23 THE COURT: Okay. If y'all could just tell me that
24 before I leave.

25 MS. SHOUN: Oh, of course.

1 MS. LIPHAM: The cite is 389 S.C. 96, and that is
2 the Court of Appeals.

3 THE COURT: Thank you.

4 (Off the record discussion)

5 MS. SHOUN: I know you'll be disappointed, Your
6 Honor, but I'm finished.

7 THE COURT: I thought you were gonna go on a while.
8 I just pulled up In Re Manigo.

9 MS. SHOUN: Well, Your Honor, I could -- if the
10 Court wants ---

11 THE COURT: No, that's okay.

12 MS. SHOUN: Okay.

13 THE COURT: I'll look at it later. I've got it up.

14 MS. SHOUN: Thank you.

15 MR. SMITH: Soon as I go back to my office, it'll be
16 up.

17 MS. SHOUN: Thank you, sir.

18 THE COURT: It's 12:32 -- 12:22.

19 MS. CRUM: Yes, sir.

20 THE COURT: Y'all want to be back at 1:00?

21 MS. CRUM: Could we have 1:30, Your Honor.

22 THE COURT: No. I'm just joking.

23 (Laughter.)

24 MS. SHOUN: Your Honor doesn't even work on -- he
25 likes to work on State holidays; he's not in

1 favor of lunch.

2 THE COURT: 1:30 or even if you want ...

3 MS. HOLLINGSWORTH: 1:30.

4 MS. CRUM: 1:45?

5 MR. THOMAS: That's fine.

6 THE COURT: Well, they're saying 1:45 now, is that -

7 --

8 MS. HOLLINGSWORTH: That's fine. I just know Mr.

9 Richardson has a flight tonight, so it's the
10 reason we started a little early.

11 MS. JONES: Okay. 1:30.

12 MS. HOLLINGSWORTH: I want to make sure counsel has
13 enough time.

14 MS. CRUM: We'll do 1:30.

15 THE COURT: 1:30 then. Thank y'all.

16 (A lunch break was taken from 12:20 p.m. until 1:32
17 p.m.)

18 (Off the record from 12:20 p.m. until 1:32 p.m.)

19 COURT REPORTER: All rise.

20 THE COURT: Thank y'all. Be seated.

21 RULING BY THE COURT:

22 THE COURT: On that issue we left with concerning
23 the exhibit.

24 MS. SHOUN: Yes, sir, Your Honor.

25 THE COURT: On one hand, it's State vs. Kromah --

1 oh, by the way, the case y'all cited, I had it.
2 But it basically says kind of what I had
3 already said, you know, that he can testify to
4 hearsay. But my issue is, is not whether he
5 can testify to it, but whether you could admit
6 the exhibit relating to that testimony and ---

7 MS. SHOUN: I understand, Your Honor.

8 THE COURT: --- and it's straight -- well, now, I'm
9 not through. State vs. Kromah also -- this
10 case, it's been cited several times and the
11 underlying issue is, and it basically says that
12 an expert may rely upon facts and data that are
13 not admitted into evidence, not even admissible
14 into evidence if they are the type reasonably
15 relied upon by an expert in the field.

16 MS. SHOUN: Yes, sir.

17 THE COURT: But it also says the rule does not,
18 however, make hearsay automatically admissible
19 simply because it was relied upon by an expert.
20 But, and now I'm going to the other side of the
21 coin, in this case, he presented testimony
22 about each one of these exhibits. There was no
23 objection while that testimony was being
24 presented. I didn't find a South Carolina
25 case, but I found a Nebraska case, and it said,

1 and I'll just quote -- oh, it's Nebraska --
2 it's State vs. Kozisek, I guess; K-O-Z-I-S-E-
3 K, and it's 861 N.W.2d 465 (2015) case. But it
4 held that demonstrative exhibits are admissible
5 if they supplement the witness's spoken
6 description of the transpired event, clarify
7 some issue in the case and are more probative
8 than prejudicial. I think you're got to cross-
9 examine him regarding the underlying data and
10 I just think in light of my perception of it
11 being a demonstrative exhibit, of which he has
12 utilized already in his testimony, that it is
13 admissible and for which the probative value is
14 subject to cross-examin- -- and as a result of
15 cross-examination, it could be lessened if you
16 find -- if you reveal that the sources are not
17 reliable. So, as it stands now, I am going to
18 admit the exhibit.

19 (RSF Exhibit 14 was admitted into evidence at this
20 time.)

21 MS. SHOUN: Thank you. We appreciate the Court's
22 time devoted to that, Your Honor.

23 THE COURT: And I like evidence.

24 MS. SHOUN: You ---

25 (Off the record discussion.)

1 THE COURT: All right. Y'all proceed.

2 MS. SHOUN: Thank you, Your Honor.

3 MR. RICHARDSON - CROSS-EXAMINATION BY MR. WICEVIC:

4 Q: Good afternoon, Mr. Richardson. How you doing?

5 A: Well, good afternoon.

6 Q: You know me, my name is Vito Wicevic. We met
7 at your deposition. I've just got a couple
8 questions. Friday afternoon, I'll try to make
9 this quick.

10 A: Sure.

11 Q: You testified a little bit on direct about the
12 relevance of the board's criteria and the
13 selection of the relevance of the board's
14 criteria.

15 A: Correct.

16 Q: And I think you said something to the effect
17 that leaving off project review criteria 23 or
18 an adverse impact was problematic?

19 A: Yes, sir.

20 Q: And I just want to make sure, you understand
21 that just because the criteria was left off the
22 relative importance criteria and the deemed
23 complete letter, that doesn't necessarily mean
24 that the Department did not consider it, is
25 that correct?

1 **A:** The -- I think in terms of giving guidance to
2 the applicant and to the opposition in terms of
3 issues that will be addressed, not having it
4 there is problematic. The -- may the agency
5 have looked at it later on, they may, but in
6 terms of -- that's basically, hey, world, got
7 this application and these are the issues that
8 we're going to be addressing, and that's where
9 it was missing.

10 **Q:** And you understand that aside from compliance
11 with the need -- or excuse me, compliance with
12 the need of the plan, there's requiring the
13 Department to assign the relative importance
14 criteria -- relative weight to a particular
15 criteria, is that correct?

16 **A:** There's nothing that's I saw that said you must
17 give 30 percent or 20 percent or 10 percent,
18 correct.

19 **Q:** And the Department's able to select and order
20 the relative importance of the criteria as they
21 deem appropriate, is that right?

22 **A:** Yes.

23 **Q:** And there's nothing preventing you as --
24 representing an affected person from arguing
25 that an application doesn't comply with all 33

1 of the project review criteria, correct?

2 A: The -- you can, but, again, just I think in
3 terms of the -- in terms of just flagging what
4 appears to be the, you know, the major issues
5 for the agency and their evaluation, you know,
6 that's important -- that's important too,
7 because you know where you should be looking.

8 Q: Okay. Now, moving onto population growth,
9 you're not disputing that the tri-county
10 service area is growing, correct?

11 A: No, not at all. There was growth at our trial
12 prior; there is growth now. Updated
13 information from MUHA shows that growth is
14 declining a little bit, but -- no, excuse me.
15 There's still growth, but the rate at which
16 it's growing is flattening a little bit.

17 Q: In the Roper Berkeley/Berkeley Medical Center
18 contested case, did you testify that the
19 population growth in Berkeley County was
20 explosive?

21 A: I'm not sure I used the word explosive. It was
22 strong; it's still strong. The -- you know,
23 one and a half, two percent is solid strong
24 growth. I'm working in the suburb of Orlando
25 right now where we're about three to four

1 percent now. I don't think I used explosive,
2 but I may have. But, you know, it's good solid
3 growth down there.

4 Q: And as far as Dorchester County and the North
5 Charleston area, that's also grown, correct?

6 A: Yes.

7 Q: And you foresaw this in the Roper Berkeley
8 application, you thought it was going to
9 continue growing, correct?

10 A: At the point of the prior trial, we expected
11 there'd be population growth and there has
12 been, yes.

13 Q: And you were correct?

14 A: The people that were -- the sources that were
15 forecasting those, they were correct and the
16 fact that I assume that they were accurate is
17 okay, but, the demographers were the ones that
18 were doing that and I accepted it and it came
19 to pass.

20 Q: Okay. The distribution of beds in the tri-
21 county service area ---

22 A: Sure.

23 Q: --- I think during your deposition you
24 testified that now that the northern
25 Charleston/Berkeley County area, now that they

1 have Roper Berkeley, Berkeley Medical Center,
2 Summerville Medical Center, and Trident Medical
3 Center, there's a reasonable distribution of
4 beds in that area, is that ---

5 A: I think I said there's 400 to 500 beds in that
6 -- in that cluster.

7 Q: Would you consider that, I guess, a reasonable
8 distribution of beds?

9 A: The -- you know, optimally, you'd want to have
10 an equal distribution throughout, you know,
11 that doesn't happen. I think the fact that we
12 now have Roper Berkeley, you know, eight, ten
13 miles north of the Trident Summerville area is
14 a big pick up in distribution. There was
15 nothing there before.

16 Q: Correct.

17 A: You know, give me Moncks Corner, as well, and
18 it's even better. You can always -- you can
19 always get better distribution. The -- but I
20 think what we have now with the HCA on the
21 border and Roper Berkeley and Trident Berkeley,
22 I think you've got reasonable -- reasonable
23 distribution.

24 Q: And when you say HCA is right on the border,
25 are you referring to Trident?

1 **A:** **Trident and Summerville. Trident in North**
2 **Charleston and Summerville over in Dorchester**
3 **County.**

4 **Q:** **Do you know how close Trident is to the border**
5 **of Berkeley County and Charleston County?**

6 **A:** **I recall driving up 26, it's close to the**
7 **border.**

8 **Q:** **Do you have an estimate as far as distance?**

9 **A:** **I was driving in traffic; it wasn't but a**
10 **couple minutes.**

11 **Q:** **Okay. So back in 2010 when Roper was applying**
12 **for its hospital, was it your characterization**
13 **that there was a maldistribution of beds in**
14 **Berkeley County?**

15 **A:** **Yes, there were no beds in Berkeley County.**

16 **Q:** **Did you characterize it as being a significant**
17 **maldistribution?**

18 **A:** **I'm sure I did with nothing there.**

19 **Q:** **I wanted to walk through a couple of scenarios.**
20 **Do you have a calculator up there?**

21 **A:** **I do, yeah.**

22 **Q:** **You got a pen up there?**

23 **A:** **I do.**

24 **THE COURT:** **Are you gonna ask him if he has a pad**
25 **next?**

1 (Laughter.)

2 MR. WICEVIC: I've got the paper.

3 THE COURT: Okay.

4 **A: I don't need my pad?**

5 **Q: No, no.**

6 MR. WICEVIC: Ms. Perez, I don't know if it's
7 possible, could we get the Elmo up, please?

8 CLERK: Yeah.

9 **Q: All right, Mr. Richardson, I've just handed you**
10 **a couple of documents. Can you identify this**
11 **document, please?**

12 THE COURT: You can blow that up, yeah. You do the
13 people symbols.

14 MR. WICEVIC: People symbols?

15 THE COURT: Yeah, see it, like one person and more
16 than one? Do you want to show him?

17 MR. WICEVIC: I got it.

18 **Q: Mr. Richardson, can you identify this document?**

19 **A: It appears to be a data grab, by that I mean**
20 **this is what you get if you search on the U.S.**
21 **Census website. This is a quick facts area,**
22 **which has 2018 data rate for Dorchester County,**
23 **Berkeley County, and Charleston County.**

24 **Q: And it's -- is it the U.S. Census Bureau, is**
25 **that correct?**

1 **A:** It appears to be, yes.

2 **Q:** Do you use the U.S. Census Bureau data?

3 **A:** Yes, I do.

4 **Q:** Is it reliable and accurate?

5 **A:** In terms of historical, it is. It does not
6 forecast. It basically is an observation of
7 population estimates or snapshots historically.

8 **Q:** And this contains the 2010 Census data for
9 Berkeley County, Dorchester County, and
10 Charleston County, is that correct?

11 **A:** Looks like it has both the 2018 estimate and
12 the population as defined by Census in 2010.

13 **Q:** Okay. All right. I also gave you a form.

14 **A:** Yeah.

15 **Q:** Let's see if we can complete this form based on
16 the information that's in the Census Bureau.
17 So looking at the population estimates for 2010
18 with the Census Bureau for Berkeley County,
19 what do they have?

20 **A:** Two slightly different numbers here -- I'm
21 sorry; two slightly different numbers here.
22 You've got the population estimates and then
23 the population Census. It looks like we're
24 looking at a population estimate for 2018. I'd
25 probably use the line just below the blue

1 there, so a population estimate's base April 1,
2 2010 would be 178,316.

3 Q: Okay. What's the difference between the
4 population estimate base April 1st, 2010, and
5 then two lines below it -- two rows below it,
6 population Census April 1st, 2010?

7 A: I think where the -- the one I was talking of
8 has a (V2018), there are occasional post Census
9 modifications that are made, so this appears to
10 be the -- the scenario of publication that
11 issued last year.

12 Q: Is that the correct -- an update or correct
13 information?

14 A: I don't know.

15 Q: Okay.

16 A: I know there are changes from the initial two
17 as -- as we move forward.

18 Q: Well, if you were using these numbers, which
19 number would you use?

20 A: I'd probably use the one right below the blue
21 line.

22 Q: Okay. Well, let's use that. So, for Berkeley
23 County there is 178,316 people per April 1,
24 2010, correct?

25 A: That is correct.

- 1 Q: For Charleston County, it says 350,150?
- 2 A: Correct.
- 3 Q: And the for Dorchester, it is 136,173?
- 4 A: Yes.
- 5 Q: All right. And what's the sum?
- 6 A: Let me run it twice to make sure I do it right.
- 7 It looks like 664,639.
- 8 Q: 664,639?
- 9 A: I think that's correct.
- 10 .Q: And as far as a percentage of the total service
- 11 area ---
- 12 A: Right.
- 13 Q: --- total of tri-county service area, what
- 14 would Berkeley County's population be?
- 15 A: What I would do, I would divide 178,316 into
- 16 the combined 664,000.
- 17 Q: What do you get when you ...
- 18 A: Looks like 27 percent.
- 19 Q: What about for Charleston County, the
- 20 percentage of total tri-county population?
- 21 A: Looks like 53 percent.
- 22 Q: And Dorchester?
- 23 A: That would be 20 percent, which sums to 100.
- 24 So those numbers appear to be correct.
- 25 Q: Now, right around the time that the contested

1 case Berkeley Medical Center and Roper Berkeley
2 was going on -- excuse me, let me back up.
3 What plan was the Roper Berkeley application
4 filed under, do you recall?

5 A: The CON was filed in 2008. I don't know
6 whether it would have been a 7-8 or an 8-9. I
7 don't recall.

8 Q: Let me represent to you that it was the 2008-
9 2009 plan. Can you identify what I just handed
10 to you?

11 A: This is identified as DHEC's Trial Exhibit DHEC
12 3, cover page is 2008-2009 South Carolina
13 Health Plan and inside are pages II-18 and II-
14 19.

15 (DHEC Exhibit 3 was referenced at this time.)

16 Q: Right; it's not the entire plan.

17 A: Right.

18 Q: Well, let's go through the inventory of this
19 plan and count up all the beds in Charleston
20 County, Dorchester County, and Berkeley County.
21 So for Trident Medical Center, how many beds
22 does Trident Medical Center have according to
23 this '08-'09?

24 A: Trident's showing 296.

25 Q: What about Charleston Memorial?

- 1 **A:** It's not showing existing beds.
- 2 **Q:** How about MUSC?
- 3 **A:** 604.
- 4 **Q:** What about Roper and Roper Mount Pleasant?
- 5 **A:** Looks like 401.
- 6 **Q:** What about Bon Secours?
- 7 **A:** Bon Secours is showing 204 existing.
- 8 **Q:** Okay. East Cooper?
- 9 **A:** East Cooper is showing 140.
- 10 **Q:** Okay. And what -- if you total up the
11 Charleston area, what would that be?
- 12 **A:** The plan shows 1739, but let me just ---
- 13 **Q:** No, I'm just talking about Charleston County,
14 just the Charleston County -- are there any
15 other Charleston County hospitals?
- 16 **A:** No. But the Summerville Hos- -- Medical Center
17 is included in this array, but that's in
18 Dorchester County.
- 19 **Q:** Well, just focusing in on Charleston County ---
- 20 **A:** Sure.
- 21 **Q:** --- do you know the total beds?
- 22 **A:** Let me run it twice to be sure. Looks like
23 1645.
- 24 **Q:** And then am I correct that Summerville Medical
25 Center has 94 beds?

1 A: Summerville is shown here as 94 beds, correct.

2 Q: Okay. And are there any other Dorchester
3 County hospitals?

4 A: I don't believe so.

5 Q: And then Berkeley County, there are no Berkeley
6 County hospitals at this time, is that correct?

7 A: That's right.

8 Q: Okay. And so the total service area, the tri-
9 county service area, is what? I think you said
10 it just a few minutes ---

11 A: Yeah, just make sure. It's 1739.

12 Q: And so at this point in time, do you know or
13 can you tell us the percentage of Charleston
14 County beds compared to the total service area?

15 A: You divide 1645 into the total of 1739, which
16 I believe is 95 percent.

17 Q: What about Dorchester County?

18 A: That'd be the remaining five percent.

19 Q: Okay. And so you talked about there being a
20 significant maldistribution of beds at the time
21 of Roper Berkeley contested case?

22 A: Right.

23 Q: Is this what you were referring to?

24 A: I'm sure it was.

25 Q: This.

1 **A:** Basically, the -- there were no beds in
2 Berkeley County at that point, no.

3 **Q:** And there's been kind of a -- you know, the
4 service area includes three different counties,
5 but in terms, you know, separating the service
6 area and the counties. I mean, the counties
7 are kind of artificial lines, is that correct
8 when you're talking about total service area in
9 the health planning?

10 **A:** The -- in this situation I would in terms of to
11 -- you know, to put an artificial barrier
12 between, for example, Berkeley and Charleston
13 or Summerville or Dorchester with the highway
14 right in there, yes.

15 **Q:** I have a second worksheet. In the interest of
16 time -- in the interest of time, I've kind of
17 completed some parts of this, which you've
18 already testified to.

19 **A:** Right.

20 **Q:** And I'll point out that my completion of the
21 population data ---

22 **A:** Right.

23 **Q:** --- instead of using the 2018 version, I used
24 just the population census line, does that make
25 sense?

1 **A:** The percentages are the same.

2 **Q:** Okay, good. So, under this scenario, the
3 second one, let's pretend that Trident Medical
4 Center moved from Charleston County to Berkeley
5 County ---

6 **A:** Uh-huh. Yes.

7 **Q:** --- and see how that impacts the distribution
8 of beds in the tri-county service area. So,
9 moving Trident from Charleston to Berkeley
10 County ---

11 **A:** Right.

12 **Q:** --- what would the Charleston County total be?

13 **A:** 1349.

14 **Q:** And, of course, Berkeley County would be 296
15 because, again, now under this hypothetical,
16 Trident Medical Center to Berkeley County,
17 Trident Medical Center has 296 beds, is that
18 correct?

19 **A:** Yes.

20 **Q:** So under this scenario, what would be the
21 percentage of service area beds for Charleston
22 County?

23 **A:** It looks to be 77.5 percent -- 77.6.

24 **Q:** 78 percent, round up. Excuse me. And again,
25 Dorchester County remains the same.

1 **A:** **Right.**

2 **Q:** **What about Berkeley County?**

3 **A:** **17 percent. Yeah, that sums to 100.**

4 **Q:** **So would this still constitute a**
5 **maldistribution of beds in your opinion, with**
6 **78 percent of the service area's beds being in**
7 **Charleston County, but with 27 percent --**
8 **excuse me, 53 percent of the tri-county**
9 **population being in Charleston County?**

10 **A:** **I would still agree -- yes, I would agree that**
11 **the distribution still is not, you know, equal**
12 **across the three counties, but it's getting**
13 **better and we now -- in this situation we have**
14 **access in Berkeley we did not before.**

15 **Q:** **Okay. And what happens if we combined Berkeley**
16 **and Dorchester Counties? If we added 94 to the**
17 **296, what would that give you?**

18 **A:** **Give you 22 percent.**

19 **Q:** **And as far as population for Berkeley and**
20 **Dorchester, is that 73 -- excuse me, 47**
21 **percent?**

22 **A:** **Yes.**

23 **Q:** **And, again, that would still constitute a**
24 **maldistribution of beds in the service area?**

25 **A:** **I think comparing pop to the beds, there's a**

1 misdistribution. You know, they're not the
2 same as maybe you'd like to be, but the
3 population in Berkeley and Dorchester County as
4 a percentage is higher than the 22 percent
5 you're seeing in beds.

6 **Q:** Let's fast-forward to today -- not today,
7 around the time of review of this application.
8 All right. Mr. Richardson, I'm bombarding you
9 with a bunch of documents, let's go through
10 them one at a time. Can you identify this MUHA
11 Exhibit 2, please? Have you seen this document
12 before?

13 (MUHA Exhibit 2 was referenced at this time.)

14 **A:** No.

15 **Q:** Are you familiar with the Revenue of Fiscal
16 Affairs data here in South Carolina?

17 **A:** I am.

18 **Q:** Turn to the last page and, again, this is not
19 the complete copy of MUHA Exhibit 2.

20 **A:** Right.

21 **Q:** Last page, what does it indicate this record
22 is?

23 **A:** It says that the -- it defines the sources,
24 population estimates for '17 and '18 were
25 calculated using the vintage 2018 estimates by

1 Census and population projections for 2019
2 through 2024 were calculated by the South
3 Carolina Revenue and Fiscal Affairs health and
4 demographic section.

5 Q: Is that the type of data you would rely on in
6 performing your health planning work?

7 A: Yes, the -- for any public access utilization
8 data, the RFA is go to. County level
9 population, they're okay. Population, I tend to
10 go some of the external proprietary sources,
11 but RFA's okay.

12 Q: Okay. All right. I just handed you another
13 worksheet, this is gonna be I guess the third
14 one. And for this one, I'd like for you to
15 complete the population projections for 2021
16 for the Revenue and Fiscal Affairs data and
17 this is, again, referring to MUHA 2. So for
18 Berkeley County, this is on the second page of
19 MUHA 2.

20 A: What year are you looking at?

21 Q: For 2021.

22 A: Okay.

23 Q: I believe it's the last column.

24 A: Yeah. Yes. Yes, it is.

25 Q: So what's the Berkeley County population for

1 2021?

2 A: It is 238,050.

3 Q: All right. What about Charleston?

4 A: Just a second. 425,495.

5 Q: All right. And Dorchester, please?

6 A: Dorchester is 169,835.

7 Q: All right. And then the total for that, would
8 that -- where's your calculator?

9 A: It looks like the summation of those three is
10 833,380.

11 Q: The total tri-county population projection 2021
12 to the Revenue and Fiscal Affairs is 833,380?

13 A: Appears to be, yes.

14 Q: So breaking down the population by county, and
15 I can -- Berkeley County's percent look about
16 28 points -- 29 percent, does that look about
17 right?

18 A: Let's see.

19 Q: I'll let you calculate it.

20 A: Yeah, thank you.

21 A: About 28, 29 percent.

22 Q: Charleston County, about 51 percent?

23 A: Correct.

24 Q: And Dorchester is 20 percent?

25 A: Yes.

1 Q: All right. Now, let's take a look at the
2 service area beds according to the 2017-2018
3 Health Plan?

4 A: Sure.

5 Q: I gave you that, it's DHEC Exhibit 4.

6 A: Right.

7 (DHEC Exhibit 4 was referenced at this time.)

8 Q: So if you look at the inventory, so Trident
9 Medical Center and Berkeley Medical Center,
10 this one's a bit different and I think this was
11 pointed out during depositions, Trident Medical
12 Center has an existing bed 296, is that
13 correct?

14 A: Yes, plus their 50-bed approval, I think.

15 Q: Okay. And we'll add that to the bottom of the
16 Berkeley County column EMC.

17 A: Right.

18 Q: Is that ---- what about Summerville Medical
19 Center? It's 124?

20 A: Summerville is 124, looks like, yes.

21 Q: MUSC is 656?

22 A: Yes.

23 Q: Mount Pleasant Hospital, Roper Mount Pleasant
24 Hospital has 85?

25 A: Right.

1 Q: Roper Hospital is 316, is that right?

2 A: Yes.

3 Q: And if we want to because Berkeley -- excuse
4 me, Roper Berkeley was a transfer of beds, if
5 we want to reflect Roper Berkeley as a separate
6 hospital, what would the appropriate bed number
7 for Roper be? Would it be 266?

8 A: It's a 50-bed Berkeley Hospital from transfer,
9 so I think that's correct.

10 Q: Is that right?

11 A: I believe it is.

12 Q: Okay. East Cooper Regional Medical Center, how
13 many beds do they have? Is it 130?

14 A: 130, yes.

15 Q: And then Bon Secours, 204?

16 A: That is correct.

17 Q: Okay. So, the Charleston total, do you have
18 that number?

19 A: I will. 1637.

20 Q: All right. And so Dorchester's total because
21 Summerville Medical Center's only hospital in
22 Dorchester County, it's gonna be 124, correct?

23 A: Right.

24 Q: And then for Berkeley County, it's gonna be 100
25 beds, it's Berkeley Medical Center, Roper

1 Berkeley, they're both 50-bed hospitals,
2 correct?

3 A: Right. 100 beds combined, yes.

4 Q: And so what's the total beds in the service
5 area?

6 A: It looks like 1861.

7 Q: And as far as percentages, 1637 in Charleston
8 County, is that about 88 percent of the beds in
9 the total service area?

10 A: Yes.

11 Q: And for Dorchester, is that about seven percent
12 of the beds in the service area?

13 A: Yes.

14 Q: And for Berkeley, is that about five percent?

15 A: Yes.

16 Q: And so is it your opinion that Berkeley, now
17 that it has five percent of the beds in the
18 service area and it also has 29 percent of tri-
19 county population, that that is a reasonable
20 distribution of beds?

21 A: I think there still could be advances, but I
22 think it's a much better distribution than
23 there was prior to the approvals.

24 Q: And if you add Dorchester and Berkeley together
25 as far as beds, you're gonna get 12 percent of

1 the beds, correct?

2 A: Correct. Seven percent from Dorchester and
3 five percent from Berkeley.

4 Q: And if you add Berkeley and Dorchester's
5 population, that's 49 percent of the total tri-
6 county population, right?

7 A: That is correct.

8 Q: And so that's a better distribution -- is it
9 reasonable?

10 A: Again, you always can do better. The -- I
11 think this could be better; I think it's --
12 from where we were to where we are today, it's
13 a major positive plus.

14 Q: I only have two more of these.

15 A: Perfect.

16 Q: Next one. All right. In this fourth scenario,
17 Mr. Richardson ---

18 A: Yes.

19 Q: --- I -- same population projections as number
20 three ---

21 A: Okay.

22 Q: --- and I've just transferred them over. We
23 can compare them if you'd like. But under this
24 scenario, similar to what we did during 2009,
25 let's assume that Trident Medical Center was in

1 Berkeley County.

2 A: Right.

3 Q: Okay. So, doing that, moving it from
4 Charleston County to Berkeley County ---

5 A: Yes.

6 Q: --- it looks like Berkeley County total will be
7 396, is that correct?

8 A: I believe it is.

9 Q: Okay. What about Charleston County's total bed
10 -- excuse me.

11 A: It looks like 1341.

12 Q: And Dorchester County remains the same.

13 A: Right.

14 Q: Summerville Medical Center.

15 A: Right.

16 Q: So this total beds in the tri-county service
17 area look like 1861 again?

18 A: Just a second. Sure, if you include -- let me
19 make sure the numbers are solid.

20 Q: Okay.

21 A: Yes, 1861.

22 Q: And then as far as the percentage of beds per
23 county in relation to the service area,
24 Charleston looks like it has about 72 percent
25 of the beds in the service area, is that right?

1 **A:** Yes.

2 **Q:** Dorchester, still seven percent, is that
3 correct?

4 **A:** Yes.

5 **Q:** And then Berkeley under this scenario is 21
6 percent?

7 **A:** Right.

8 **Q:** So under that, Berkeley County has 21 percent
9 of the service area beds and then also 29
10 percent of the tri-county population, is that
11 right?

12 **A:** 21 percent of the beds, yes, and 29 percent of
13 the population, yes.

14 **Q:** And Dorchester County, again, has seven percent
15 of the service area beds and 20 percent of the
16 tri-county population?

17 **A:** That appears to be correct.

18 **Q:** And then Charleston 72 percent service area
19 beds and 51 percent of the tri-county
20 population?

21 **A:** Correct.

22 **Q:** And, again, the same exercise of adding
23 Berkeley County and Dorchester County
24 percentage of beds, it's gonna be 28 percent?

25 **A:** Right.

1 Q: But it's going to have 49 percent of the
2 population?

3 A: That looks correct.

4 Q: Is that getting better as far as the
5 distribution of the ---

6 A: The -- it's showing bed availability. Berkeley
7 County was not there before. You know, the gap
8 has -- has shrunk a little bit. The Dorchester
9 County, you know, gap is getting bigger it
10 looks like.

11 Q: Right. One last scenario ---

12 THE COURT: Did you start off by saying just a
13 couple of questions?

14 (Laughter.)

15 MR. WICEVIC: This is the last worksheet and I'm
16 done.

17 Q: All right. In the fifth worksheet, Mr.
18 Richardson, under this scenario, I wanted to
19 see what it looks like if we were to include
20 the Trident Medical Center in the Berkeley area
21 ---

22 A: Okay.

23 Q: --- also include MUHA Berkeley as if it's in
24 the bed inventory.

25 A: Okay.

1 Q: So, under this, it's 100 -- for MUHA Berkeley,
2 their project's for 128 beds, is that correct?

3 A: Yes.

4 Q: Okay. And so what would Berkeley -- the total
5 beds in Berkeley County be under this scenario?

6 A: Looks like 524, but let me just run it again to
7 be sure. Yeah, 524.

8 Q: And so what would be the total for the service
9 area?

10 A: Looks like 1989.

11 Q: And as far as the Charleston percentage of the
12 service area beds, that would be about 67
13 percent?

14 A: Yes.

15 Q: And Dorchester, that would be about six
16 percent, is that right?

17 A: Yes.

18 Q: And, finally, Berkeley, it would be 26 percent?

19 A: Yes.

20 Q: And so now when you compare the percentage of
21 beds per service area to the County, you have
22 Charleston County with 67 percent of the
23 service area's beds, and it's 51 percent of the
24 tri-county population.

25 A: Right.

1 Q: Dorchester has six percent service area beds
2 and it has 20 percent of the tri-county's
3 population. And, finally, for Berkeley County,
4 it would have 26 percent of the service areas
5 beds and 20 percent -- excuse me, 29 percent of
6 the tri-county population, is that right?

7 A: Those comparisons appear -- appear to be
8 correct.

9 Q: Okay. And you're saying under this scenario,
10 there would be an unnecessary duplication of
11 beds in this service area by adding the MUHA
12 project?

13 A: I think specifically to adding the MUHA project
14 within three to four miles of the Roper site,
15 yes. In terms of looking at the macro, you
16 know, you're getting a little bit better
17 distribution. You're focusing the Dorchester
18 as woefully underserved, but in terms of the --
19 the unnecessary duplication the -- on Roper St.
20 Francis, I still say yes.

21 Q: But as far as the distribution of beds in the
22 service area, is this more -- more optimal, I
23 suppose?

24 A: It -- it's moving on the better curve, but the
25 -- the -- again, that needs to be balanced to

1 -- to what the impact of what you're doing will
2 have on the -- on the existing progress.

3 Q: Okay. And if you added Berkeley and Dorchester
4 together, they would have 32 percent the
5 service area's beds ---

6 A: Yes.

7 Q: --- is that correct?

8 A: That's correct.

9 Q: And again, the population would be 42 percent?

10 A: I think it's 49 percent.

11 Q: 49. I'm sorry. That's all I have. Thank you.

12 A: Thanks.

13 THE COURT: Do we need to take a quick break before
14 you get going or ...

15 MS. CRUM: No, sir. I don't think so.

16 THE COURT: Okay.

17 MS. CRUM: But thank you. Might make me go quicker.

18 THE COURT: Okay.

19 MR. RICHARDSON - CROSS-EXAMINATION BY MS. CRUM:

20 Q: Mr. Richardson, I'm Liz Crum and we met at the
21 deposition.

22 A: We have. Good afternoon.

23 Q: How are you today?

24 A: Doing well. Yourself?

25 Q: I'm good. I know you need to get out of here.

1 So I can be mindful of your time, what time
2 does your plane leave?

3 A: 7:05.

4 Q: Okay. I think we can do it and I don't think
5 it'll be close. Just a -- you would agree with
6 me, wouldn't you, that there currently exists
7 a maldistribution of beds in the tri-county
8 area of South Carolina?

9 A: I would agree there's a higher ratio of beds in
10 Charleston County than the remaining two. So,
11 in terms of is -- it's -- there's not a --
12 there's not an equal distribution. There's a
13 higher concentration in Charleston County than
14 the remaining two.

15 Q: Do you have a copy of DHEC Exhibit 1 in front
16 you?

17 (DHEC Exhibit 1 was referenced at this time.)

18 A: Is that ---

19 Q: The DHEC ---

20 A: --- the CON?

21 Q: Yes, sir. The CON.

22 COURT REPORTER: White. All the way to the left
23 next to the green.

24 A: Thank you. I do.

25 Q: All right, sir. You would agree with me,

1 wouldn't you, that the discussion of
2 alternatives to doing a specific project is in
3 Regulation 61-63, 202(B)(12) and not (B)(11),
4 wouldn't you?

5 A: Discussion of alternatives is in (B)(12).

6 Q: Okay.

7 A: I believe.

8 Q: Not -- not (B)(11).

9 A: Just make -- let me look on the application
10 just to be sure. I believe you are correct.
11 Let me just look to be sure, if I could. That
12 is correct.

13 Q: And so if you had said that in your direct, you
14 just misspoke on that?

15 A: The -- the -- I suggest to my clients that in
16 (B)(11) that they talk about alternatives in
17 discussion. I then basically summarize that in
18 -- in (B)(12), but the -- it's part of the
19 planning for it.

20 Q: Okay. But the -- the DHEC reg is -- it's
21 addressed in (B)(12), right?

22 A: Specifically, yes.

23 Q: Okay.

24 A: Discuss the alternative facilities and
25 services.

1 Q: And you also suggested that the MUHA CON
2 application might be a competing applicant,
3 didn't you?

4 A: Competing applicant.

5 Q: Uh-huh. A competing applicant.

6 A: I don't see this being a competing app. I
7 think it would be a competing facility, if
8 approved.

9 Q: But not a competing applicant?

10 A: There's only one applicant here.

11 Q: Right. And so the situation in 2012, you
12 actually had Trident claiming they were
13 competing applicants and Roper claiming the
14 applications were not, correct?

15 A: That is correct.

16 Q: And in -- you testified that Trident only
17 applied for 50 beds in 2- -- in it's 2008
18 application. It could only apply for 50 beds,
19 couldn't it?

20 A: Trident blended a bed need less than 50 --
21 yeah. I believe -- I believe back then, the
22 50-bed -- you had some level of need, you could
23 sort of round up to 50 beds.

24 Q: To make a "economical unit," is that correct?

25 A: Yes. Yeah.

1 Q: All right. Let's look at -- at MUHA Exhibit 2,
2 please, sir. You might -- you might as well
3 keep that out.

4 (MUHA Exhibit 2 was referenced at this time.)

5 A: Okay. MUHA Trial Exhibits 1 or 2 or just MUHA
6 ---

7 Q: Trial -- it's up on the screen, if that's
8 helpful.

9 A: No.

10 Q: That's the document that Mr. Wicevic just gave
11 you.

12 A: Right.

13 Q: You should have a copy of it right there.

14 A: And this is 2?

15 Q: Yes, sir.

16 A: Got it. I'm there.

17 Q: I think it's right in here, if that's easier.

18 A: Now, it's good.

19 Q: And so you had testified that you had seen some
20 population data from MUHA that was updated; is
21 this what you're talking about?

22 A: No. I'm talking about Mr. Levitt's exhibit,
23 which basically has population forecasts for --
24 I'm trying to recall the chart -- tri-county
25 and then the various suburbs within the tri-

1 county, which shows that population growth and
2 is updated was less than it was in the initial
3 application.

4 Q: Now, you -- you would agree with me that in
5 doing your forecasting, you use the most
6 recently available data, don't you?

7 A: I try to. You know, as long as it's
8 reasonable. Sometimes you get ---

9 Q: The U.S. Census updates and RFA's updates are
10 reasonable, aren't they?

11 A: U.S. Census basically has -- their estimates
12 are based on 2010 Census. The -- the reality
13 is that the further we get away from the real
14 count, it gets a little bit fuzzier, but the --
15 the -- the -- I think they're reasonable and I
16 think the RFA -- there are in -- instances
17 where RFA individual county gets a bit off
18 point, but I think in terms of lowcountry, I
19 think it's probably okay.

20 Q: Do you know whether or not the RF -- RSA -- I
21 keep wanting to do RFA, Royal Air Force,
22 because I studied a lot of World War II
23 history, so if I do that, I really mean RSA.
24 Okay. All right. Is the state demographer
25 housed in the office of the RS -- RFA -- RSA?

1 Q: RFA. RFA.

2 A: I believe it is. Yeah.

3 Q: Okay. And doesn't (B)(11) require the
4 applicant to use populations -- statistics
5 consistent with those generated by the State
6 demographer?

7 A: Yes, it does. However, at the State
8 demographer only publishes data that are
9 presented at the county level. And, for
10 example, in MUHA's CON application, there was
11 sub-county population used; therefore, it was
12 used from an external data source. Which is
13 what I would do, too. So, the -- the -- MUHA
14 used non-State demographer population data,
15 which I would, too.

16 Q: MUHA used Claritas data, didn't they?

17 A: I believe Claritas are used -- one the of the
18 external demographic ones, which -- which are
19 fine.

20 Q: And they also referenced RFA data, didn't they?

21 A: I'm sure there was, but I know that the -- the
22 -- the core of their assessment of population
23 was by some market area, which was not state,
24 and their entire forecast at the zip code
25 level, could not have been by RFA, so that must

1 have been the Claritas ---

2 Q: I -- I ---

3 A: --- as well.

4 Q: I asked you a simple question and that was
5 whether or not their application used RFA data.

6 A: The -- there may have been a reference to RFA
7 data in their application. The core forecast
8 was not RFA data.

9 Q: Do you know whether or not they used RFA data
10 at all in their application?

11 A: No.

12 OBJECTION:

13 MS. SHOUN: Objection, Your Honor.

14 Q: Okay. Thank you.

15 MS. SHOUN: That's been asked and answered.

16 MS. CRUM: It hadn't been answered, Your Honor. I
17 was just trying to get an ---

18 THE COURT: I'll overrule it.

19 MS. CRUM: --- answer.

20 Q: Now, you would agree with me that the Berkeley
21 County population, based on the State Health
22 Plans -- based on the State Health Plan and the
23 RFA 2019 updates, the population in Berkeley
24 County has been explosive? It's grown from 2
25 -- 2,000 -- 221,091 to estimated 255,510.

1 **A:** I don't know what you're looking at. I don't
2 -- I don't -- I see the 221,000. I don't see
3 a 255.

4 **Q:** Okay. I -- I'll just -- we'll come back to
5 that.

6 **A:** Okay.

7 **Q:** And I'll give you another document. You would
8 agree with me, wouldn't you, Mr. Richardson,
9 that the South Carolina 2017-18 State Health
10 Plan shows a -- an institutional bed need for
11 MUHA Berkeley at -- I'm sorry, for MUHA at its
12 downtown peninsula campus?

13 **A:** Yes.

14 **Q:** Okay. So, that's an identified need in the
15 Plan, right?

16 **A:** MUHA specific. Yes.

17 **Q:** Right. And in -- and let's look at DHEC
18 Exhibit 2. And go to Page 3-2, I believe it
19 is.

20 (DHEC Exhibit 2 was referenced at this time.)

21 **A:** Should I keep this other notebook close or ---

22 **Q:** You can -- whatever makes you comfortable.

23 **A:** I don't want to be slinging it on the floor,
24 which I'm prone to do. Okay. DHEC 2 is the
25 '04, '05 South Carolina Health Plan?

1 Q: Yes, sir. That's correct.

2 A: Yeah.

3 Q: And look at Page III-2.

4 A: I'm there.

5 MS. CRUM: Come on down. Could you scroll down,
6 please, sir? That's what I need right there.

7 Q: The Berkeley -- the Berkeley -- the tri-
8 Berkeley application was filed under the 2004,
9 '05 Plan, wasn't it?

10 A: The Roper Berkeley plan?

11 Q: No, sir. The Trident Berkeley.

12 A: Trident Berkeley plan.

13 Q: The Trident Berkeley application was filed
14 under the 2004, '05 Plan, wasn't it?

15 A: I don't know.

16 Q: Okay. Well, just assume for me that it was.

17 A: Okay.

18 Q: All right, sir. Now, if you would look on Page
19 -- let's see. It's really -- okay. Look for
20 me on II-6. Got the wrong page.

21 A: Okay. I'm there.

22 Q: All right, sir. Under general hospitals, the
23 --

24 A: I'm sorry. I'm sorry. I'm on I-6, let me get
25 to II-6. Now, I'm there.

1 Q: All right, sir. Under general hospitals,
2 there's a need methodology set out in that
3 plan, correct?

4 A: Yes.

5 Q: And the need methodology says that for beds
6 between 0 and 174, there's a 65 percent
7 occupancy rate utilized in the calculation,
8 right?

9 A: In the Plan, yes.

10 Q: In the Plan. And for the 175 to 349, it's a 70
11 percent occupancy, right?

12 A: That's correct.

13 Q: And for 350-plus beds, it's 75 percent, right?

14 A: That appears correct.

15 Q: And in calculating the bed need, the State
16 breaks down the age cohorts into 0 to 17, 18 to
17 64 and 65 and over, correct?

18 A: They attempt to. You know, there are -- some
19 hospitals don't provide that data, but that's
20 -- that's their attempt.

21 Q: That's what the methodology is, isn't it?

22 A: Yes. The -- however, the -- there's always one
23 or two hospitals that -- that just provides
24 that total.

25 Q: Okay.

1 COURT REPORTER: Just what their total?

2 A: Just provides their total ---

3 COURT REPORTER: Thank you.

4 A: --- volume, not segmented by age.

5 Q: Do you have any evidence that Trident didn't
6 provide it's age cohorts in the 2004, '05 Plan?

7 A: I -- I'm not really familiar with the '04-05
8 Plan. They -- I know in one of the subsequent
9 plans, Trident basically consolidated all of
10 their -- their -- their volume in -- in one age
11 group.

12 Q: But in the '04-05 plan, there's a calculation
13 of bed needs made for individual facilities,
14 aren't there, on Page II-7 under Paragraph A.

15 A: II-7-A, gives the methodology. It doesn't give
16 the result. It tells you how to do it, but not
17 -- not the result.

18 Q: How about just read A for me?

19 A: Calculation -- calculation of bed need are made
20 for individual facilities.

21 Q: That's what I asked you was were calculation of
22 bed need made for individual facilities.

23 A: Yes. They ---

24 Q: Okay.

25 A: I thought you were asking for the -- what is

1 the result of that.

2 Q: No, sir.

3 A: Yeah.

4 Q: Just ---

5 A: Yep.

6 Q: --- whether or not they're done for individual
7 facilities. Okay. Now, under this Plan, if a
8 hospital had a bed need, excess bed need, they
9 could transfer that bed need to another
10 location in the service area, couldn't they?

11 A: That's what Trident did.

12 Q: I'm just asking if they could do it under this
13 Plan.

14 A: Again, I'm not -- I have not spend a lot of
15 time with this -- this Plan, so the -- the --
16 I know it did occur.

17 Q: All right. But that's what Trident did. They
18 transferred the bed need from Dorchester County
19 to Berkeley County, didn't they?

20 A: There was a Trident that would have been from
21 Charleston County to Berkeley County.

22 Q: From Charleston County to Berkeley County.
23 Right.

24 A: It was Trident, yes.

25 Q: Yes, sir. It was Trident. All right. So,

1 they transferred from one county to another to
2 establish the bed need. I mean, to establish
3 the hospital.

4 A: That appears -- that looks like what happened.

5 Q: Okay. So, MUHA can do that also provided they
6 meet the requirements of standard 5, right?

7 A: They do -- the -- it appears to me, a planning
8 perspective, it appears the door is opened to
9 allow them to do that as long as they can
10 document that there is a community need where
11 they're proposing the development. The -- that
12 makes sense. The -- it's almost as if the door
13 has three levels of security. The first level
14 is is that they have a bed need at -- down on
15 the peninsula, that first deadbolt gets
16 unlocked. It -- but there's still more they
17 have to do. The -- but in terms is -- does
18 that allow them to do that? Yes. In terms of
19 -- to move forward with that assessment.

20 Q: And that's all I asked you if as long as they
21 met the standards in the Plan and the project
22 review criteria. That's all I asked.

23 A: And I think I ---

24 Q: Okay.

25 A: --- responded.

1 Q: Yes, sir. Thank you. Now, a basic assumption
2 from a health planning perspective is that
3 patients are aligned with a particular health
4 system and, therefore, these patients will be
5 redirected to other facilities from in the
6 system, correct?

7 A: The -- that's one part of where patients will
8 go. That's -- that's one part of the equation.

9 Q: Yes, sir. Thanks. Okay. And I think you
10 testified earlier that you used a 50 percent
11 redirection for purposes of the Roper Berkeley
12 2012 testimony -- application.

13 A: Yeah. The Roper Berkeley application basically
14 assumed that 50 percent of Berkeley resident
15 volume that was being treated at -- at Roper
16 facilities downtown would remain in Berkeley
17 County. Yes. Yeah.

18 Q: And you agree that that's a reasonable
19 projection?

20 A: I think so.

21 Q: Okay. And you would agree that assuming they
22 meet that projection, then Roper Berkeley would
23 not have an adverse impact on other healthcare
24 facilities in the -- in your seven or eight or
25 ten mile radius?

1 **A:** In the circumstance of the Berkeley County
2 project, yes, because there was nothing else
3 there.

4 **Q:** Okay.

5 **A:** Because concurrent with the 50 percent
6 redirection was an assumption that there would
7 be a 10 percent cannibalization from other
8 providers.

9 **Q:** But back to my question, you would agree that
10 that would not have an adverse impact on the
11 surrounding healthcare facilities, would it?

12 **A:** The -- the piece of the forecast volume that
13 was redirection from Roper would not have an
14 impact. The remainder would, but the piece
15 that's redirected would not.

16 **Q:** In its application for 50 beds, Trident
17 expected that 100 percent of its patients would
18 come from other HCA facilities, didn't it?

19 **A:** Yes, it did.

20 **Q:** Okay. And looking at Trident and their patient
21 origin data, you thought that made sense,
22 didn't you?

23 **A:** I'm not sure -- I would not agree that 100
24 percent redirection will occur.

25 **Q:** Okay. Would you agree with me, Mr. Richardson,

1 that repossess -- repositioning assets would
2 bring services closer to the population and
3 enhance access?

4 A: It can.

5 Q: Would you agree with me that when Roper
6 transferred its 50 beds from downtown, that
7 that was a repositioning of its assets to bring
8 the beds closer to patients, better access?

9 A: Yes.

10 Q: Okay. And would you agree with me that what
11 Trident did in transferring its existing beds
12 to Berkeley County also re- -- repositioned
13 assets to bring the services closer to the
14 population and enhance access?

15 A: I think we discussed a little while ago that --
16 that Trident was moving bed need, but it -- it
17 was repositioning.

18 Q: Well, bed need is an asset, isn't it?

19 A: I ---

20 Q: It's an asset, isn't it?

21 A: It's an indication that you may -- that you
22 have the ability to work your need if you get
23 approval for developing beds. It's -- it's --
24 it's not a done deal.

25 Q: You would agree with me, wouldn't you, Mr.

1 Richardson, that -- let me stop there just a
2 second. Summerville Medical Center and Trident
3 Medical Center are part of Trident Health --
4 Trident Medical Center, LLC, correct?

5 A: I bel- -- I don't know the exact corporate
6 structure, but I believe there is common
7 control at some level.

8 Q: They're owned by the same entity, right?

9 A: At the top level of HCA, I believe so. I don't
10 know ---

11 Q: You don't know ---

12 A: --- the interims. Yeah.

13 Q: Okay. All right. Then you would agree with me
14 that Summerville Medical Center and Trident
15 Medical Center and then Roper St. Francis have
16 distinct and separate medical staffs, wouldn't
17 you?

18 A: Yes. Every hospital must credential and create
19 their own medical staff.

20 Q: And you would also agree with me that there's
21 a parallel healthcare delivery system in
22 Berkeley County between Roper St. Francis and
23 Trident? Trident and SMC?

24 A: There are two distinct healthcare delivery
25 systems, but as we heard from Mr. Bosse, there

1 is overlap.

2 Q: Okay.

3 A: The -- but in terms of HCA with Summerville and
4 Trident are creating their own network and
5 Roper is creating its own, as well, but the --
6 but there is overlap.

7 Q: You would agree with me that there is very
8 little overlap between physicians wh have
9 admitting privileges in the Roper St. Francis
10 system and in the Trident system?

11 A: I would expect that that -- the numbers are not
12 huge, but I -- I believe, listening to Mr.
13 Bosse and speaking with Mr. Bosse, that there
14 are admitting physicians that admit both at
15 Trident or Summerville and at -- at Roper
16 Berkeley.

17 Q: And what percentage do you believe that is?

18 A: I -- you know, less than -- well, less than the
19 majority. I don't know. But the -- in terms
20 of the -- its -- its -- they are not distinct
21 and disparate. You know, there is some
22 overlap. You know, it's -- it's not gonna be,
23 you know, the majority by any means.

24 Q: It's going to be less than ten percent?

25 A: I think more than ten percent, but it's not

1 gonna be 50 percent.

2 **Q:** And what do you base that on?

3 **A:** Discussions with Mr. Bosse and listening --
4 listening to him in terms of -- I think he --
5 he was talking in terms of some of the, you
6 know, not sub-specialists, but about some of
7 the specialities. He said the OB and I think
8 there was some orthopods. There -- there is --
9 there are -- let me slow down. There are some
10 physicians that are actually practicing and
11 admitting at both -- both sites.

12 **Q:** You would agree with me, wouldn't you, Mr.
13 Richardson, that the growth in -- in Berkeley
14 County and in the three county service area
15 there has been such since 2000 that the State
16 has underforecast population for -- in the
17 State Health Plans from 2004 through 2017 and
18 '18?

19 **A:** I don't know.

20 **Q:** Okay. Would you agree with me that the growth
21 in Berkeley County has been such that the State
22 underestimated Berkeley County's population
23 growth between 2000 and 2010?

24 **A:** I've not compared the Census counts to what
25 occurred versus the forecast. I don't know.

1 Q: How does one -- well, first off, how does a
2 patient get into a hospital? How do they get
3 access to a hospital?

4 A: I'm going to parse my response. As an
5 inpatient, a doctor must admit in terms of --
6 so, procedurally. In terms of how the patient
7 gets, you know, into the -- the system, in
8 terms of Roper Berkeley, for example, it would
9 either be by a physician referral or a
10 physician direct admit. It would be a -- a
11 linkage with the outpatient work that's being
12 done at the -- then all of a sudden there's a
13 -- there's an indication that inpatient work
14 may be done, so it comes in that way. The
15 emergency room is another major -- major access
16 and a driving point.

17 Q: Okay. To be admitted to the hospital, a
18 patient has to be admitted by a physician that
19 has medical privileges at that hospital,
20 correct?

21 A: Yes. That's my understanding.

22 Q: Okay. Well, was that your understanding about
23 the Roper St. Francis hospitals?

24 A: That'd be my understanding about any hospital.

25 Q: Okay. I'm asking you about Roper St. Francis.

1 A: That's my understanding.

2 Q: All right, sir. Would you -- follow-up a
3 little bit on what Mr. Wicevic asked you. You
4 do agree with me, don't you, that there is a
5 maldistribution of inpatient beds in the tri-
6 county service area?

7 A: I agree that there -- there are more beds in
8 Charleston than the population would indicate.
9 So, the -- there's misdistribution in terms of
10 -- well, we sat here for the prior trial.
11 Well, you -- you weren't there. When we sat
12 for the prior trial, you know, there was black
13 and white maldistribution as there were no beds
14 in Berkeley County. The -- is there an
15 imbalance today? Yes, there is, meaning, are we
16 better than we were? Yes, we are. Could it
17 could someone -- somewhat better? Yes.

18 Q: You would agree with me that maldistribution is
19 defined as bad or faulty distribution,
20 undesirable inequality or unevenness of place
21 or apportionment, such as population, resources
22 or wealth over an area? Would you agree with
23 that definition?

24 A: I would agree with the -- the latter part. The
25 -- it's a non-expected distribution when

1 compared to population. I think that's -- that
2 was that last grouping. That last grouping you
3 had.

4 Q: Placement of apportionment as of population,
5 resources or wealth over an area.

6 A: I think that that's -- basically, the -- the --
7 what I've seen -- the -- what I'll present is
8 that the -- the ratio of beds in Berkeley
9 County is less than the ratio of population in
10 Berkeley County when compared to -- to the tri-
11 county area.

12 Q: Would you also agree with me that from a
13 healthcare planning perspective, you want to
14 have a reasonable distribution of beds to where
15 the population is and that the beds should
16 follow the growth?

17 A: Generally, yes. Yeah. I think that is
18 correct, as long as the beds following growth
19 are not adversely impacting an existing network
20 of providers or -- or -- or facilities.

21 Q: You would also agree with me, wouldn't you,
22 that to have a relative bed to population ratio
23 in the non-tertiary bed distribution to the
24 population growth is good health planning?

25 A: I think it's one piece you look at, but you

1 almost look -- when -- if you look at that in
2 terms of population -- beds per population for
3 a given county or a given geography, one must
4 also look in terms of what is the flow between
5 and among geography of the county or zip code
6 or sub-area, so that -- I -- I think it's
7 something you have -- you look at, but I think
8 it's -- it's what -- you must look at that in
9 context of, you know, where is the distribution
10 of the providers in those counties, what is the
11 flow, what is the time, what's the access. But
12 it -- it's a flag that I would look at.

13 Q: All right, sir. And you said you were familiar
14 with Berkeley County?

15 A: Generally, yes.

16 Q: Tell me what you know about Berkeley County.

17 A: Berkeley County, basically the -- from -- when
18 we were doing the work back in 2008, basically
19 the -- Berkeley County was a developers green
20 field opportunity in the southern parts of the
21 county. You know, there was a lot of plan
22 development. There was a lot of -- of -- of
23 multi-unit, multi-family developments that were
24 planned and -- and starting. And then there
25 was the Moncks Corner area, which I describe

1 more as the -- the mature, historical county
2 seat. So, you had the -- the high growth
3 potential to the south and you had the Moncks
4 Corner, not as much as growth, but -- but the
5 population was already there to the north.

6 Q: And the population growth in Berkeley County is
7 continuing to go up 95 northwestward, isn't it?
8 Beyond the Nexton area.

9 A: No. I think you mean 26.

10 Q: I mean -- I do mean 26. I don't want to get on
11 95. I'm taking you back to Boston.

12 A: Then we're not going that way.

13 Q: Okay. Up 26. It's continuing to go up 26
14 northwestward, isn't it?

15 A: Yes, it is. The -- there's -- there's -- the
16 primary -- it appears the primary direction of
17 growth is up 26 heading up towards -- towards
18 here in Columbia. There is growth that is sort
19 of morphing in the southern area portion of the
20 county to the north, as well, in terms of on
21 the border of Charleston County. But the --
22 it's -- yep. It's not a narrow band. It's --
23 but it is going that way.

24 Q: Okay. And are you familiar with what's
25 happening with the Volvo Plant and with Google?

1 **A:** Yeah. I know there is economic development
2 that is planned and underway.

3 **Q:** Okay. And do you know whether or not that is
4 actually north of the Nexton area of Berkeley
5 County?

6 **A:** I believe the Volvo area and I -- I recall
7 seeing some -- some development and
8 construction on that. They -- they -- which I
9 believe is -- it was further up north up the
10 highway.

11 **Q:** For South Carolina, do you believe that
12 Berkeley County is involved in explosive growth
13 and economic development?

14 **A:** The -- I believe that on the growth side is
15 that Berkeley County is -- you know, it's --
16 it's strong growth. You know they're --
17 they're -- good for them. Economic development,
18 yes. They -- they -- I think the North
19 Charleston area in terms of -- and going up
20 into Berkeley County, you know, they're --
21 they're strong. It's doing great.

22 **Q:** Would you agree with me that the Berkeley
23 County has experienced strong growth and will
24 continue to experience strong growth such that
25 there is an innate maldistribution of non-

1 tertiary beds that needs to be fixed from a
2 planning perspective?

3 A: I would agree there is strong growth in
4 Berkeley County. If you're looking pure at a
5 -- at the metric of population -- excuse me,
6 beds per population within the county, that if
7 nothing is -- is changed, then maybe more of a
8 -- of a numerical difference. So, yes. The --
9 the -- I counter that though with the issue
10 that the Roper Berkeley Hospital has just
11 opened. The Moncks Corner Trident Hospital is
12 yet to open. So, the -- the -- yes. The --
13 the more growth in Berkeley County will -- when
14 this -- now less -- less volume or less growth
15 down in Charleston County. So, the mix of
16 Berkeley County to others is gonna get higher.
17 But I think that the -- with the -- so, yes.
18 That's going to occur, but with the Berkeley-
19 Roper Hospital opening, just opening and the --
20 the HCA in Moncks Corner Hospital to open, I
21 think that -- that -- the difference in waiting
22 will have a -- it will occur, but -- but is --
23 is that the black and white, that all of a
24 sudden you must have a new hospital. But --
25 it's something I would consider. The -- but I

1 think in terms of, you know, is that alone why
2 you put a new hospital up in -- in Berkeley
3 County. That alone doesn't -- doesn't drive
4 it.

5 Q: Mr. Richardson, from a healthcare planning
6 perspective, you would agree with me, wouldn't
7 you, that a hundred beds, two 50-bed hospitals,
8 is not sufficient for a county that has or is
9 projected to have in 2024, 238,050 people?

10 A: If you put a wall around the county and kept
11 everyone in, the -- you know, there's not
12 enough capacity. If you get the reality in
13 terms of the -- the -- the flow of patients
14 factored in to that, I think that the -- you
15 know, again, you always can do better. And --
16 and -- and, you know, might it be better with
17 more beds? It could be. But I think when you
18 count -- when you consider the flow that
19 occurs, you know, the -- the -- could you do
20 better, yes. Is -- where we are today, is it
21 a reasonable -- it's hugely better than it was
22 in terms of when we -- in 2010, '12 when we
23 were at trial. But could it be better? Yes. The
24 -- the -- does that alone trigger and
25 substantiate the need for a new hospital? I

1 think not. Excuse me. Does that alone
2 translate and trigger the need for the proposed
3 128 beds three to four miles from Roper
4 Berkeley? I think not.

5 Q: Okay. Your -- well, first of all, you would
6 agree with me, wouldn't you, that patients have
7 the right to choose their healthcare providers
8 assuming their -- they can go there based on
9 their third-party payable?

10 A: Sure. The -- the -- putting aside any
11 financial incentives.

12 Q: Yes, sir.

13 A: The -- yes.

14 Q: All right. You would also agree with me that
15 all of the hospitals -- well, Summerville
16 Medical Center, Trident Medical Center and East
17 Cooper, Roper Mount Pleasant, Roper Berkeley,
18 Roper Hospital, Bon Secours, and East Cooper --
19 I already said that and MUSC, all take
20 Medicare, Medicaid and Tricare?

21 A: I believe that is correct.

22 Q: And would you also agree with me that at least
23 50 percent of the patients that come to each of
24 those hospitals receives -- well, are paid for
25 by Medicare, Medicaid or Tricare?

1 **A:** That's probably reasonable.

2 **Q:** Okay. Now, do you know of any third-party
3 providers that Roper takes that MUSC doesn't
4 take?

5 **A:** No.

6 **Q:** All right. Or the Roper St. Francis Health
7 System ---

8 **A:** Right, right.

9 **Q:** --- or the Trident HCA Health Systems, any
10 insurance they take that MUSC doesn't take?

11 **A:** I don't know enough about Trident's situation
12 to be able to answer that.

13 **Q:** Do you know of any third-party payors or
14 provider agreements that MUHA has that Roper
15 St. Francis or Trident don't have?

16 **A:** All that I would say as I did in my deposition,
17 I am aware that MUHA/MUSC is developing some
18 type of Medicare advantage plan. I don't know
19 the details of that. My expectation is is that
20 would -- that would steer patients to
21 MUHA/MUSC, but the -- the -- I don't know
22 enough about that.

23 **Q:** Okay. And that's the ACO?

24 **A:** Medicare Advantage -- yeah, Accountable Care --
25 -

1 Q: Accountable Care.

2 A: --- Development Program.

3 Q: Yeah. All right. The Accountable Care
4 Organization. And I think you just said that
5 would tend to steer patients to the MUHA
6 facility, right?

7 A: Correct, yes.

8 Q: Now, you understand, don't you, Mr. Richardson,
9 that the hearing here today is a de novo
10 hearing?

11 A: Yes.

12 Q: And now, you testified to certain slides that
13 were in the CON application back in December --
14 that was filed in December of '17, right?

15 A: This application was filed I think the 27th or
16 the 29th of ---

17 Q: Of December of '17.

18 A: December '17. Correct.

19 Q: All right. Now, you didn't testify about the
20 updated slides, did you?

21 A: I discussed the updated population slides
22 showing population decline. I don't think I
23 discussed the updated MUHA volume. There were
24 some slides, yes.

25 Q: Okay. You had talked about population decline.

1 Let's look at MUSC -- MUHA 2, Page 2, and if we
2 could highlight the Berkeley County total and
3 bring it up please, sir.

4 (MUHA Exhibit 2 was referenced at this time.)

5 A: Your eyes are better than mine.

6 Q: Okay. Has that population declined?

7 A: The -- the -- the -- as I said before, the --
8 the -- I described the MUHA updated data
9 information is that the growth rate declined in
10 terms of the outdated information that was
11 provided. And if -- if I said population
12 declined in Berkeley County, no. That -- that
13 has not and I expect will not happen.

14 Q: Okay. So, you didn't mean -- if you said it,
15 you didn't mean to say the population has
16 declined? You meant to say the rate of growth
17 has declined?

18 A: Yeah. The -- MUHA provided information in one
19 of their exhibits, I believe Exhibit 8,
20 compares the CON initial filing to updated --
21 that's a profile of population and that shows
22 a slight decline in growth rate over the multi-
23 year time frame.

24 Q: Okay. And let's go ahead and look, while we're
25 here, at Charleston County. That would be on

1 **Page 3.**

2 **A: I'm there.**

3 **MS. CRUM: If you would highlight and bring that up,**
4 **please, sir.**

5 **Q: The population growth in Charleston has not**
6 **declined, hast it?**

7 **A: The -- there still remains population growth in**
8 **Charleston.**

9 **Q: And then the same would be true in -- I can't**
10 **find it -- in Dorchester on Page 4, it hadn't**
11 **declined either, has it?**

12 **A: The -- there is continuing growth in terms of**
13 **-- is their growth by year? Yes.**

14 **Q: Okay. Did you look at the State Health Plans**
15 **of 2017-18 and the 2018-19 to determine whether**
16 **or not the rate of growth in Berkeley,**
17 **Charleston and Dorchester Counties has**
18 **outstripped what the forecast was in those**
19 **plans?**

20 **A: I don't know what you're asking. I'm very**
21 **sorry.**

22 **Q: Let me try this again. You know the State**
23 **Health Plans show growth -- show estimated**
24 **growth for X number of years, the population**
25 **growth, right?**

1 A: Yes. It's about five to seven -- yeah. The --

2 -

3 Q: Right. Seven years.

4 A: Yeah.

5 Q: Right. Okay. And my question was, did you
6 just compare the State Plans to see whether the
7 population growth -- percentage had declined or
8 not.

9 A: No. They -- they ---

10 Q: Or whether or not the State had underforecasted
11 the growth?

12 A: No. They -- my comments on reduction and
13 growth rates had to go with MUHA data.

14 Q: Mr. Richardson, from a health planning
15 perspective, would you agree with me that a
16 material adverse impact is one where there is
17 a change in circumstance, such that a provider
18 is not able to continue to provide its
19 community benefits and its mission service?

20 A: I think materiality is at that level and the --
21 however, I would -- I would say its not either
22 yes or no in terms of is there a community
23 benefit or is there no community benefit would
24 basically determine is there an impact on the
25 ability to provide historical levels of

1 community benefit or is -- if you're a not for
2 profit, you're gonna provide the community
3 benefit to the day that you have no dollars
4 left. But may there -- may adverse impact
5 cause you to reconsider how much of that you
6 can do? Like, that's -- that's driving
7 material impact.

8 Q: Let me go back to my question to you again.

9 A: Yeah.

10 Q: Because I'm asking you simply if you would
11 agree that this definition of adver- --
12 material adverse impact from a healthcare
13 planning perspective -- a material adverse
14 impact is one where there is a change in
15 circumstance such that a provider is not able
16 to continue to provide its community benefit
17 and its mission services. Just -- do you agree
18 with that definition?

19 A: I believe that's how you look at material
20 adverse impact, but again, it's not a do you
21 provide it or not provide it. It's the -- is
22 there -- is there a change in what you can do
23 to help those folks.

24 Q: My question is is that a reasonable definition
25 of adverse impact? Yes or no?

1 **A:** The -- the -- if the connotation is is that you
2 must have go from zero to no, then that is not
3 what I agree. That's not what I think.

4 **Q:** Okay. Do you remember whether or not that's
5 what you testified to in the Roper Berkeley --
6 Trident Berkeley case in 2012?

7 **A:** I would expect that I discussed that theme
8 because I always do in terms of -- I -- to me
9 the -- you know, pure financial loss, you know
10 -- you know, may or may not be a material
11 impact, but if -- if I have to change how I
12 take care of folks that -- that don't have, I
13 think that gets into how you look -- from a not
14 for profit as material impact.

15 MS. CRUM: Excuse me just a second, Your Honor.

16 **Q:** From a healthcare planning perspective, Mr.
17 Richardson, you would look at historic
18 performance of the market share as a predictor
19 of future performance, wouldn't you?

20 **A:** All things staying -- staying equal, yes.

21 **Q:** Let me switch here just a minute. You had
22 testified -- all of your opinions, and correct
23 me if I'm wrong, please, sir, have been based
24 on your definition of MUHA Berkeley's service
25 area being Berkeley County, correct?

1 **A:** I have discussed opinions where MUHA's service
2 area is Berkeley County. I've also discussed
3 opinions where MUHA's service area is the 10
4 mile/20 minutes zip codes. I've also discussed
5 that leaving MUHA's service area as it is on
6 the application and accepting their discharges,
7 they -- I've left that stable and changed the
8 length of stay, which has no impact on service
9 area at all.

10 **Q:** I'm sorry. You said you left that and I missed
11 the rest of it.

12 **A:** The -- I've looked at MUHA with the Berkeley
13 County service area.

14 **Q:** I got that. I got those two. I missed the
15 last one.

16 **A:** The last one, I've actually also presented
17 analysis that talks about accepting MUHA's
18 forecast of discharges, but making the decline
19 in length of stay and how that ripples through
20 to -- to the MUHA project.

21 **Q:** And what did you base your decline in length of
22 stay on?

23 **A:** I based it on the comparison that -- that when
24 one looks at the length of stay in the
25 community and all the other community --

1 community providers, at the length of stay that
2 is included in the CON forecast is higher than
3 that. I also look at the fact that MUHA's
4 length of stay recently in the last year or so
5 has declined. And there's been no affect given
6 to the that, it appears, in any updated app- --
7 in any updated analysis.

8 Q: Mr. Richardson, would you agree with me that an
9 academic medical center is a medical center
10 provider that has a significant prominent part
11 of its business involved in teaching students,
12 residents, fellows, and/or interacting with a
13 college -- medical college faculty research
14 staff?

15 A: Yes. Yeah. The academic teaching and
16 research, yes.

17 Q: Okay. Now, what is at the Medical University
18 campus downtown other than just the hospital?

19 A: You have teaching. You have research. You
20 have biotech. You have incubators for -- for
21 new industry, new technology. There's a broad
22 spectrum.

23 Q: And that's all associated with the academic
24 medical center, being part of an academic ---

25 A: Yes.

1 Q: Now, when's the last time you went on the MUHA
2 campus?

3 A: It would have been three to four years ago.
4 The -- and not for this case, it would have
5 been when I was downtown.

6 Q: It would have been when? I'm sorry.

7 A: When I was downtown.

8 Q: Okay.

9 A: It was not specific to this case.

10 Q: Now, you would agree with me that the Roper
11 Berkeley Hospital, the 50 beds, would only
12 assist with part of the problem that Berkeley
13 County has with lack of inpatient facilities,
14 wouldn't you?

15 A: In terms of lack of inpatient facilities, by
16 having that resolves the lack issue. In terms
17 of the magnitude of resolution, Berkeley --
18 Roper Berkeley by itself, the -- you know,
19 isn't going to take care of all the patients
20 nor do -- would I expect that the hospitals
21 that have developed in Berkeley County would
22 serve and treat 100 percent of the patients
23 from Berkeley County. So the -- I'm agreeing
24 with you somewhat, but in terms of -- I'm not
25 agreeing in terms of the -- that there should

1 ever be in any sort of modeling or expectation
2 that all of Berkeley County will -- will and
3 must -- should stay within the county walls to
4 receive care.

5 Q: In the Roper -- wait a minute. I'm just gonna
6 call it the 2012 case ---

7 A: Sure.

8 Q: --- because that's a whole lot shorter. In the
9 2012 case, you, and correct me if I'm wrong,
10 but you provided testimony where that you,
11 quote, drew a fence around Berkeley County and
12 developed an inpatient bed need for non-
13 tertiary cases, right?

14 A: If you put a wall around the county and say, no
15 one will flow as they do now, the calculation
16 would be, is you would need to take care of
17 those patients, there would have to be 200-plus
18 ---

19 Q: There's 286, wasn't it? Over 300 for tertiary
20 and 286 for non-tertiary.

21 A: I don't recall total because that's never what
22 was under consideration. I do know it was 2-
23 something. The inference in that is the fact
24 that there is no consideration of any flow to
25 other facilities ---

1 Q: Right.

2 A: --- which will not occur. And that's not real.

3 Q: So you agree with me, then, that patients move
4 between counties to get to their healthcare
5 facilities of choice, don't you?

6 A: Certainly do.

7 Q: Okay.

8 A: There's inter-county flow and they -- within
9 the lowcountry, and most everywhere.

10 Q: And you would agree with me that right now, 50
11 percent of MUHA's patients downtown come from
12 outside of the tri-county service area,
13 wouldn't you?

14 A: I don't recall the exact, but it's a good
15 portion of their business.

16 Q: And it's approximately 50 percent, isn't it?

17 A: I just said I don't know the exact ---

18 Q: Okay.

19 A: --- but it is a good portion.

20 Q: Do you have any reason to disagree with that?

21 A: No, I don't recall ---

22 Q: All right.

23 A: --- what the numbers are.

24 Q: Now, 50 percent of all of those patients come
25 right on down I26, don't they?

1 **A:** I imagine 26, the major corridor, but they do
2 come -- they do come to the peninsula to -- to
3 MUHA.

4 **Q:** Okay. I think you testified that we excluded
5 in our application -- MUHA Berkeley excluded
6 all of the tertiary and quaternary DRGs from
7 our provision of services.

8 **A:** I believe that was the expectation in the
9 forecasting and the modeling that the range of
10 DRGs that approximate the tertiary or specialty
11 services were pulled out.

12 **Q:** Okay. There are approximately -- well, there
13 are over 800 DRGs, aren't there?

14 **A:** I think the numbering goes through 800 and
15 there are some that are missing. There's a
16 good number of DRGs.

17 **Q:** Well, let's put it this way. There are
18 approximately 800 DRGs, aren't there?

19 **A:** Approximately.

20 **Q:** All right. Now, how about look for me in DHEC
21 Exhibit 1.

22 (DHEC's Exhibit 1 was referenced at this time.)

23 **A:** I'm there.

24 **Q:** Okay.

25 MS. CRUM: And if we could pull it up on the screen.

1 Q: Page 41. Okay. How many DRGs under figure 21
2 are actually excluded tertiary DRGs?

3 A: I can't tell you because there are ranges that
4 are excluded and I don't know how many are ---

5 Q: Just ---

6 A: --- are there.

7 Q: --- count for me the ranges, how about that,
8 please, sir.

9 A: I can give you the ranges, but that's not
10 reflective of how many DRGs. Because, for
11 example, what you have here is that you have
12 020 through 042 range excluded. I can give you
13 how many -- how many ranges there are.

14 Q: And that's what I asked you to do.

15 A: Okay. It would be 23 or 24.

16 Q: I got 23, but I can stand corrected. Okay.
17 Now, is it your testimony, Mr. Richardson, that
18 you have an expectation that no tertiary
19 services will be provided at MUHA Berkeley?

20 A: I have an expectation that MUHA says that at
21 least these DRGs are not expected to be treated
22 ---

23 Q: All right, sir.

24 A: --- at -- at the MUHA Berkeley County. And I
25 have an expectation, based on descriptions in

1 the application, that this would be a
2 community-based, without the tertiary and
3 quaternary services.

4 Q: Do you have any other factual basis for your
5 expectation regarding the provision of tertiary
6 services at MUHA Berkeley?

7 A: Other than, than in my opinion, is that it
8 appears that MUHA is proposing to do this
9 project to move the non-tertiary, non-
10 quaternary's volume out of downtown so that
11 more -- so the quaternary and tertiary services
12 can be better served. So it -- I think the DRG
13 exclusion is probably the -- the real factual
14 one, but the descriptions of what's trying to
15 be accomplished, lead me to think that that's
16 also the case.

17 Q: Okay. You also testified that you couldn't
18 find anything in the application that tied MUHA
19 Berkeley to teaching and research and the
20 admissions of the academic medical center,
21 didn't you?

22 A: Correct. I looked in terms ---

23 Q: Okay.

24 A: --- of the financials; I looked in terms of the
25 facilities; I looked in terms of the

1 programmatic and saw nothing.

2 Q: All right. So look on page, DHEC CON 604.

3 A: This is the DHEC 1?

4 (DHEC Exhibit 1 was referenced at this time.)

5 Q: Yes, sir.

6 A: 604?

7 Q: Yes, sir.

8 A: Great.

9 MS. CRUM: And would you highlight the last
10 paragraph, please, sir?

11 A: Not quite there.

12 Q: I'm just getting Mr. Buck to pull it up on the
13 screen.

14 MS. CRUM: You know, if he'd highlight in that in
15 yellow, somehow or other I can read it better.
16 It distinguishes it better if it's in yellow.

17 A: I'm there.

18 Q: Okay. Mr Richardson, the letters of support
19 from the -- do you believe that these people
20 are from U.S. -- from the MUSC faculty?

21 A: It looks like they have academic appointments;
22 they're chairmen and various other folks.

23 Q: Professor of pediatric cardiology, director of
24 pediatric clinic trial groups.

25 A: Appears to be -- it appears to be that they

1 were -- some of these letters are all the same.
2 Looks like a form letter that was included in
3 the application.

4 Q: Every one of these physicians signed this
5 letter with the statement, I believe the
6 proposed project is crucial to supporting
7 MUSC's mission in a pedia- -- in patient care,
8 teaching and research, and will benefit the
9 community in bringing access to MUSC's
10 excellent care closer to patients' homes. MUSC
11 must continue to expand its clinical
12 capabilities in its role as a premier academic
13 medical center and healthcare leader for the
14 State.

15 A: That's what it states.

16 Q: Okay. Do you think these physicians would sign
17 these letters if they didn't believe it?

18 A: Well, the -- I don't see that directly stating
19 that there'll be teaching, research, academic
20 work at MUHA Berkeley. Specifically, this
21 talks about the -- this project will support
22 the mission. Is it the mission downtown, is it
23 MUHA's mission overall? The -- so the -- I
24 don't see this being a black and white that
25 says there will be academic medicine and

1 research at MUHA Berkeley. Specific to would
2 they sign this, the -- it appears that this is
3 a common letter. I'm sure they believed this
4 when they signed it and I'm sure someone else
5 prepared the letter for them.

6 Q: Mr. Richardson, that's your interpretation,
7 isn't it?

8 A: It's based on my experience in -- in a vast
9 number of places, but I do not know the
10 specifics here.

11 Q: You do not?

12 A: Correct.

13 Q: All right. So, thank you. Do you know whether
14 or not MUHA Berkeley is going to have
15 residents?

16 A: I don't. The ---

17 Q: Do you know whether or not they're going to
18 have nurse's training in the -- rotating
19 through the hospital?

20 A: I'll complete my response. I don't know
21 whether they will or not. I think it's likely
22 there will be some resident or medical student
23 flow as there is in many hospitals throughout
24 the State. Specific to nurse training, I would
25 hope there is. In terms of, you know, I hope

1 that there is some level of training to expand
2 the pool.

3 Q: How many hospitals that you know of in the
4 State of South Carolina that have residency
5 training?

6 A: The residency rotations?

7 Q: Yes, sir.

8 A: I feel strongly there will not be residencies
9 based at MUHA Berkeley. Yeah, those
10 residencies will based at -- be based at MUHA
11 downtown. They may use Berkeley as a rotation
12 site, but I don't expect MUHA Berkeley to be
13 the ACGME-designated sponsor site for
14 residencies.

15 Q: I never asked you that question.

16 A: Well ---

17 Q: That's your answer ---

18 A: That's my answer.

19 Q: --- not my question. All right, sir. Now, let
20 me go back to my question.

21 A: Yep.

22 Q: All right. If I understood your testimony, you
23 said there were a lot of hospitals in the State
24 of South Carolina that had residency programs.
25 Did I misunderstand what you said?

1 A: I -- you may have. The residency programs to
2 me are the formal housing of ACGME-type
3 program. In terms of, are there facilities
4 throughout the State that basically have folks
5 that will do a rotation through a residency or
6 a medical student rotation through, there are.

7 Q: Well, tell me what they are.

8 A: I know specific to Greenville, Spartanburg
9 facilities do.

10 Q: Do you know any others?

11 A: Those are the ones that I know specifically.

12 Q: Don't you have to have the ability to have
13 rotations in order to keep your accreditation?

14 A: Medical students must have residency --
15 approved residency locations and activity.
16 Yes. But again, I don't see that specifically
17 defined as part of this project.

18 Q: Mr. Richardson ...

19 MS. CRUM: Excuse me just a second, Your Honor.

20 Q: Let me ask you about MUHA Berk- -- I'm sorry --
21 yeah, MUHA Berkeley. MUHA Berkeley has 12 ICU
22 beds, right?

23 A: I believe that's correct in their analysis.

24 Q: Okay. And ---

25 A: In their presentation, excuse me.

1 Q: I'm sorry?

2 A: In their presentation, not their analysis.

3 That's what they're proposing to have.

4 Q: In their CON application, that's what it
5 states.

6 A: Yes.

7 Q: All right, sir. And Roper Berkeley only has
8 two ICU beds, doesn't it?

9 A: I don't think that's correct.

10 Q: Oh, okay. Let's look at DHEC Trial Exhibit 7
11 and let's see if -- I could be wrong.

12 (DHEC Exhibit 7 was referenced at this time.)

13 Q: Yeah, I'm sorry. Bosse -- Mr. Bosse said they
14 only had two, but that's not correct, at least
15 in the CON application, is it?

16 A: I think it -- I recall Mr. -- and it may have
17 been in discussions I've had with Mr. Bosse, I
18 think there's a critical -- there are critical
19 care beds and there are step-down beds.

20 Q: Okay. And I may be wrong and Lord knows I've
21 been wrong before, but I thought he testified
22 that there were only two ICU beds in the new
23 facility.

24 A: I don't think that's correct.

25 Q: Okay. So, but you would agree with me that ICU

1 beds, when they're utilized, tend to increase
2 the average length of stay, doesn't it?

3 A: It can, yes. Not a direct, but it can.

4 Q: Okay. Do you know how many ICU beds East
5 Cooper has?

6 A: No, ma'am.

7 Q: What about Roper Mount Pleasant?

8 A: No, I don't.

9 MS. CRUM: I'm going through my checking off.

10 Q: Let me ask you, what do you know about
11 benchmarks for the average length of stay for
12 medical academic centers, hospitals?

13 A: I know there is benchmarking for many -- many
14 metrics for academic medical centers. I would
15 expect that there is something there in terms
16 of what's a comparable -- for like CON medical
17 centers, I'm sure there's some sort of a -- of
18 an average or a benchmark or a target.

19 Q: What about for average length of stay?

20 A: That's what I was answering.

21 Q: Okay. All right, sir.

22 A: Sorry.

23 Q: What about other benchmarks with regard to the
24 acuity of non-tertiary, non-quaternary
25 patients?

1 **A:** Now the -- I don't think there are benchmarks.
2 That varies so much based on the type of care
3 that's provided.

4 **Q:** Varies so much based on?

5 **A:** The type of care provided.

6 **Q:** Okay.

7 **A:** Let me get up here where I'm closer. Sorry.

8 **Q:** Yeah, I'm sorry, I'm just ...

9 **A:** Nope. Late in the day, I tend to get softer.
10 I apologize.

11 **Q:** You testified in your deposition, that MUHA
12 Berkeley Hospital would be a small hospital,
13 correct?

14 **A:** Yes.

15 **Q:** Okay. Now, so does that mean Roper Berkeley
16 and Trident Berkeley are teensy hospitals?

17 **A:** No, they're more small. Anything in the 50 to,
18 I guess MUHA is 128 -- 50 to low hundreds, you
19 know, that's -- they're community hospitals,
20 they're smaller hospitals. But factually, is
21 50 less than 128, yes.

22 **Q:** Okay. Do you know whether or not there is a
23 hospital smaller in the State of South Carolina
24 than 50 beds ---

25 **A:** I don't ---

1 Q: --- that's not a critical access hospital?

2 A: I don't know. All that comes to mind is that
3 the -- and it may have been a critical access
4 hospital, is the Beaufort presentation, which
5 is a very small micro hospital. But I -- I ---

6 Q: It's not been built, has it?

7 A: No. I think ---

8 Q: Okay.

9 A: --- it's still active.

10 Q: Okay. Well, you mean the application is still
11 active?

12 A: Yes.

13 Q: Okay. Now, you talked about the FSED
14 application that MUHA put in to Berkeley
15 County, right?

16 A: Yes.

17 Q: That was proposed by both Roper and Trident
18 Medical Center and Summerville Medical Center,
19 right?

20 A: I believe that is correct.

21 Q: Okay. And there's been no decision on it, has
22 there?

23 A: No, and -- MUHA basically, you know, has kept
24 it alive, they have not withdrawn it.

25 Q: And as we sit here today, you don't know

1 whether it's going to be approved or not, do
2 you?

3 A: I do not. The point I was making on that was,
4 in the MUHA Berkeley Hospital project, the
5 contention -- the representation was is that
6 the freestanding ED would be relocated and
7 moved to the hospital upon -- upon opening and
8 it appears that's not the case right now.

9 Q: Okay, Mr. Richardson, if somebody goes -- let's
10 assume that the freestanding ED in Berkeley for
11 MUHA was built.

12 A: Yes.

13 Q: If somebody goes to the ED and they're going to
14 be sent to a hospital, would you expect them to
15 be sent to MUHA Berkeley?

16 A: If MUHA Berkeley was there.

17 Q: Yeah, sure.

18 A: The ---

19 Q: I'm making an assumption. Let me start all
20 over ---

21 A: Sure, sure

22 Q: --- again and I will make it crystal clear in
23 my assumption so there's nothing missing.
24 Okay. Let's assume that the FSED is built by
25 MUHA in Berkeley County. Let's assume that the

1 MUHA Berkeley Hospital is open and running.

2 A: Yes.

3 Q: If a patient shows up at the FSED, the
4 freestanding ED, and they need to be admitted,
5 wouldn't you expect that they would be admitted
6 to the MUHA Berkeley hospital?

7 A: As long as that's what the patient agreed to
8 and the services are available. All things
9 equal, the -- I know we know -- I know, for
10 example, that if a patient will go to an
11 emergency department, freestanding ED, if they
12 need to be admitted, there tends to be -- there
13 cannot be a requirement that the patient is
14 referred to the host or to the sponsoring
15 organization, but there's an expectation that
16 that happens. The patient itself, if they're
17 not comfortable with -- with that ultimate
18 destination hospital, it doesn't have to go.

19 Q: Okay. Let's talk a minute more about patient
20 choice.

21 A: Sure.

22 Q: Right now, there are a large number of patients
23 that choose to drive down I-26, past Trident,
24 past Summerville, past Roper, Bon Secours is a
25 little bit off to the side, but past Bon

1 Secours and they go to MUSC.

2 A: I agree with that.

3 Q: All right.

4 A: That book of volume is not adequate to support
5 this hospital, though.

6 Q: You know, I would appreciate it if you would
7 answer my question and if you want to have --
8 say something else, your counsel can ask you
9 that on re-direct. All right, sir?

10 A: The ---

11 Q: I'd appreciate it.

12 A: I'll be glad to answer your question and I've
13 tried to, I really have.

14 Q: All right, sir.

15 A: But there are some things that don't box
16 themselves with just a yes or no.

17 Q: Do you know what EP3 status is?

18 A: EP3 status, I believe, is a bypass status. I
19 don't know the details.

20 Q: Do you know how many times in the last year,
21 say, Roper has -- Roper downtown has been on
22 EP3 status?

23 A: I do not.

24 Q: Do you know how many times MUHA downtown has
25 been on EP3 status?

1 **A:** **No, I do not.**

2 **Q:** **I think you -- do you know whether or not Roper**
3 **has had a bed need in the State Health Plan**
4 **since 2000?**

5 **A:** **I'm not aware of one.**

6 **Q:** **Okay. Do you know -- you do know that MUSC**
7 **MUHA has a need in the State Health Plan, the**
8 **2018, '19, for 157 beds, right?**

9 **A:** **150 so, yes, there is a ---**

10 **Q:** **In the 2018, '19.**

11 **A:** **Yes.**

12 **Q:** **Right.**

13 **A:** **As we sit here today.**

14 **Q:** **And you know that Roper Hospital and MUSC are**
15 **literally across the street from each other,**
16 **aren't -- don't you know that?**

17 **A:** **I do know that.**

18 **Q:** **Okay. And you know that MUSC has a huge bed**
19 **need. I think 157 beds is a huge bed need,**
20 **don't you?**

21 **A:** **It's large.**

22 **Q:** **Okay. So would that suggest to you that there**
23 **are a whole lot of patients choosing to go past**
24 **all of these other hospitals and down to MUHA**
25 **on the peninsula?**

1 **A:** I agree with you that there are a number --
2 there are a good number of patients that are
3 going down, bypassing other hospitals and going
4 to the peninsula.

5 **Q:** And that is their choice, isn't it? Unless,
6 excuse me, unless they're brought in by
7 ambulance or by a helicopter because it's a
8 Level I trauma.

9 **A:** Or if only MUHA MUSC has -- has the tertiary,
10 quaternary service. There are some services
11 that -- that only can go to the Medical
12 University.

13 **Q:** Do you know of a service that MUHA has that
14 Emory doesn't have or Duke doesn't have or
15 other healthcare facilities in the southeast
16 that are academic medical centers don't have?

17 **A:** I'm aware of Emory. I don't know whether MUSC
18 has the comprehensive cancer research, the
19 pure-bench research or -- I know Emory has
20 proton therapy. I'm not sure, I don't believe
21 that's in Charleston. But the -- MUSC, you
22 know -- I'm not here to say that MUSC, you
23 know, does not do good things for the State of
24 South Carolina, because I believe they do.

25 **Q:** And you would agree with me that MUHA is a

1 hospital of choice in the tri-county area for
2 people who go downtown?

3 A: People are choosing to go downtown, yes.

4 Q: Let me ask you a couple more things. Would you
5 agree with me that education and training of
6 new physicians is an important public benefit
7 and a need for the State?

8 A: Yes.

9 Q: Okay. And would you agree with me that
10 training nurses, physical therapists, other
11 allied services, pharmacy that are in short
12 supply in this State, is a public benefit or
13 need for the State?

14 A: Yes.

15 Q: Let's see. Excuse me just a second. Mr.
16 Richardson, do you know whether or not in order
17 to be on the medical staff at MUHA, the
18 physician has to have a faculty appointment at
19 MUSC?

20 A: I believe, from review of Dr. Juarez'
21 deposition, or listening to it and reviewing
22 it, that there must be a linkage to the medical
23 school. I don't -- yes, there must be a
24 linkage. In terms of -- I don't know what the
25 required linkage is, in terms of is it full-

1 time, part-time faculty, but there must be a
2 linkage.

3 Q: Do you know whether or not the physicians who
4 practice telemedicine with MUSC and, for
5 example, with Roper Berkeley, do you know
6 whether or not they have admitting privileges
7 at Roper Berkeley?

8 A: I don't know whether they're credentialed as
9 consulting or admitting. I don't know.

10 Q: Okay. Tell me what you know about MUHA's
11 mission, it's statutory mission.

12 A: To paraphrase, I think MUHA's mission is
13 basically to be the healthcare operational
14 component of the Medical University of South
15 Carolina. Basically, it is the designated site
16 at which healthcare operations is located.

17 Q: Could you say that again? I'm sorry, I lost
18 you.

19 A: Yeah. My understanding is that MUHA is the --
20 is the defined dedicated, the space location
21 operation that all of MUSC's healthcare
22 activity -- non-research activity, but all
23 activity, that that's where it's performed.

24 Q: And is that it's mission under the State
25 Legislature's mandate?

1 **A:** I don't know. I recall seeing that the MUHA is
2 there to basically provide the operations and
3 the facilities and the clinical staff, non-
4 physician, to work with MUSC in its -- in its
5 strategy -- in its direction.

6 **Q:** Okay. I know I asked this question, but I'm
7 not sure I understood your answer, so I'm going
8 to try again. Going back to the ability of a
9 medical center, academic medical center, to
10 have a GME, a graduate medical education
11 program ---

12 **A:** Yes.

13 **Q:** --- they have to have a certain number of
14 committed rotation spots, don't they, to
15 maintain their accreditation?

16 **A:** Yes.

17 **Q:** Okay. So having places to have their residents
18 rotate is critical to the academic institution
19 maintaining its accreditation.

20 **A:** Yes, of course. There must be adequate
21 activity to appropriately train the physicians.

22 **Q:** You testified that you thought that the CON
23 staff erred by not putting adverse impact in as
24 a project review criterion for the review,
25 didn't you?

1 A: Yes, I did.

2 Q: Okay. Now that's an issue that you raised and,
3 I believe Trident also raised, in your April
4 18th letter -- thank you for -- in your letter
5 to DHEC stating Roper's positions on
6 opposition, isn't it?

7 A: That was an issue raised.

8 Q: And DHEC, in its decision letter, said that
9 they considered all of the issues that y'all
10 raised and didn't agree with them, didn't they?

11 A: They did not agree with the conclusion of no
12 need, they -- on the adverse impact issue, they
13 never revised criteria to consider adverse
14 impact. They rejected the position of Roper
15 and granted -- they did not accept our
16 arguments.

17 Q: So they did not, but they also stated they had
18 reviewed them and did not agree with them and
19 rejected them, didn't they?

20 A: I'm sure that there tends always to be a
21 discussion of the opposition, whether there was
22 opposition and what the major points were.

23 Q: Whether there was ---

24 A: Whether there was opposition and what the major
25 points were. That typically is if there is

1 opposition, that that's in the decision letter.
2 In terms of did they reject that there should
3 be adverse impact or that there would be
4 adverse impact, I don't recall those -- that
5 specific thing.

6 Q: Do you remember whether or not the State Health
7 Plan requires the Department to consider the
8 improved accessibility versus the adverse
9 impact on the existing providers?

10 A: I think in the Health Plan, as well as in the
11 61-15 Regulations, there's a requirement that
12 adverse impact must be ---

13 Q: Must be considered. All right.

14 A: Way back when, there must be a balancing of the
15 gains, in terms of access and whatever adver-
16 -- whatever downs or impact that may be adverse
17 to it.

18 Q: Mr. Richardson, you said that you drove from
19 the Roper Berkeley existing facility now to the
20 MUHA site and it took seven or eight minutes?

21 A: Seven or eight minutes.

22 Q: Okay. How many miles was it?

23 A: It was about four.

24 Q: Did you clock it?

25 A: I did.

1 Q: Okay. So about four?

2 A: Miles.

3 Q: Okay.

4 A: I think what I said is that the mileage from
5 Berkeley to MUHA is about four miles. The road
6 miles would be a little bit longer because you
7 have to go up 179 and then go back North Creek
8 Road. I don't know what that is, but that was
9 the seven or eight minutes. It surprised me
10 that it was not that long.

11 Q: What was the road? I'm sorry. How do you have
12 to get there road miles?

13 A: I come out of Roper Berkeley -- I come out of
14 Roper St. Francis Berkeley; I go right on 179;
15 I go left on North Creek; I go left on Nexton
16 Parkway.

17 Q: Okay. So it's not a straight shot?

18 A: No, but it's not a tough shot.

19 Q: Just not a straight shot.

20 A: That's not a straight shot.

21 Q: All right.

22 A: On 26, the exits are two miles apart and that
23 is a straight shot that you must go in on.

24 Q: I think you testified that -- no, I'm not going
25 to ask that. Let me see here. In answer to

1 one of Judge Anderson's questions, I think you
2 stated that based on your definitions of the
3 service area for MUHA Berkeley, there would be
4 a need from 40 to 60 beds. Did I hear that
5 correctly?

6 A: One of the scenarios that I have, yes.

7 Q: Yes. So you agree with me that there is a need
8 for additional beds in Berkeley County?

9 A: I think there could be a need for, I think it
10 was 40 to 60 beds for MUHA, based on the
11 volume. I think that's very distinct and
12 different from do I think there's a need for a
13 40 or 60-bed MUHA hospital three or four miles
14 from our site. In terms of the volume, can
15 they support within Berkeley County some place,
16 a much smaller hospital; it likely could. But
17 it makes no sense from a planning perspective
18 to put it right in the back yard.

19 Q: Where would you think it should be put in
20 Berkeley County?

21 A: I think that's the burden of MUHA, but the
22 location in the back yard of Roper Berkeley,
23 does not make sense.

24 Q: Okay. Mr. Richardson, are you familiar -- I
25 think you testified you are familiar with

1 Berkeley County and that there's a lot of
2 Berkeley County you can really put a hospital
3 in?

4 A: Sure, the far east and the far north.

5 Q: Well, that would be all of Francis Marion
6 National Forest, correct?

7 A: Sure. Beautiful place.

8 Q: And it would be kind of hard to put a hospital
9 in Lake Marion or into part of Lake Moultrie?

10 A: It would be interesting to try to build a
11 floating one, but it will not happen. It's not
12 realistic.

13 Q: That would be pretty expensive, too, wouldn't
14 it?

15 A: The pilings and the structure may not be, but
16 it won't happen.

17 Q: Okay. Well now, it's important for a hospital
18 to be located somewhere where a -- where people
19 can have access to it, isn't it?

20 A: Access is an issue that must be addressed, yes.

21 Q: And access is -- takes the form of financial?

22 A: Correct.

23 Q: And the form of having an infrastructure, you
24 know like roads and things like that, to get to
25 the facility, doesn't it?

1 A: I agree with that.

2 Q: And would also, you'd have to have public
3 transportation to be able to get to the
4 facility, wouldn't you?

5 A: You'd like to see some public transportation.

6 Q: Right.

7 A: It doesn't occur all that often, but you'd like
8 to.

9 Q: Well, do you happen to know whether or not in
10 Richland County a lot of the staff of the
11 hospitals here get to work on public
12 transportation?

13 A: I would expect they do.

14 Q: Okay. And that same thing would be true in
15 Berkeley County, wouldn't it?

16 A: If there was a established public transit
17 system for the transport system, yes.

18 Q: Do you know whether there's an established
19 public transit system in Berkeley County?

20 A: Not that I know of.

21 Q: Well, okay. Mr. Richardson, today one of your
22 last slides was a quantification of the number
23 of patients that you thought -- and it's a
24 pretty broad range -- that you thought MUHA
25 Berkeley might cause Roper Berkeley to lose.

1 A: Patient days.

2 Q: Patient days, yes, sir. What slide was that?

3 A: I don't know the number. It was the last slide
4 that counsel had put up.

5 Q: Well, Mr. Richardson, at your deposition, you
6 didn't testify as to the quantification of
7 patient days lost, did you?

8 A: This slide was at my deposition.

9 Q: That slide -- oh, I thought you were -- you
10 told me that you were going to wait until Mr.
11 Levitt testified to quantify the loss.

12 A: I think specifically what I said is that I may
13 modify this based on Mr. Levitt's intention.

14 Q: You would modify it.

15 A: I did not modify it.

16 Q: You did not modify it. Okay.

17 A: This was available then.

18 Q: All right.

19 COURT REPORTER: This was what? I'm sorry, I didn't
20 hear you.

21 A: I'm sorry. This was available then.

22 COURT REPORTER: Thank you.

23 Q: What is wayfinding.

24 A: Wayfinding is the description of how a person
25 may get from one point to another either in a

1 outdoor trail in the forest or in a store or
2 within a hospital.

3 Q: And at a hospital, wayfinding would include
4 getting onto the campus, finding a parking
5 place, finding where you had to go on the
6 campus for services, wouldn't it?

7 A: Those are steps that, if I'm gonna go to a
8 place that has separate parking, yes, those are
9 steps that I would take to get to where I'm
10 going.

11 Q: What do you mean by going to a place that has
12 separate parking? I'm sorry.

13 A: If I'm going to a small place that basically I
14 can park, park in front, there's no parking
15 deck, it's just -- if I'm going to a retail
16 store that I'm parking right in front, it's ...

17 Q: And so, does MUHA have just easy parking right
18 outside in front of the hospital?

19 A: No, they have -- they made the decision that
20 they're putting their parking into, primarily,
21 decks.

22 Q: So where else would they put the parking on the
23 landlocked peninsula of Charleston?

24 A: It would need to be decks.

25 Q: All right, sir. On all your slides you used

1 MUSC. What did you mean by MUSC?

2 A: I thought I used MUHA all along; however, if
3 there is an MUSC presentation on my slides, I
4 intend to use that interchangeable with MUHA.
5 And it may be in some of JARS, 'cause I think
6 the JARS are identified as MUSC. But if I left
7 an MUSC connotation there, I apologize. In my
8 usage, those are the same thing. Even
9 organizationally they're not, but in terms of
10 my usage in these slides, they're the same.

11 Q: Thank you, sir.

12 A: Thank you, ma'am.

13 THE COURT: Mr. Davidson, I never heard from you
14 about it.

15 MR. DAVIDSON: I'm -- no questions.

16 THE COURT: You're good.

17 MS. SHOUN: Your Honor, I have a few. May we take a
18 very short ---

19 THE COURT: Oh, yeah.

20 MS. SHOUN: --- comfort break?

21 THE COURT: Yes.

22 MS. SHOUN: Thank you.

23 (A break was taken from 3:53 p.m. until 4:03 p.m.)

24 COURT REPORTER: All rise.

25 THE COURT: Y'all be seated.

1 MS. SHOUN: If it pleases, Your Honor.

2 THE COURT: It may.

3 MS. SHOUN: Or it may not. And I promise, Your
4 Honor, I will try to keep it brief.

5 THE COURT: And then it will.

6 MS. SHOUN: I'm not gonna get ahead.

7 MR. RICHARDSON - REDIRECT EXAMINATION BY MS. SHOUN:

8 Q: Mr. Richardson, I'm just gonna follow-up on a
9 few things about which Ms. Crum asked you and
10 I'm gonna do that in a little bit of a reverse
11 order, if you'll bear with me, taking her last
12 first. Ms. Crum was last asking you about
13 wayfinding, do you remember that line of
14 questioning?

15 A: Yes, I do.

16 Q: And she asked you about public transportation,
17 do you remember that?

18 A: I do.

19 Q: Are you aware, Mr. Richardson, if there's
20 public transportation -- well, let me back up
21 and ask you this. If I understood your
22 testimony correctly, it's MUHA's projection in
23 its CON -- let me rephrase that. What is
24 MUHA's calculation or projection in its CON
25 application as to the redirection of patients

1 from the MUHA peninsula campus to its proposed
2 Berkeley County site?

3 A: Depending on the zip code, there's
4 approximately 30 to 35 percent redirection
5 expected from the areas proximate to MUHA
6 downtown.

7 Q: And does that mean, just for my simple mind,
8 does that mean those patients are in Berkeley
9 County now but traveling to MUHA downtown?

10 A: No. Those are the patients who are residents
11 -- who are living down by MUHA ---

12 Q: Okay.

13 A: --- the assumption is is that 30 to 35 percent,
14 depending on the zip code ---

15 Q: Sure.

16 A: --- are patients that are living down there
17 using MUHA down there ---

18 Q: Okay.

19 A: --- will be treated at the new Berkeley County
20 facility.

21 Q: I did not ask my question artfully. Of the
22 Roper (sic) County residents ---

23 A: Berkeley County.

24 Q: I mean -- of the Berkeley County residents,
25 MUHA intends to service at its purposed site in

1 Berkeley County, how many of those are
2 currently MUHA patients, that percentage?

3 A: It is 100 percent.

4 Q: Okay.

5 A: The expectation for MUHA is that all of the
6 patients served at the new Berkeley County
7 hospital would otherwise be served at MUHA
8 downtown.

9 Q: Okay. And those patients, who are Berkeley
10 County patients, currently served at MUHA on
11 the peninsula, have to get there, do they not?

12 A: Yes.

13 Q: Okay. Is there public transportation available
14 to them from Berkeley County to the MUHA
15 peninsula campus?

16 A: I'm not aware there is.

17 Q: Okay. And we talked about the teaching
18 responsibilities of MUHA and at one point you
19 said you're not sure of the specifics. Did you
20 review MUHA's CON application?

21 A: Yes, I did.

22 Q: Does the application include any provision, any
23 allowance, any representation of teaching
24 responsibilities to be assumed at the purported
25 MUHA Berkeley County site?

1 **A:** Yeah, I saw nothing that defined or described
2 the activity associated with teaching, either
3 in staff, programs, facilities. I did not see
4 -- see any of that.

5 **Q:** Okay. And seeing nothing, I assume there was
6 nothing that would indicate or represent to you
7 how MUHA is some how not able to continuing its
8 teaching capabilities at its 656 beds on the
9 peninsula?

10 **A:** I saw nothing that defined a problem of
11 teaching, resources, capacity, whatever it may
12 be, at existing sites that was driving this
13 project.

14 **Q:** And in your understanding in looking at the
15 data and recent growth, because I think we
16 talked about the strategic growth appetite of
17 MUHA?

18 **A:** Sure.

19 **Q:** Is there anything that would prohibit, to your
20 knowledge, MUHA expanding its teaching
21 umbrella, if you will, to one of the four
22 hospitals it just purchased?

23 **A:** That could be an option.

24 **Q:** Okay. And we were talking a little bit, I
25 think Ms. Crum asked you about patients who

1 drive down I-26 and they may pass Trident; they
2 may pass Summerville; they may pass now Roper
3 Berkeley, do you recall that line of
4 questioning?

5 A: I do.

6 Q: And if my memory serves me correctly, you
7 readily indicated that you MUHA offers some
8 services nobody else offers?

9 A: They certainly do.

10 Q: Okay. Were you going down the 26 corridor when
11 you gave that answer?

12 MS. CRUM: Your Honor, I'm -- never mind.

13 Q: Because Ms. Crum followed up asking you, well,
14 does Duke have services? Does Emory have
15 services?

16 A: The -- I was not going down the 26 corridor
17 when I made that answer.

18 Q: Okay.

19 A: And the -- does Duke or Emory or someone else
20 have similar services? Likely most of them.

21 Q: Most of them, okay. And let's talk just for a
22 minute revisit the concept of maldistribution.
23 Do you remember testifying about
24 maldistribution?

25 A: I do.

1 Q: Do you remember generally the definition that
2 Ms. Crum read to you of maldistribution?

3 A: There were a couple that she read to me, but I
4 do recall that discussion.

5 Q: Is that a definition with which you are
6 specifically familiar in your history,
7 experience, and education in healthcare
8 planning?

9 A: I'm aware of maldistribution, yes.

10 Q: Okay. Is it was read to you by Ms. Crum?

11 A: Not specifically, but I'm aware of the concept.

12 Q: Okay. All right. Would you agree that the
13 definition she gave you to consider included
14 inequality?

15 A: That was one of the themes that was discussed,
16 yes.

17 Q: And given that definition of inequality or that
18 element even, if you will, of maldistribution,
19 would maldistribution result from too few beds
20 in a particular service area?

21 A: It's either too few or too many in another.

22 Q: Or too many in another. Okay. And could I ask
23 you -- you have the same healthcare plan up
24 there, I believe, the same ---

25 A: 17-18?

1 Q: Yes, sir. Sorry.

2 A: I've got the general hospital part of that.

3 Q: Okay. I'm sorry. Is it DHEC 1? No, it's 4,
4 okay.

5 (DHEC Exhibit 4 was referenced at this time.)

6 Q: What I need is the State Health Plan page 27 --
7 2017-2018 State Health Plan.

8 A: Page 12.

9 Q: 27; I'm sorry. Oh, you've got it?

10 A: I have it, yes.

11 Q: Oh, I'm sorry.

12 A: Yeah.

13 Q: Okay. And if you'll look about, I don't know,
14 just slightly more than halfway down the page,
15 there's a tabulation of Berkeley, Charleston,
16 Dorchester county totals, do you see that?

17 A: Yes, I'm there.

18 Q: Okay. And to the far right there, there is a
19 column that indicates bed need, do you see
20 that?

21 A: I do.

22 Q: And would you agree that -- I'm sorry, what
23 comprises the Berkeley, Charleston and
24 Dorchester county as it is indicated on this
25 page 27, the 2017-2018 Health Plan? What is

1 that service area?

2 A: That service area is the tri-county area.

3 Q: Okay.

4 A: Inclusive of all of Berkeley, Charleston and
5 Dorchester County.

6 Q: Okay. And what is the shown total bed need at
7 -- in the tri-county area according to the
8 2017-2018?

9 A: The total bed need is 1,798 compared to the
10 existing beds of 1,118.

11 Q: I'm sorry. Will you read that again, please?

12 A: Sure. The bed need is 1,798 compared to the
13 existing beds of 1,811.

14 Q: And what ---

15 A: Which might be light because of Trident's Roper
16 Berkeley Hospital, but ---

17 Q: Right.

18 A: Assuming this is correct, the combination of
19 those two shows a excess bed -- excess of 13
20 beds.

21 Q: Okay. So no tri-county bed need ---

22 A: No.

23 Q: --- indicated in the State Health Plan?

24 A: No, there's not.

25 Q: Okay. Now, if you'll turn to page nine of the

1 same.

2 A: I'm there.

3 Q: Okay. And do you remember Ms. Crum asking you
4 specifically about MUHA's bed need?

5 A: Yes.

6 Q: Okay. If I use the term bed allocation, what
7 does that mean to you as a healthcare planning
8 expert or calculation or allocation, is that
9 the number of beds? Let me back up.

10 A: I don't understand what you're saying.

11 Q: Okay. I understand.

12 A: I'm sorry.

13 Q: I'm not asking it very well. Ms. Crum asked
14 you about the 147 bed need of MUHA?

15 A: Correct.

16 Q: Okay. What kind of need is that as it relates
17 to MUHA? Is it institutional?

18 A: That is MUHA's institution-specific need.

19 Q: Okay.

20 A: Not to be confused with the overall area need.

21 Q: Okay. And, in fact, if you'll look at page 9
22 of the State Health Plan, again about halfway
23 down, and if you would publish for the Court
24 the paragraph that begins with the term
25 "hospital bed need". Would you publish that

1 for the Court, Mr. Richardson?

2 A: What it says is that where the term hospital
3 bed need is used, these figures are based upon
4 utilization data from the general acute
5 hospitals. The term does not suggest that
6 facilities cannot operate at higher occupancy
7 rates than used in the calculations without
8 adding beds.

9 Q: Now, and I think in response to Ms. Crum's
10 question you said, well, as to this hospital
11 calculation of beds for MUHA, just having the
12 calculation or the allegation or whatever we
13 may want to call it, is not enough, is that
14 right?

15 A: Agree 100 percent.

16 Q: Okay.

17 A: It's one component to be assessed, but, in my
18 opinion, it's not enough.

19 Q: Okay. And you're aware of the other components
20 that need to be assessed?

21 A: Yes.

22 Q: Okay. And, if you would then, look -- do you
23 still have regulation 61-15?

24 A: I do.

25 Q: Okay. If you will flip to page 21 of that.

1 **A:** **I'm there; that's chapter 8.**

2 **Q:** **Section 802 specifically?**

3 **A:** **Yes. Yeah, I'm there.**

4 **Q:** **And those are the criteria for project review**
5 **that we've talked about several times today.**

6 **A:** **That is correct.**

7 **Q:** **Okay.**

8 **A:** **This is from the regulation, their criteria.**

9 **Q:** **Okay. And just because MUHA has that ---**

10 **OBJECTION:**

11 **MS. CRUM:** **Your Honor, I'm gonna object to this.**

12 **This is beyond the scope of my cross.**

13 **MS. SHOUN:** **It's absolutely not, Your Honor. I**

14 **mean, she went into the bed need and his**
15 **response was -- and he responded to that, it's**
16 **a need -- he acknowledged the 147 need, the**
17 **terminology was different, and then he went on**
18 **to say to her but this is what has to be met.**
19 **Now, just because she didn't pursue that -- and**
20 **I also touched this on direct, as well, Your**
21 **Honor, under the State Health Plan and under**
22 **the 61 15 criteria.**

23 **MS. CRUM:** **The fact that she touched it on direct is**
24 **not material to whether or not I brought it up**
25 **on cross. And I did not get into the project**

1 review criteria at all on cross. I asked about
2 whether or not ---

3 THE COURT: There was some ---

4 MS. CRUM: I asked, Your Honor, about whether or not
5 under the State Health Plan that you had to
6 weigh -- the Department had to weigh the
7 balance adverse effect against increased
8 access, and Mr. Richardson brought up the
9 project review. I did not.

10 THE COURT: Ask your question one more time again so
11 I can be clear.

12 MS. SHOUN: Yes, Your Honor, I'll try to.

13 **Q: When Ms. Crum asked you about the 147 beds, as**
14 **I recall your answer and please correct me if**
15 **I'm wrong, the indication was it was not enough**
16 **just to demonstrate that allocation to the**
17 **institution, that other criteria had to be met?**

18 **A: In order to -- in order to gain a grant for a**
19 **new CON, yes.**

20 **Q: Yes, sir. And as I remember your testimony**
21 **that the one thing you did mention and wasn't**
22 **pursued by Ms. Crum is a community need.**

23 **A: Yes.**

24 **Q: Okay.**

25 **OBJECTION:**

1 THE COURT: Proceed.

2 MS. SHOUN: Thank you, Your Honor.

3 MS. CRUM: Your Honor, I'm going to ---

4 THE COURT: I overrule.

5 MS. CRUM: --- sustaining -- a continuing abjection

6 ---

7 THE COURT: Okay.

8 MS. CRUM: That's fine.

9 MS. SHOUN: Thank you, Your Honor.

10 Q: And if you'll look under Section 802, Mr.

11 Richardson, the first PRC there is what?

12 A: PRC, a project review committee criteria?

13 Q: Yes, sir.

14 A: The first criteria in a project review is need,
15 sub one, need.

16 Q: Okay. And then the second is what you touched
17 on, if I remember correctly, is community need
18 documentation?

19 A: Correct.

20 Q: Okay. And in your experience and education and
21 background as a healthcare planning expert, can
22 you tell this Court whether MUHA has
23 demonstrated what is necessary in your opinion
24 to be demonstrated to meet the community need
25 documentation provided for under number two,

1 whether that be A, B, C, D or E.

2 **A:** I believe MUHA was remiss in presenting any
3 detailed analysis on the need for a hospital in
4 that local area, and the analyses that they did
5 present does not -- it doesn't document or
6 support or provide evidence of a need for a
7 120-bed hospital in south Berkeley County.

8 **Q:** And that goes, again, to the projections about
9 which you've testified earlier and what you
10 deem to be the unrealistic expectation of the
11 patients that will be distributed to MUHA
12 Berkeley?

13 OBJECTION:

14 MS. CRUM: I'm gonna object to leading, Your Honor,
15 or testifying.

16 THE COURT: I sustain that.

17 **Q:** What -- based on what elements, Mr. Richardson,
18 do you contend they were absolutely remiss in
19 failing to provide this information?

20 **A:** First was a focus on looking at the south
21 Berkeley area in the marketplace. The entirety
22 that I saw of their analysis was their specific
23 need on the peninsula; there was discussion in
24 terms of their service area need, which was
25 tri-county and beyond. However, even if you

1 **get past that, I believe that their forecast**
2 **that they presented included unrealistic and**
3 **unreasonable forecast assumptions.**

4 **Q: Okay. Thank you.**

5 MS. SHOUN: Beg the Court's indulgence, Your Honor.
6 That's all. Thank you, Your Honor. Thank you,
7 Mr. Richardson.

8 **A: Thank you, ma'am.**

9 MR. WICEVIC: Nothing from the Department. Thank
10 you.

11 MS. CRUM: Nothing, Your Honor.

12 THE COURT: Okay. You may step down.

13 MR. RICHARDSON: Thank you, sir.

14 CONCLUDING MATTERS:

15 THE COURT: What time tomorrow?

16 MS. HOLLINGSWORTH: Actually, Trident's case is next,
17 Your Honor.

18 MS. SHOUN: We're good, we're good tomorrow.

19 MS. CRUM: I was gonna say, you might get glares
20 from this side if we talk about tomorrow.

21 THE COURT: See, I'm on a three-day week right here.

22 MS. SHOUN: I'm not sure your staff is going to be
23 any happier with you.

24 (Laughter.)

25 THE COURT: Okay. What time Tuesday?

1 MS. SHOUN: So, Tuesday, Your Honor, that was --
2 those are the three witnesses that we're gonna
3 provide for our case. So Roper will rest our
4 case in chief. And I will move forward and
5 then once we start the respondent's case, we
6 can ...

7 COURT REPORTER: I'm sorry, I couldn't hear.

8 MR. THOMAS: Why don't we do 10:00 a.m. on Tuesday,
9 if we can, Your Honor, since we have people
10 coming in from out of town.

11 THE COURT: All right. 10:00 a.m. 10:00 a.m.
12 Tuesday.

13 MS. CRUM: 10:00 is fine with us, Your Honor.

14 THE COURT: Okay.

15 MR. THOMAS: Thank you, Your Honor.

16 (The hearing adjourned at 4:22 p.m.)

Transcript of the Testimony of
**ROPER SF, TRIDENT, ET AL. V. DHEC, MUHA,
ET AL.**

Date: November 12, 2019



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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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

Petitioners,)18-ALJ-07-0358-CC

v.)

South Carolina Department of Health)
and Environmental Control and Medical)
University Hospital Authority, d/b/a)
MUHA Community Hospital,)
)

Respondents.)
_____)

Walterboro Community Hospital, Inc.,)
d/b/a Colleton Medical Center,)
)

Petitioners,)18-ALJ-07-0360-CC

v.)

South Carolina Department of Health)
and Environmental Control and Medical)
University Hospital Authority, d/b/a)
MUHA Community Hospital,)
)

Respondents.)
_____)

Walterboro Community Hospital, Inc.,)
d/b/a Colleton Medical enter,)
)

Petitioners,)18-ALJ-07-0366-CC

v.)

South Carolina Department of Health)
and Environmental Control and Medical)
University Hospital Authority, d/b/a)
MUHA Community Hospital,)
)

Respondents.)
_____)

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HEARING

Tuesday, November 12, 2019

9:59 a.m. - 4:02 p.m.

Wednesday, November 13, 2019

10:03 a.m. - 1:56 p.m.

Thursday, November 14, 2019

9:36 a.m. - 5:48 p.m.

The Hearing held before the Honorable Ralph K. Anderson, III, was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 12th, 13th and 14th days of November, 2019 before Amanda Creel Godfrey, Court Reporter and Notary Public in and for the State of South Carolina.

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23 Katie Buckner, Staff Attorney

24

25

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STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.

1 (DHEC Exhibits 1 through 9; Roper St. Francis
2 Exhibits 1 through 136; Trident, Summerville,
3 Colleton Exhibits 1 through 160 and MUHA Exhibits 1
4 through 38v were all marked prior to the hearing.)

5 DAY FOUR - TUESDAY, NOVEMBER 12, 2019

6 CALL TO ORDER:

7 THE COURT: Y'all be seated. Welcome back. Ms.

8 Hollingsworth, y'all have finished?

9 MS. HOLLINGSWORTH: We have, Your Honor, so we would
10 turn it over to Trident.

11 PETITIONER TRIDENT/SUMMERVILLE CASE IN CHIEF:

12 MR. THOMAS: Your Honor, Trident Medical Center and
13 Summerville Medical Center would call its first
14 witness, Todd Gallati to the stand.

15 THE COURT: Okay.

16 COURT REPORTER: State and spell your name for the
17 record, please.

18 MR. GALLATI: Todd Gallati. T-O-D-D, G-A-L-L-A-T-I.

19 COURT REPORTER: Raise your right hand, please.

20 MR. GALLATI: (Witness complies.)

21 COURT REPORTER: Do you solemnly swear the testimony
22 you're about to give in this matter is the
23 truth, the whole truth, and nothing but the
24 truth, so help you God?

25 MR. GALLATI: I do.

1 COURT REPORTER: Thank you.

2 MR. GALLATI, being first duly sworn, testifies as
3 follows:

4 MR. GALLATI - DIRECT EXAMINATION BY MR. THOMAS:

5 Q: Hello, Mr. Gallati.

6 A: Hey. Good morning.

7 Q: Could you state your full name for the record?

8 A: Sure. Todd Gallati.

9 Q: Where do you live, Mr. Gallati?

10 A: Charleston, South Carolina.

11 Q: And where are you presently employed and what
12 is your job title?

13 A: I work for Hospital Corporation of America and
14 I am the CEO of Trident Health in Charleston.

15 Q: Okay. Before we get into your present day job,
16 I wanna talk a little bit about your education
17 and background.

18 MR. THOMAS: Can you put Exhibit 143 up?

19 (Trident Exhibit Number 143 was referenced at this
20 time.)

21 Q: Do you recognize this document, Mr. Gallati?

22 A: I do; it's my CV.

23 Q: Okay. Would this help you refresh your
24 recollection ---

25 A: Yes.

1 Q: --- of your employment history?

2 A: Yes.

3 Q: Okay. Can you read it on the screen there?

4 A: I can.

5 OBJECTION:

6 MS. CRUM: Your Honor, I'm just gonna impose the
7 same objection that Ms. Jones imposed with
8 putting up the -- I don't even remember whose
9 CV at this point, but I think it's hearsay and
10 I think just attempting to get around the
11 hearsay rule to allow him to read his resume
12 into the record defeats the purpose of the
13 hearsay rule.

14 MR. THOMAS: First of all, Your Honor, I'm not
15 offering it into evidence. Secondly, under
16 Rule 612 writing used to refresh memory I
17 believe it can come in. I've produced this
18 document or tried to produce this document to
19 MUHA during the ---

20 THE COURT: Well, let's just go with you're offering
21 it -- providing it to use to refresh memory.
22 I think under that particular rule, I'll have
23 to look at it, you can use a writing to refresh
24 memory or to establish that there is no memory,
25 correct?

1 MR. THOMAS: Correct, Your Honor, but the problem is
2 there's -- I haven't even been able to get into
3 why he needs to use to refresh his
4 recollection.

5 THE COURT: Okay. Let's just take this down until
6 you ---

7 MR. THOMAS: All right. That's fine, Your Honor.

8 Q: Mr. Gallati, can you remember everything you've
9 in your employment history that is set forth on
10 your resume?

11 A: Well, I don't know about everything.

12 Q: Okay. Would this writing assist you in
13 remembering certain details such as dates, and
14 times, and certain places where you've worked
15 and the various tasks that you did while
16 employed at those locations?

17 A: Yes.

18 MR. THOMAS: Your Honor, as Rule 612 states, I've
19 produced this document to them. Ms. Crum had
20 ample opportunity to cross-examine Mr. Gallati
21 on this document and I think it is a proper
22 document to be used to refresh his
23 recollection.

24 MS. CRUM: Your Honor, you know, it's hard to
25 remember dates all the time, but I would think

1 if you did anything of substance, you would
2 member what you did, particularly if you're
3 gonna be offered as an expert in hospital
4 operations. So, I would still object.

5 THE COURT: I'm going to allow you to use it as a
6 demonstrative exhibit.

7 MR. THOMAS: Thank you, Your Honor.

8 THE COURT: Okay. I will tell y'all, things like
9 this presents an interesting scenario for
10 judges in cases like this with a bench trial
11 because on one hand, we've got the Rules of
12 Evidence, and parties are -- those are the
13 rules. Parties come into this courtroom and I
14 think they should be allowed to rely upon the
15 Rules of Evidence because what you said about
16 Judge McLeod saying, oh, I'm just gonna let it
17 in.

18 MR. THOMAS: For whatever it's worth.

19 THE COURT: Yeah, when you do that, you circumvent
20 the Rules of Evidence and it takes away
21 something that parties should be able to rely
22 upon. But then, on the other hand, one of the
23 concepts behind letting things like this in is
24 the prejudice that can occur and especially in
25 jury trials. In instances like this, letting

1 something like this in, there's gonna be no
2 prejudice because I'm not going to be
3 influenced unnecessarily by it. But you're
4 entitled to make your motions and I'm gonna
5 follow them under the Rules of Evidence unless
6 I just think it's completely unnecessary. So
7 with that said, so y'all understand my
8 perspective, let's move on.

9 MR. THOMAS: Go to the second page of that, 143,
10 please.

11 Q: Mr. Gallati, let's start off, tell the Court a
12 little bit about your education to begin with,
13 where you went to college and grad school.

14 A: I attended Florida State University where I got
15 a bachelor's degree in management and then went
16 on to the University of Florida and received a
17 Master's in health administration and business
18 administration.

19 Q: Do you recall the year you graduated from the
20 University of Florida?

21 A: '80- -- well, I guess it was ---

22 Q: Go to the first page.

23 A: I guess it was ---

24 Q: It's right there on the first screen if you
25 want to take a look at it.

1 MR. THOMAS: All the way down.

2 A: And I'm hesitating because I did a year of
3 residency as part of that education, which was
4 in '89. Officially graduated with a master's
5 in business administration in '88.

6 Q: Okay. And then if you look on the screen, what
7 year did you graduate with your MHA?

8 A: '90.

9 Q: Okay. Let's go back to the second page, what
10 was your -- you had a healthcare job before you
11 went to college. can you tell the Court a
12 little bit about that?

13 A: Well, I've always worked in hospitals. When I
14 was 16, I was a nursing assistant in a
15 hospital, as well as a transporter. And I also
16 was a certified nursing assistant during --
17 during -- between college and graduate school
18 in a nursing home.

19 Q: Okay. So you had some practical experience?

20 A: Yes.

21 Q: All right. Let's start with your first job at
22 HCA North Florida Regional Medical Center in
23 Gainesville, Florida. Can you tell the Court
24 a little bit about what you did in that
25 position, what type of hospital it was and so

1 on?

2 A: Yeah, I started there out of the University of
3 Florida as an administrative resident. That's
4 typically a one-year position that's really
5 kind of considered your last class of graduate
6 school almost, but also your first job, as
7 well. That was a -- that was a referral
8 medical center that drew patients from about
9 eight or nine counties in the north central
10 Florida market and was a tertiary hospital with
11 advanced cardiac services in particular, as
12 well as several other services.

13 COURT REPORTER: As well as what? I'm sorry; I
14 didn't hear you.

15 A: Several other services.

16 Q: What was your first job after residency?

17 A: I was director of planning at that hospital.

18 Q: What hospital was that?

19 A: At North Florida Regional Medical Center.

20 Q: Okay. And what did you do as the director of
21 planning?

22 A: I assisted the facility with strategic
23 planning, with analysis of market share and
24 business opportunities that we had.

25 Q: Okay. And what did you do after your stint as

1 the director of planning at HCA North Florida?

2 A: I was promoted into an assistant administrator
3 position after that.

4 Q: What does an assistant administrator do?

5 A: More of an operations role where I had several
6 department directors reporting to me, part of
7 the senior management team of that hospital,
8 and responsible for areas like rehab,
9 housekeeping, food service, engineering.

10 Q: Okay. And from 1994 to 1997, what did you do
11 out there at HCA North Florida?

12 A: It was -- it was a similar role as assistant
13 administrator. It was kind of one step up as
14 chief operating officer, so I had some more of
15 the clinical departments reporting to me, still
16 a member of the senior management team at the
17 hospital.

18 Q: What types of things would you do as a member
19 of the senior management team?

20 A: Helped operate and plan within the hospital,
21 maintain the financial operations of the
22 hospital, as well as plan for future services,
23 and ensure the hospital was running well.

24 Q: As part of your role there as VP chief
25 operating officer and it looks like you

1 transitioned -- you had an interim role there
2 as CEO for a couple of months, but what
3 responsibilities did you have with respect to
4 market analysis?

5 A: Well, you know, we constantly were analyzing
6 market share. We had two competitors in the
7 market. There were a lot of changes going on
8 in the market at the time, including an
9 acquisition of one of the hospitals by one of
10 our competitors. So a lot of shifting
11 landscape and we were seeing that one of our
12 major focuses was to meet the community needs
13 in some of the outlying rural areas outside of
14 the Gainesville area, so that's why we were
15 successful at attracting patients in from
16 several counties away.

17 Q: And after HCA North Florida Regional Medical
18 Center, what did you do after that?

19 A: I was named the CEO of Lake City Medical
20 Center, that's also within -- within HCA. It's
21 about 40 miles to the north of Gainesville, a
22 small 75-bed hospital at the time.

23 Q: When you say -- so you consider a 75-bed
24 hospital to be relatively small?

25 A: Yes.

1 **Q:** What type of services did that hospital offer
2 as compared to the referral center or the
3 regional center that you were working at
4 previously?

5 **A:** Well, we were a -- we were I guess what you
6 would consider to be a basic community
7 hospital. We did have difficulty attracting
8 specialists, so the breadth of our services was
9 certainly more narrow than I was used to at
10 North Florida Regional, general medical, ER,
11 some of the basic surgical specialties like
12 general surgery and ENT. We performed more
13 outpatient surgery than inpatient at that
14 hospital.

15 **Q:** Was that hospital considered more of a
16 community hospital than a regional center?

17 **A:** Yes.

18 **OBJECTION:**

19 **MS. CRUM:** Your Honor, I'm gonna object to the
20 leading questions. I haven't so far, but I do
21 want to object to leading questions.

22 **THE COURT:** Rephrase.

23 **Q:** What type of hospital was that considered in
24 terms of the scope of services that it offered?

25 **A:** Well, it was a general acute care hospital,

1 what you would see in an average community.

2 Q: Okay. And so you did that until when?

3 A: Until 2000.

4 Q: Okay. And what did you do after that, Mr.
5 Gallati?

6 A: Moved over to Panama City with HCA where I was
7 the CEO of Gulf Coast Medical Center.

8 Q: What type of hospital was that compared to what
9 you had worked at previously?

10 A: I would put it between a North Florida Regional
11 and a Lake City Medical Center. It was a
12 community hospital with 176 beds. Had a little
13 more advanced services than Lake City Medical
14 Center in terms of surgical specialties,
15 cardiac services, and neonatology.

16 Q: Was part of your job as the CEO -- well, I'll
17 tell you what, what were your responsibilities
18 as CEO at HCA Gulf Coast? Kind of in a broad
19 overview.

20 A: Was responsible for the overall operation and
21 success of the hospital in meeting their goals.
22 Had a local board of trustees that -- that
23 oversaw the quality with us. We did a lot
24 physician recruiting to build the medical
25 staff, so a good amount of my time was in

1 physician recruiting, community relations, as
2 well as building services that met the needs of
3 the community.

4 Q: Did you participate in strategic planning?

5 A: Yes.

6 Q: Tell the Court what about what a CEO does and
7 the process of strategic planning.

8 A: Well, it's an annual process with us, within
9 HCA. At times, we'll actually plan out, you
10 know, three to five years, even ten years.
11 But, typically, it runs around the budget
12 process, so we start out with the strategic
13 planning effort about halfway through our
14 fiscal year where we're looking at potential
15 opportunities, gaps in the community, as well
16 as, you know, potential growth rate for various
17 services. And from that follows our operating
18 budget, as well as our capital budget because
19 if we have gaps in our services and we need to
20 perhaps build another wing onto the hospital,
21 we obviously have to plan for that from a
22 capital perspective, but also in the more
23 short-term, we need it to tie to our operating
24 budget. If we have needs, fluctuations in
25 volume, growth in volume in a certain service

1 area, we need to make sure that we staff for
2 that and resource that. So that helps build
3 our operating budget, that takes into effect at
4 the end of the fiscal year.

5 Q: As the CEO of the hospital, what are your
6 responsibilities with respect to financial
7 hospital management?

8 A: Ultimately responsible for the financial health
9 and -- of the operation and meeting budget.

10 Q: Do you currently participate in strategic
11 planning for Trident Health?

12 A: Yes.

13 Q: How long -- now, your resume, it says 11/2000
14 to the present HCA Gulf Coast Medical Center.
15 I don't think you're at HCA Gulf Coast Medical
16 Center anymore. When did you leave the Medical
17 Center?

18 A: I left Gulf Coast Medical Center in 2008 ---

19 Q: Okay.

20 A: --- when I started at Trident.

21 Q: And so how long have you been -- you've been at
22 Trident since 2008 then?

23 A: Yeah, for eleven years.

24 Q: Okay. And how long, then, have you been acting
25 in the capacity of a hospital or health system

1 CEO now? Just ballpark that.

2 A: Well, since Lake City Medical Center, so 20 --
3 about 20 years.

4 Q: Okay.

5 A: 22 years.

6 Q: Are your responsibilities at Trident Health
7 different than what they were at HCA Gulf Coast
8 Medical center?

9 A: Well, it's the same position title with maybe
10 the basic same responsibilities. Obviously, a
11 larger operation, as well as two hospitals and
12 more of a system here in the Charleston market.

13 Q: Can you explain to the Court a little bit about
14 what that system entails?

15 A: Yeah, Trident Health is made up of four major
16 facilities, Trident Medical Center, as well as
17 Summerville Medical Center, two acute care
18 hospitals, as well two freestanding ERs. We
19 also have an ambulatory surgery center that
20 rolls up into our market and our financials
21 that we work with, as well as some physician
22 practices.

23 Q: Okay. Do you currently monitor the financial
24 metrics at Trident Health?

25 A: Yes.

1 Q: Who reports to you at -- kind of the reporting
2 position at Trident Health?

3 A: Well, I have about -- about eight direct
4 reports on our senior leadership team. Our
5 chief financial officer, chief nursing officer,
6 chief operating officer, got a marketing
7 position, chief medical officer, as well as an
8 assistant administrator, which we call a VP of
9 operations, and I have a dotted line
10 relationship with the CEO at Summerville
11 Medical Center.

12 Q: Ultimately, how many people are you responsible
13 for at Trident Health?

14 A: We have about 2500 employees within Trident
15 Health.

16 Q: Have you ever been in a situation as a CEO
17 where a new hospital has moved into your
18 primary service area?

19 A: No, not a new hospital.

20 Q: What about Roper St. Francis Berkeley?

21 A: Well, yeah, in the last month.

22 Q: Okay.

23 A: Yes, I have had that experience.

24 Q: Okay.

25 A: A new experience.

1 Q: Right. Is one of your duties as a CEO to
2 monitor the activities of other hospitals and
3 health systems in the market?

4 A: Absolutely.

5 Q: How would you go about doing that?

6 A: Well, certainly gaining feedback about your
7 competitors, knowing your competitors and their
8 capabilities, their services, where there's
9 overlap, where there's gaps between those
10 competitors. There is the opportunity in South
11 Carolina to gain market share information each
12 quarter, mainly inpatient volume at each
13 facility that you can have intel into. All
14 hospitals have access to that information.

15 Q: Where does that information come from?

16 A: Well, it starts at the hospital level. It's
17 requested by the State and it's fed back from
18 the State every quarter.

19 Q: Okay. Is that something you monitor closely?

20 A: Yes.

21 Q: Do you monitor the population growth in the
22 communities that your health system services?

23 A: Yeah, absolutely. Yeah.

24 Q: Why do you do that?

25 A: Well, it helps to determine again where you

1 might have gaps in -- in access with patients,
2 with services that might need to be offered in
3 new growth areas, as well as areas that may be
4 dropping in population, need to adjust your
5 services.

6 **Q:** And what type of hospital is Trident Medical
7 Center?

8 **A:** You know, if I had to classify it, I would say
9 it's more of a tertiary facility compared to
10 some of the facilities that I've had experience
11 with and comparing to other hospitals around.
12 So I would consider it to be a tertiary
13 facility and that's mainly because we have
14 gotten to the point where we not only have kind
15 of your basic specialties, but also
16 subspecialties within that. So, if you have
17 several general surgeons on your medical staff,
18 you might be considered a community hospital,
19 but if you have colorectal fellowship trained
20 colorectal surgeons, as well as fellowship
21 trained breast surgeons that are also general
22 surgeons, when you get to that subspecialty
23 level, you might be considered more of a
24 tertiary hospital.

25 **Q:** Okay. What type of hospital is Summerville

1 Medical Center?

2 A: Community hospital.

3 Q: And what other healthcare systems operate via
4 a physical presence in your primary service
5 area? Hospitals or health systems?

6 A: Well, within our primary service area it really
7 would be just Trident Summerville and Roper
8 Berkeley's new 50-bed hospital.

9 Q: Do any other health systems have a physical
10 presence with respect to physicians in your
11 primary service area?

12 A: Absolutely, yeah. The physicians of other
13 health systems employed by other health systems
14 are spread out through the community and
15 several of them are at the entrance to Trident
16 Medical Center, yes.

17 Q: And so is that something that you stay abreast
18 of, as well?

19 A: Yes.

20 OFFER AS EXPERT:

21 MR. THOMAS: Your Honor, at this time I'd like to
22 offer Mr. Gallati as an expert in hospital
23 operations, hospital financial operations, and
24 hospital strategic planning based on his more
25 than almost 30 years of experience in the

1 healthcare arena, and 22 of those spent as a
2 chief executive officer running a hospital.

3 THE COURT: Start with y'all, any objection?

4 MS. HOLLINGSWORTH: No objection, Your Honor.

5 MR. WICEVIC: No objection.

6 MS. CRUM: Your Honor, I'd like to do a little bit
7 of voir dire, if you don't mind.

8 THE COURT: That's fine.

9 MR. GALLATI - VOIR DIRE EXAMINATION BY MS. CRUM:

10 Q: Mr. Gallati, you were the director of planning
11 in 1990 at Lake City Hospital, is that correct?

12 A: At North Florida Regional Medical Center.

13 Q: Sorry, I thought you said Lake City. Okay. So
14 that was the one year that you were the
15 director of planning?

16 A: Correct.

17 Q: Okay. Now, have you ever done -- have you
18 worked in an administrative position in a
19 hospital other than HCA hospitals?

20 A: No.

21 Q: Have you ever worked in a not for profit
22 hospital?

23 A: No.

24 Q: Have you ever worked in an academic medical
25 center?

1 A: Other than the some internship and some
2 projects, no.

3 Q: And when was that?

4 A: During my training as -- in my master's program
5 at the University of Florida.

6 Q: Was that in '87, '88, '89?

7 A: Yes.

8 Q: Which one? Do you remember?

9 A: '88 and '89.

10 Q: Okay. Thank you. Have you ever -- and when
11 you were -- you said you had worked as a
12 transporter, is that when you just roll
13 patients in the hospital?

14 A: I try not to allow my transporters to say just
15 because it's an important role, but yes.

16 Q: Okay. Well, but I mean, you didn't give
17 anybody medicine or anything like that; you
18 moved patients from point A to point B?

19 A: Correct.

20 OBJECTION:

21 MS. CRUM: Your Honor, I'm going to object to his
22 being qualified as an expert in hospital
23 operations. I've got no problem with his being
24 qualified as an expert in hospital operations
25 with regard to for-profit hospitals, the same

1 is true with regard to the health planning and
2 with regard to the financials, because he just
3 -- he doesn't have that background. The
4 background is limited strictly to for-profit
5 hospitals. They have to satisfy shareholders;
6 not-for-profits and governmental entities do
7 not and I think that's a major distinction.

8 MR. THOMAS: Well, Your Honor, I want to offer him
9 as an expert in hospital operations for
10 primarily his hospital and the effects that
11 area hospitals will have on his operation, so
12 I have no problems with this limitation.

13 MS. CRUM: And, Your Honor, he doesn't have to have
14 -- be an expert to be able to testify to the
15 factual effects of any problems that they
16 allege MUHA's bed will have on this hospital.

17 MR. THOMAS: That's interesting.

18 THE COURT: That doesn't keep them from qualifying
19 him as an expert, though, so he's so qualified.

20 MR. THOMAS: Thank you, Your Honor.

21 **Q: That's a great segue Ms. Crum provided me. Is**
22 **Trident Health a for-profit company?**

23 **A: Yes, we pay taxes.**

24 **Q: Okay. Does Trident Health participate in any**
25 **charity care?**

1 **A:** **Absolutely.**

2 **Q:** **Can you give the Court an idea about what that**
3 **number is, the dollar value is say for this**
4 **year or 2018?**

5 **A:** **Well, I don't know if I could put a finger on**
6 **the exact dollar amount for 2018 or this year,**
7 **but it certainly is in the millions. We -- we**
8 **have about ten percent of our patients on**
9 **average at any given time that don't have the**
10 **ability to pay, don't have any healthcare**
11 **insurance, and almost all of that amount is**
12 **written off either through bad debt or charity**
13 **care.**

14 **Q:** **Okay. And in terms of being a for-profit**
15 **entity, what are the type of taxes that your**
16 **company pays?**

17 **A:** **Well, every type of taxes that any other**
18 **business would pay other than a nonprofit. We**
19 **certainly pay property tax, as well as all**
20 **sales tax, as well as income tax, those are**
21 **certainly the largest bulk of the taxes that we**
22 **pay.**

23 **Q:** **Do you know what your percentage of Medicaid**
24 **patients is in your payer mix, Mr. Gallati?**

25 **A:** **Medicaid is -- moves between kind of the low**

1 double digits to 15 percent.

2 Q: Okay. And how about Medicare for Trident
3 Health?

4 A: It's about 50 percent of our patient mix.

5 Q: Okay. So anywhere between maybe 60 and 65
6 percent of payer mix is governmental?

7 A: You could add Tricare onto that and be closer
8 to certainly above 65 percent with Tricare.

9 Q: And what did you say that your charity care
10 percentage was in terms of the payer mix?

11 A: Well, the amount of self-pay in the payer mix
12 is about ten percent.

13 Q: Okay. So by doing the math just in my head,
14 it's 75 percent is either self-pay, Medicare,
15 Medicaid or Tricare?

16 A: Correct.

17 Q: So what does that leave the 25 percent? Who's
18 paying 25 percent of the revenues at Trident
19 Health?

20 A: The majority of that remainder is commercial,
21 typically Blue Cross, but commercial mix is
22 typically in the low 20s, 20 percent, 22
23 percent for us.

24 Q: Now, are you aware of -- do you know what
25 Trident Health's net revenue per adjusted

1 admission is?

2 A: Yeah, it runs about 13,000 ---

3 Q: Okay.

4 A: --- for adjusted admission.

5 Q: Can you explain to the judge what net revenue
6 per adjusted admission is, just for the record?

7 A: So really at its most rudimentary level, it's
8 cash in the door divided by the amount of
9 adjusted admissions. Adjusted admissions is
10 typically the best marker for activity level in
11 hospitals. We like to count beds and count
12 admissions, but adjusted admissions takes into
13 account an outpatient factor, so it takes into
14 account both inpatient and outpatient work, as
15 well.

16 Q: Let's talk a little bit about that, just that
17 concept. I guess MUHA's proposed hospital, is
18 it just an inpatient operation?

19 A: No, almost all hospitals are both inpatient and
20 outpatient, anywhere from say 60 to 70 percent
21 of the work patient volume is inpatient; 30 to
22 40 percent is outpatient.

23 Q: Okay. What type of outpatient services does
24 Trident Health offer, kind of a general sense?

25 A: Probably definitely the biggest is the

1 emergency department and next is outpatient
2 surgery, but you also have outpatient imaging,
3 as well as lab and other diagnostics.

4 Q: You mentioned a little bit about Trident
5 Health's, the components earlier, and spoke
6 about the two emergency rooms and the two
7 hospitals. Is there anything in the works now
8 in terms of facility build-out?

9 A: Yeah, we're excited we have a freestanding ER
10 that's just started construction in Summerville
11 at the entrance to the Nexton subdivision and
12 that should be done by the summer, if we
13 believe the contractor, work well with that,
14 should be done by the summer of 2020, next
15 summer.

16 Q: How about in the Moncks Corner area?

17 A: We -- we have some planning going on related to
18 a 50-bed hospital, CON award that we've gotten
19 and we're working on some site issues on that
20 50-bed hospital.

21 Q: Okay. We'll talk a little bit about more of
22 that in a minute, but I want you to kind of
23 drill down a little bit more. You've kind of
24 given a general overview of Trident Medical
25 Center's service offerings. I want you to get

1 a little bit more specific in the type of
2 healthcare services that Trident Medical Center
3 offers on its campus.

4 A: Well, we're real proud of the development over
5 the years of Trident Medical Center. We
6 started 45 years ago at that site when it
7 seemed like -- it sounds like everyone thought
8 we were crazy to move up to that area. It's
9 grown in complexity and in size, breadth and
10 depth of services. I think, you know, one of
11 the first things that comes to mind for us with
12 Trident Medical Center is cardiac services. So
13 we've developed our cardiac services to meet
14 the needs of the community and real proud of
15 the fact that we -- that our chest pain STEMI
16 patients come to us, can get to the cath lab.
17 We get them to the cath lab very, very quickly
18 and exceed all national guidelines for that
19 area. So that's probably the number one reason
20 you'd be admitted to Trident Medical Center
21 would be for cardiac reasons. We also have a
22 trauma center that's moved from a Level III to
23 a Level II trauma center, which has been very
24 well received by the community. In fact, one
25 of the reasons for starting that service was

1 DHEC, as well as local EMS coming to us saying
2 you have the capabilities to move to this next
3 level, and can we encourage you to do that.
4 And we were successful doing that several years
5 ago and now we see about 50 percent of the
6 trauma patients in the region, about 2,000 a
7 year, coming to us. So, certainly, within
8 those two areas, our emergency department is
9 very active. Many of our patients, in fact,
10 about 75 percent of our patients that end up in
11 our inpatient area, come through the emergency
12 department first.

13 Q: What type of certifications, if any, does
14 Trident Medical Center have?

15 A: Well, we have some licensure certifications
16 with our trauma -- trauma program. The
17 American College of Surgeons, as well as DHEC,
18 have certified that program with no
19 deficiencies right out of the gate, so we're
20 proud of that. We have a number of
21 certifications in the cardiac area which is,
22 obviously, one of our major focuses with the
23 American Heart Association guidelines, meeting
24 those. With the joint commission, there's
25 actually every three years they come in and

1 survey hospitals, but beyond that you actually
2 can ask their consulting arm to come in and
3 work with you on several service lines, and
4 we've done that in areas like total joint,
5 sepsis care, diabetes care, where they've come
6 in and given us extra certifications for those
7 areas.

8 Q: Have any certifications in the stroke area?

9 A: We just last year just became Joint Commission
10 certified in stroke care, moved from a primary
11 stroke center to a thrombectomy-capable stroke
12 center, that's kind of a mouthful, but
13 basically it allows our clinical team to not
14 only use TPA, but also use mechanical means,
15 catheters to retrieve clots that are causing
16 the stroke.

17 Q: What type of cancer services does Trident
18 Medical Center offer?

19 A: We have an oncology service line that really is
20 anchored by a radiation treatment facility with
21 three linear accelerators and three radiation
22 oncologists.

23 Q: Any kind of specialized surgery that's done at
24 Trident?

25 A: Yeah, we're certainly proud of our robotics

1 **capability both in urology and GYN where you**
2 **typically see robots being used by surgeons for**
3 **patients in those areas, but also now in the**
4 **cardiac and thoracic area, we're using that**
5 **robotic technology, as well.**

6 **Q: Does Trident Medical Center do open-heart**
7 **surgery?**

8 **A: Yes.**

9 MR. THOMAS: Can you pull up Exhibit 153, Trident
10 Exhibit 153?

11 (Trident Exhibit Number 153 was referenced at this
12 time.)

13 **Q: Mr. Gallati, I'm showing you the cover here of**
14 **-- it's called a joint annual report, do you**
15 **recognize this document?**

16 **A: Yeah, the joint annual report.**

17 **Q: Are you familiar with it?**

18 **A: Yes.**

19 **Q: What type of information does the JAR contain?**

20 **A: It's patient volume statistical information**
21 **that's reported to DHEC.**

22 MR. THOMAS: Can you put this on page 070 for me,
23 153, '070?

24 **Q: Okay. Is this the 2018 JAR for Trident?**

25 **A: Yes.**

1 Q: And is this a document you typically review?

2 A: Yes.

3 MR. THOMAS: I would like to go to 153 73. There
4 you go.

5 Q: Mr. Gallati, I am going to ask you about some
6 of the data that's in this JAR report. By the
7 way, who is the JAR filed with?

8 A: DHEC.

9 Q: Okay. The Department of Health and
10 Environmental Control?

11 A: Yes.

12 Q: Is that something that is done on a periodic
13 basis?

14 A: Quarterly.

15 Q: First of all, let's look here, we're at Trident
16 153-73 to orient myself here. How many adult
17 medical centers does Trident Medical Center
18 have -- I'm sorry, adult medical surgical beds
19 does Trident Medical Center have set up and
20 staffed for 2018, if you see that line item
21 there?

22 A: Yeah, it makes up 225 of our 313 beds.

23 Q: Okay. And it says obstetrics level of unit and
24 then how many beds there for 2018?

25 A: 25.

1 Q: Do you still have those beds?

2 A: We don't. We consolidated OB services to
3 Summerville Medical Center.

4 Q: Okay. And then tell the Court a little bit --
5 you've got 17 psych beds. Tell the Court a
6 little bit about Trident's psychiatric program.

7 A: We -- we started with inpatient psychiatry
8 capabilities about five years ago. We've
9 actually grown that since this number came out,
10 we have 25 beds now because of the -- because
11 of the demand.

12 Q: But those aren't considered I guess in the
13 med/surg category, is that right?

14 A: Correct.

15 Q: So if we go down here to intensive care, it
16 says how many medical/surgical ICU beds does
17 Trident have there?

18 A: 28.

19 Q: And it has 18 additional ICU beds there below?
20 It says, other, please specify.

21 A: I wasn't seeing that. I'm sorry. Yeah, it was
22 off my screen. 18.

23 Q: Okay. So I'm just gonna do some basic math,
24 but with the 225 and the 46 here, that's 271,
25 I guess -- or -- yeah, 271 med/surg beds, would

1 that be in that category?

2 A: Yes, that's -- that sounds about right.

3 Q: Okay. And in terms of utilization, I want to
4 talk a little bit about what we're -- if we go
5 over to the far right there, the 2018 category
6 adult medical/surgical, what is your total
7 patient days of care there for just the adult
8 medical/surgical category?

9 A: In 2018, it's 8,949.

10 Q: Okay. I'm sorry; go up to under acute and sub
11 acute care, to the top line item adult
12 medical/surgical, do you see that on 2018?

13 A: Yes.

14 Q: Go all the way over to the right. What's your
15 patient days there?

16 A: 58,685.

17 Q: And if we then drop down to the
18 medical/surgical ICU, what do you have there?

19 A: That's the 8,949, yeah.

20 Q: Okay. Good. We're gonna try to just keep a
21 running count here for us, my readers, and what
22 -- how about the other ICU category, how many
23 patient days do you have there?

24 A: 13,291.

25 Q: Okay. So I got a total in the med/surg

1 category then of 8,925, does that sound about
2 right?

3 A: Yes.

4 Q: So how would I get patient days of 8,925 as my
5 overall med/surg utilization?

6 A: How would you get patient days?

7 Q: Yeah, like how many -- well, patient -- or,
8 excuse me, the average daily census there, I'm
9 sorry.

10 A: Dividing those patient days by -- by our length
11 of stay.

12 Q: Okay. So I get 221, then, does that sound
13 about right there for 2018 for those bed
14 categories?

15 A: Yes.

16 Q: All right. So if you had 271 beds and I divide
17 that, that gives me about an 82 percent
18 occupancy rate, does that sound about right?

19 A: Yes. We've run about 80 percent.

20 Q: Okay.

21 A: Yes.

22 Q: So if it's 271 beds and that's 80 percent
23 occupancy, that's about 216 beds -- butts in a
24 bed a night as it's called in the business?

25 A: Yes.

1 **OBJECTION:**

2 **MS. CRUM:** Your Honor, I -- you know, I've refrained
3 from objecting to leading, but basically I
4 would appreciate it if the Court would instruct
5 Mr. Thomas not to testify and then ask if
6 that's right.

7 **THE COURT:** I don't think he's testifying, but he
8 may be leading.

9 **MS. CRUM:** All right, sir.

10 **MR. THOMAS:** Well, Your Honor, I'm just trying to
11 get him through the math.

12 **THE COURT:** I understand.

13 **MR. THOMAS:** I can have him do it and take a lot
14 more time. I didn't hear her, you know, at
15 any time ---

16 **THE COURT:** Well, she has asked.

17 **MR. THOMAS:** What's that now?

18 **THE COURT:** She has objected now, so.

19 **MR. THOMAS:** Okay.

20 **Q:** Well, so, Mr. Gallati, you mentioned that at
21 any given time what's the percentage of your
22 occupancy at Trident?

23 **A:** Med/surg and ICU combined is right at about 80
24 percent.

25 **Q:** Okay. So if I wanted to get the -- how many --

1 what your midnight census was on any given day,
2 if you have 271 beds, what would I do to get
3 that?

4 A: Multiply 271 by 80 ---

5 Q: Okay.

6 A: --- by 80 percent, putting 217 beds in use.

7 Q: Gotcha. So if 271, can you take -- if you've
8 got 271 med/surg beds, and you subtract 217,
9 what do you get?

10 A: 64.

11 Q: Okay. I'm getting 54.

12 A: Okay.

13 Q: I just want to make sure it's right, but can
14 you check again? Didn't mean to lead you
15 there.

16 A: Yeah, 54.

17 Q: Okay so, an average at midnight 54 beds are
18 empty at Trident in the med/surg category?

19 A: Yes.

20 Q: Just for the record, what type of imaging
21 services does Trident offer?

22 A: Really, the -- really, the full gamut of
23 imaging services from MRI and CT and PET/CT to
24 general -- general x-ray, ultrasound, as well
25 as bone density and nuclear scanning.

1 Q: What's a PET/CT, what is that?

2 A: It's technology that's used to help stage
3 cancers, identify and stage cancers where
4 typical x-ray and CT and MR can't always
5 discern what type of a mass or issue it is
6 inside the anatomy.

7 THE COURT: Positive Emission Tomography?

8 A: Correct. PET can -- PET can light it up, if
9 you will, light up the cancer.

10 Q: So you mentioned the Level II trauma service
11 earlier, is there a higher level of trauma
12 service than Level II?

13 A: Yes, Level I services.

14 Q: What's the difference between what Trident is
15 offering at a Level II level and what a Level
16 I service would offer?

17 A: The primary difference is a Level I is required
18 to perform research and have a teaching
19 component to their trauma program.

20 Q: Okay. And Trident's not engaged in that?

21 A: No.

22 Q: Okay. How many -- do you know kind of
23 approximately or maybe precisely how many ED
24 bays that Trident has, emergency department
25 bays?

1 A: We -- we have about 48, I believe.

2 Q: Okay. And if we could go -- well, do you have
3 any idea what Summerville's at?

4 A: We're moving to that same level at Summerville
5 with our current construction project.

6 Q: Okay.

7 A: Today, they're halfway through construction, so
8 we are challenged as the number of days and it
9 would be a round guess if I gave it to you.

10 Q: I think Ms. Valentine will be here later and
11 she can talk about that. Has Trident expanded
12 its ED in the last five years?

13 A: We have, yes.

14 Q: Do you recall about how much that project cost?

15 A: We spent about \$14 million on our ER expansion
16 project about two years ago. That gave us
17 about 25 percent more capacity.

18 Q: And why did Trident Medical Center expand its
19 ER?

20 A: Well, just the sheer number of patients coming
21 in the door. We had seen some growth and we
22 were responding -- responding and planning for
23 that growth.

24 Q: Okay. As -- how about Summerville Medical
25 Center, same question. Have they undertaken

1 any expansion projects?

2 A: And really the same need following Trident's
3 project, we were looking at the number of ER
4 visits per room over the course of a year's
5 period at Summerville and we also exceeded the
6 thresholds for that and we undertook an
7 expansion project that, as I said, we're
8 halfway through.

9 Q: Okay. Do you have any idea of kind of an
10 approximate cost of that project?

11 A: Well, that includes some ancillary expansions,
12 as well, so I know it was -- just for the ER,
13 it was very similar to Trident's project, if
14 you isolate just the ER expansion part. So, in
15 the \$20 million range.

16 Q: Any idea -- you mentioned that it was gonna be
17 a freestanding ED in the Nexton area, do you
18 have any idea what the budget, the cost
19 estimate for that was?

20 A: About \$12 million.

21 Q: And when was Centre Pointe -- when did Trident
22 build -- well, where is Centre Pointe -- where
23 is the Centre Pointe freestanding ED that you
24 referenced earlier?

25 A: Centre Port ED -- Centre Pointe ED is our

1 newest freestanding ER that started about four
2 to five years ago. It's located at the --
3 basically the intersection of I-26 and 526,
4 central Charleston area near the airport.

5 Q: What was the reason that Trident Medical Center
6 undertook that project?

7 A: Well, as part of our planning, we had -- we had
8 noticed a noticeable gap in emergency care
9 between -- between Trident and downtown and St.
10 Francis hospitals. There was an area that was
11 under-served from an emergency standpoint.
12 There were some urgent cares, but we felt like
13 freestanding EDs differentiate from urgent
14 cares and provide that next level of care so
15 that was the main reason. And it -- it's been
16 fairly busy, seeing about 60 patients a day.

17 Q: Any other freestanding ED projects in
18 development?

19 A: We have a Certificate of Need that's being
20 challenged for a freestanding ER on James
21 Island.

22 Q: Okay. And why is Trident putting a
23 freestanding ER in James Island?

24 A: Well, there are no emergency facilities on
25 James Island.

1 Q: How much did the Centre Pointe project cost?

2 A: I think it was just over \$10 million.

3 Q: Okay. Let's pull up 1- -- Exhibit 153 again
4 and let's go to page 78 if we could. And this
5 is once again the JAR for the record.

6 (Trident Exhibit Number 153 was referenced at this
7 time.)

8 Q: Mr. Gallati, you'll see some utilization data
9 here through the EDs that you oversee and what
10 was the utilization at Trident for 2018, at
11 just Trident Medical Center?

12 A: The visits, total patients was 67,985.

13 Q: Is that considered a busy -- you know, fairly
14 busy ED?

15 A: Yes. Yeah, in comparison to HCA and national
16 standards?

17 Q: And how about Moncks Corner, where is the
18 Moncks Corner freestanding ED?

19 A: It's really in town proper of Moncks Corner.

20 Q: And how many -- what was its utilization in
21 2018 there?

22 A: 13,865.

23 Q: About how about Centre Pointe, which you were
24 just talking about, what was your utilization
25 there?

1 **A: 20,284.**

2 MOTION TO ADMIT:

3 MR. THOMAS: Your Honor, at this time, I'd like to
4 admit Trident's Exhibit 153 into evidence, the
5 2018 JAR report.

6 MS. CRUM: No objection.

7 MR. WICEVIC: No objection.

8 THE COURT: It's admitted.

9 MR. THOMAS: Thank you.

10 (Trident Exhibit Number 153 was admitted into
11 evidence.)

12 MR. THOMAS: Let's go to Trident Medical Center
13 Exhibit 152. And go to page 70, it looks like
14 we're there, and actually if you could go,
15 Adam, to page 68 for me real quick.

16 (Trident Exhibit Number 152 was referenced at this
17 time.)

18 **Q: All right. Mr. Gallati, I'm showing you the**
19 **2018 Joint Annual Report of Hospitals for**
20 **Summerville Medical Center, are you familiar**
21 **with this document?**

22 **A: Yes.**

23 **Q: Something you reviewed before and taken a look**
24 **at?**

25 **A: Yes.**

1 Q: And if we could go to Trident 152-071, looks
2 like you're already there. And Summerville
3 Medical Center, how many beds did it have set
4 up and staffed in 2018.

5 A: 66.

6 Q: For med/surg, okay. How about OB?

7 A: 36 OB and six pediatric specialty beds.

8 Q: So we come down here, it just says other
9 specified PCU. What's a PCU?

10 A: Progressive Care Unit, the step-down between
11 ICU and a med/surg bed.

12 Q: How many of those beds does Summerville have?

13 A: Eight.

14 Q: How many ICU beds does Summerville have?

15 A: Eight, as well.

16 Q: Okay. And the total there, what's the grand
17 total at the end of 2018 for Summerville
18 Medical Center?

19 A: 124.

20 Q: If we go all the way to the right side, in that
21 column, under grand total, what is your total
22 number of patient days for Summerville Medical
23 Center at the end of 2018?

24 A: 26,376.

25 Q: What would the average daily census be for

1 that, Mr. Gallati?

2 A: The length of stay of four days for those
3 patients. That's not right.

4 Q: If I wanted to find the average daily census on
5 26,376, what could I do there?

6 A: Taking my number of admissions there, I think
7 that would be about 100 -- 110.

8 Q: Okay. All right. Now, does Trident Health
9 have a local board, Trident Health System?

10 A: We do. We have a Board of Trustees.

11 Q: What is the responsibility of that Board of
12 Trustees?

13 A: Really to oversee the quality of the care that
14 we provide. One of their major
15 responsibilities is credentialing of our
16 providers, our physicians, as well as our
17 advanced practitioners.

18 Q: Okay. And you mentioned earlier that I think
19 you said Trident Health employs, how many
20 employees ---

21 A: 2,500.

22 Q: What percentage of those are clinical, if you
23 had to ballpark that?

24 A: About 75 percent.

25 Q: What do you consider to be Trident Health's

1 market?

2 A: Well, we consider our primary service area to
3 be, obviously, our primary market. That is
4 where about 85 percent of our patients come
5 from. We expand that to a secondary service
6 area which might encompass -- or does encompass
7 zip codes that make up another ten percent of
8 our patient population.

9 Q: Okay. How about regionally-wise, without --
10 you know, the percentage, where do those
11 patients, that 85 percent, come from in your
12 overall area that you serve?

13 A: Yeah, our -- our primary service area is
14 Berkeley and Dorchester County and part of
15 Charleston County. So it stretches from that
16 Centre Pointe Emergency area at 526 and 26 up
17 to and slightly around the lakes in northern
18 Berkeley County.

19 Q: Are you familiar with the -- kind of the
20 downtown Charleston area?

21 A: Yes.

22 Q: Do you know where Calhoun Street is?

23 A: Yes.

24 Q: The 29401 zip code, which is kind of the end of
25 the peninsula there, do you have any idea how

1 may patients you get from that area, inpatients
2 in a given year?

3 A: Very few, almost none.

4 Q: Okay.

5 A: Yes.

6 Q: In terms of the clinical staff and the market
7 that you just described where you're getting a
8 lot of the patients, what is the state of
9 affairs just with respect to hiring registered
10 nurses in your area?

11 A: It's a challenge. It seems like it's been a
12 challenge our entire -- my entire career. It
13 seems like there's always some version of a
14 nursing shortage. Currently we employ about
15 70 travelers, so those are kind of itinerant
16 nurses that sign a two-month contract with you,
17 it's potentially renewable depending on the
18 need, and we use those to fill in for our
19 vacancy rate when we can't hire full-time or
20 part-time nurses locally.

21 Q: And are there any issues with utilizing
22 traveling nurses?

23 A: Well, they -- you know, they don't know you --
24 they don't know your policies, your personnel,
25 your processes, obviously, as well as your

1 full-time staff, but they're also more
2 expensive, too. You typically pay two and a
3 half times the rate that we would for a
4 traveler compared to a full-time RN.

5 Q: What is the primary purpose then that Trident
6 Medical Center is using traveling nurses?

7 A: If -- obviously, to fill that vacancy rate, but
8 it's really a two-fold reason. One is turnover
9 existing nurses. You know, backfilling those
10 folks that turnover and perhaps go to greener
11 pastures; and the other portion is keeping up
12 with the growth in the services that we've had.

13 Q: You referenced a little bit earlier about
14 Trident coming to that area sometime 40 years
15 ago, do you know when Trident Medical Center
16 was founded?

17 A: It was almost 45 years ago.

18 Q: Do you know the purpose of why Trident Medical
19 Center was founded?

20 A: Well, I have been fortunate to be able to get
21 some of that history since I've been here --
22 for the eleven years that I've been here.
23 Namely, from somebody like Councilman Bob King,
24 who sits on North Charleston's Council. He
25 described a time where there was a significant

1 gap in healthcare in the north area with two
2 smaller hospitals in both Moncks Corner, as
3 well as in Summerville that they felt like it
4 wasn't meeting the need and they wanted to get
5 additional healthcare services in the -- in the
6 north area at that -- kind of that tri-county
7 area point between Charleston, Berkeley and
8 Dorchester County. So they approached HCA, as
9 well as some other potential partners and Dr.
10 Fritz who founded our company came down and met
11 with local officials and eventually started
12 Trident Medical Center. So we've been an HCA
13 hospital ever since.

14 Q: Okay. And what were the primary communities
15 that Trident Medical Center was founded to
16 serve?

17 A: North Charleston, Goose Creek, Moncks Corner,
18 Summerville.

19 MR. THOMAS: Let's pull up DHEC 1, I guess that's
20 the record, page 967 of that record, if you
21 would.

22 (DHEC Exhibit Number 1 was referenced at this time.)

23 Q: Do you recognize this document, Mr. Gallati?

24 A: Yes, we've used this in our strategic planning.

25 Q: Okay. And can you -- is it legible to you

1 there? Can you make out the -- we have a paper
2 copy too if ---

3 A: Yeah, it basically shows the locations of the
4 hospitals, all the hospitals in the area, the
5 tri-county area.

6 Q: Can you kind of give the judge an idea of where
7 the different resources are or will be in just
8 kind of what I'll refer to as the north area up
9 here (indicating)?

10 A: Sue. So, I spend most of my time at Trident
11 Medical Center, that's that location there.
12 (indicating)

13 Q: When you say that location there ---

14 A: Can you see that?

15 Q: Yeah. Okay. Gotcha.

16 A: Okay. That's Trident Medical Center and then
17 Summerville Medical Center just to the left
18 about seven miles away in Summerville.

19 Q: Okay.

20 A: We -- I talked about Centre Pointe, which is
21 down closer to the airport, it's our
22 freestanding ER, and then our other
23 freestanding ER up in Moncks Corner near the
24 lakes is there closer to the top of the screen.

25 THE COURT: They moved it on you.

1 **A:** Yeah, they did. I can keep up with them. And
2 then the hospital in question is MUSC's
3 proposed hospital in the Nexton Carnes
4 Crossroads area. And then Roper that just
5 opened up and 50-bed hospital at Roper Berkeley
6 is just to the right of that. I think within
7 three or four miles of the proposed Med U site.

8 **Q:** Yeah, where -- you may have said this and I
9 didn't hear you, where would the Berkeley
10 Medical Center go?

11 **A:** Right -- right at our Moncks Corner Medical
12 Center site.

13 **Q:** Okay. And in terms of the -- kind of the
14 hospital distribution in the tri-county area,
15 how many are in existence currently in that
16 north that you serve, hospitals in existence?

17 **A:** Well, we have three, Trident, Summerville, and
18 Roper Berkeley, with a proposed approved
19 hospital at Moncks Corner, yeah, so three and
20 a half maybe.

21 **Q:** All right. And in terms of the East Cooper
22 area, how many hospitals are over there?

23 **A:** Two hospitals.

24 **Q:** And then let's look at the peninsula, how many
25 hospitals there?

1 A: Two plus the VA.

2 Q: Okay.

3 A: So, three.

4 Q: And then how about west of the Ashley River
5 that goes well into Dorchester County here, how
6 many hospitals are west of the Ashley River?

7 A: Just St. -- just Roper St. Francis.

8 Q: Okay. Now, in terms of your hospital and are
9 you -- what county is Trident Medical Center
10 in?

11 A: Charleston County.

12 Q: Okay. Now, were you a CEO at the time Trident
13 applied for the Berkeley Medical Center?

14 A: No.

15 Q: Okay. Were you aware of a dispute surrounding
16 the CON application for the Berkeley Medical
17 Center?

18 A: Oh, yeah, we -- when I came on, that started to
19 go through the CON process and we were -- we
20 were concerned that two 50-bed hospitals so
21 close to each other coming up at the same time
22 would be an over-bedded situation and it would
23 be difficult for at least our hospital. We
24 made the argument, I think made it difficult
25 for both hospitals to do well.

1 Q: Did you testify at the contested case hearing
2 in that CON matter?

3 A: I did.

4 Q: Where did Trident expect the patients were
5 gonna come from for Berkeley Medical Center?

6 A: Really, in and around that Moncks Corner and
7 northern Goose Creek and Carnes Crossroads
8 area.

9 Q: Okay. And what type of market share did
10 Trident Health have in that area of Berkeley
11 County at the time?

12 A: About 50 percent and that's still the case
13 today. We have about 50 percent market share
14 from Berkeley County.

15 Q: And I believe that the -- that the expert in
16 that case, who was that? Was that Richard
17 Beir?

18 A: Yes.

19 Q: Okay. And what did he testify in terms of the
20 redirection percentage, if you recall?

21 OBJECTION:

22 MS. CRUM: Your Honor, I'm gonna testify -- testify
23 -- I'm sorry; I'm gonna object to hearsay. If
24 he's asking him what Mr. Beir testified.

25 THE COURT: I understand.

1 Q: Okay. Do you recall what Trident Medical
2 Center assumed as a re-direction percentage for
3 Berkeley Medical Center?

4 A: When you say redirection, just to be clear?

5 Q: Yeah, the patients that were going to use
6 Berkeley Medical Center, how many would be new
7 patients as opposed to ones that would be more
8 -- were to use Trident Medical Center or
9 Summerville Medical Center?

10 A: Really the assumption there was we were going
11 to be treating the same patients that Trident
12 and Summerville were treating from that area.

13 Q: Why is that?

14 A: Well, we -- we had and we still do have
15 significant market share in that area. We felt
16 like if we're seeing 50 percent of those
17 patients at that time, that the other 50
18 percent were making a choice to go to another
19 system of care and that having a hospital there
20 wouldn't make a difference.

21 Q: Okay. Would those folks -- when you just said
22 the folks who were gonna choose another system
23 at that time where would they have to go in
24 order to choose another system?

25 A: Well, they were -- they were -- 50 percent of

1 them were going to St. Francis, as well as
2 downtown to both Roper and the Medical
3 University.

4 **Q:** And would they have to drive by your facility
5 to do that?

6 **A:** Yes.

7 **Q:** Can you tell the Court a little bit about the
8 progress of the Berkeley Medical Center, where
9 it is today?

10 **A:** Yeah, we've -- we've frankly been frustrated.
11 We've had some struggles with the land that we
12 purchased. We currently have fought through
13 the Army Corps of Engineers drainage concern
14 and we have actually had to buy land credits
15 away from that site to be able to mitigate the
16 drainage issues that are claimed to be on that
17 site. So the Army Corps has approved our
18 engineer's plan to modify the drainage on that
19 site, and that's the first step is to get a
20 construction crew, which we are in the process
21 of letting that contract out to do the site
22 work to move the drainage issue per the Army
23 Corps of Engineers' plan.

24 **Q:** Okay. Now, did you review MUSC's CON
25 application that is the subject of this case?

1 **A:** Yes.

2 **Q:** And it was actually, I think, appended to the
3 application there was an article in which you
4 were quoted as saying I guess back in December
5 2017, that Trident has no immediate plans to
6 build on the Moncks Corner site, were you aware
7 that that was in there?

8 **A:** Yes.

9 **Q:** Tell the Court about that statement that you
10 made back in 2017.

11 **A:** Well, it's a little unfortunate the reporter
12 didn't record the rest of the discussion that
13 I had with her -- I think it was a her at the
14 time. We were right in the midst of asking the
15 Army Corps of Engineers to help us with the
16 drainage issue and we weren't making any
17 progress and it was hard to look forward enough
18 to have some definitive plans when we weren't
19 even sure if that site was gonna be viable any
20 longer. It was very much in question whether
21 the Army Corps was going to approve the plan.
22 There were no land credits that we could buy at
23 that time, so we were very concerned. And I
24 think -- I think maybe that was a classic case
25 of one quote being -- giving maybe the wrong

1 idea and out of context.

2 Q: When would you anticipate Berkeley Medical
3 Center opening up?

4 A: I think -- I think within three years we can
5 get this drainage issue behind us and begin
6 seriously doing some architectural engineer
7 plans for that site.

8 Q: When you reviewed MUHA Nexton CON application
9 as the hospital CEO, what were your initial
10 impressions of that project and the
11 application?

12 A: Well, I was really surprised when the -- when
13 the news came out and the CON application was
14 filed, really felt like with the two other
15 hospitals being eminent in Berkeley County that
16 the need for hospital care would essentially be
17 met for years to come.

18 MR. THOMAS: Let's run -- let's go to DHEC Exhibit 1
19 page 14, if we could?

20 (DHEC Exhibit Number 1 was referenced at this time.)

21 Q: Mr. Gallati, this is a list of service
22 offerings that MUHA community hospital set
23 forth. Do you recall reviewing this list?

24 A: Yes.

25 MR. THOMAS: Below that is the bullet points up

1 there for me. Thank you.

2 **Q:** Are you aware of any services, Mr. Gallati, on
3 this list and the CON application that MUSC
4 represents it's going to offer at Nexton, any
5 services on that list that are not currently
6 offered at either Trident Medical Center or
7 Summerville Medical Center?

8 **A:** No.

9 THE COURT: At Trident or where?

10 MR. THOMAS: I'm sorry Trident Medical Center or
11 Summerville Medical Center?

12 THE COURT: Summerville, okay.

13 MR. THOMAS: Yes, sir.

14 **Q:** And do you understand that MUSC is going to add
15 a helipad at its Nexton location?

16 **A:** Yes.

17 **Q:** As a hospital administrator, do you have a
18 helipad at your facility?

19 **A:** Yes.

20 **Q:** What's the purpose of a helipad?

21 **A:** To both receive and send patients out that
22 either you're receiving those patients because
23 you have the level of care necessary to care
24 for those patients or you're sending them out
25 quickly because you don't have the capabilities

1 of caring for those patients.

2 Q: Based on your knowledge of this service
3 offering here, is MUHA next then going to
4 receive any helicopter patients in?

5 A: Well, any hospital could and would with an
6 emergency department and an intensive care unit
7 capabilities, that possibility's there, sure.

8 Q: Okay. Would they have trauma services? Do you
9 know if they're having trauma services?

10 A: I do -- I don't know if they're gonna have
11 trauma services. It's not listed here.

12 Q: Okay. Where does Trident Health get most of
13 its inpatient admissions? From what sources?

14 A: So, geographically or services wise?

15 Q: Yeah, services wise.

16 A: Okay. Okay. Most of our inpatient admissions,
17 and I mentioned this earlier, start in our
18 emergency department, so about 80 percent of
19 our patients that are upstairs, if you will, in
20 an inpatient bed with us today have come
21 through the emergency department.

22 Q: How about independent physicians, do they have
23 occasion to admit inpatients?

24 A: Yes, yes. EMS, community physicians admitting
25 or suggesting that their patients go to the

1 emergency department as opposed to their office
2 because they know they're already that sick, or
3 transfers from their office to the emergency
4 department is frequent.

5 Q: Does Trident monitor referrals from independent
6 physicians?

7 A: Yeah. Yes, we know to the extent possible when
8 we receive a referral. Sometimes patients will
9 come to our emergency department obviously on
10 their own and need and we try and collect
11 information on who their primary care
12 physicians is, too, for continuity reasons so
13 we can track that referral, as well.

14 Q: What types of independent physicians in your
15 community refer patients as inpatients to your
16 facilities?

17 A: And when you're talking about independent
18 physicians, you're talking about physicians
19 that aren't employed by a health system?

20 Q: Correct.

21 A: Okay. The largest group is Palmetto Primary
22 Care. They have about 100 providers, a mix
23 between physicians, mainly family practice
24 physicians and advanced practice, APPs we call
25 them. It might be nurse practitioners or PAs.

1 Q: Okay. And are they a referral source for
2 inpatients to Trident Medical Center?

3 A: Yes.

4 Q: Do you have any control over that particular
5 group of physicians as to where they can refer
6 their inpatients?

7 A: No, no, we certainly want to make sure they
8 know our services and try and work with all of
9 the independent physicians closely, as well as
10 the employed physicians, frankly, to let them
11 know our services and market our services, if
12 you will.

13 Q: So what type of physicians does Trident
14 contract with or employ?

15 A: Really, it's all on the specialist side. The
16 employment that we do is on the specialist side
17 or on the hospital-based side. And when I say
18 hospital-based, I'm mainly referring to
19 anesthesia, radiology, pathology, and trauma
20 surgeons. Typically, those are contracted with
21 a contract with a group or we employ them
22 directly.

23 Q: Okay. And those type of physicians you just
24 mentioned, the hospital-based, are they the
25 type that do a lot referring of inpatients?

1 **A:** No, they're taking care of the patients that
2 end up in our facilities. They are -- they're
3 a receiving source, if you will.

4 **Q:** Okay. Maybe that's the distinction there, the
5 receiving source. How many of the referring
6 source type physicians does Trident Health
7 employ or an affiliate of Trident Health?

8 **A:** Classically, I think of referrals -- referring
9 sources as being primary care physicians.
10 That's typically the medical home for a
11 patient; that's where all of it starts. And
12 from there, they refer to a potential
13 specialist if there's a need. We don't -- we
14 don't employ any primary care physicians; we do
15 have a family medicine residency program. It's
16 actually made up of 36 medical residents that
17 are training to be family practitioners. We
18 support that clinic by -- we own that clinic,
19 so I guess to answer that question I'd say 36
20 primary care physicians that we employ.

21 **Q:** Okay. And who -- where are those residents --
22 what type of facility or entity are those
23 residents associated with?

24 **A:** The faculty that helps to train those is from
25 the Medical University, MUSC faculty. So we

1 contract and pay MUSC faculty, family medicine
2 faculty, to train our residents.

3 Q: Mr. Gallati, what are medical staff bylaws?

4 A: I like to describe it as a contract between the
5 medical staff organization and the physician
6 members of that -- of that entity.

7 Q: And what type of things does the medical staff
8 bylaws control?

9 A: So it -- so medical staff bylaws govern that
10 medical staff entity to perform duties within
11 the hospital and it's everything from
12 requirements for participation in emergency
13 department call if you're on a certain staff
14 category to how we credential new members of
15 the medical staff that want to join or
16 reappoint along the way. Basically they are
17 policies and procedures on governing how the
18 medical staff works within our hospital.

19 Q: Are you aware of anything in Trident Medical
20 Center or Trident Health's medical staff bylaws
21 that prevents independent physicians who are
22 currently on your medical staff from referring
23 to other hospitals in the area?

24 A: No, it's not -- there's no provisions or
25 stipulations on exclusivity in those medical

1 staff bylaws. You can be on multiple medical
2 staffs and refer to multiple hospitals.

3 There's no -- there's no prohibition.

4 Q: Do you have a lot of Medical University
5 affiliated physicians on Trident's medical
6 staff?

7 A: Certainly the family medicine residency faculty
8 is all on our staff, as well as maybe a few
9 others. Yeah.

10 Q: Is it a large percentage of your overall
11 numbers?

12 A: No, we have 600 physicians and it might make up
13 25.

14 Q: Okay. How about Roper St. Francis, do you have
15 any idea how many of those physicians are on
16 your medical staff?

17 A: That are employed by Roper St. Francis?

18 Q: Yeah.

19 A: We probably have a similar number, probably
20 about 25.

21 Q: Okay. Let's talk a little bit about the
22 population that Summerville Medical Center
23 serves kind of in a general sense. What's
24 their market? You've talked a little bit about
25 Trident Medical Center; how about Summerville

1 Medical Center?

2 A: Yeah, Summerville Medical Center being a
3 community hospital has a geographic draw that
4 is a little bit smaller than Trident Medical
5 Center's, primarily our patients that use
6 Summerville Medical Center live in Dorchester
7 County.

8 Q: Okay. Is there an overlap at all between the
9 service areas of Summerville and Trident?

10 A: Oh, yeah, there definitely is and there's
11 frequent transfers between the two hospitals.
12 Trident for the OB work is transferring to
13 Summerville; Summerville's transferring the
14 cardiac work to Trident, and those patients are
15 living in Dorchester County or Berkeley County.

16 Q: MUHA states in its CON application there is a
17 staggering lack of patient access to health
18 services in Berkeley County. Do you agree with
19 that statement?

20 A: Absolutely not.

21 Q: Why not?

22 A: You know, there's not -- there's not an access
23 problem with patients in the tri-county area
24 finding -- finding a hospital, particularly as
25 we develop emergency services in the -- in the

1 upper Berkeley area. Most of the population
2 within Berkeley County is, frankly, closer to
3 Trident Medical Center. If you move the
4 Berkeley County line simply by a mile or a mile
5 and a half towards Goose Creek, you basically
6 have -- have -- or towards Trident and
7 encompass Trident, it's only a mile away, mile
8 and a half away, you basically have covered up
9 the bed need that is Berkeley County. So if
10 you look at it as the tri-county area as
11 opposed to thinking about Berkeley County being
12 an island that you can't get off of, you
13 certainly have very, very good access,
14 particularly as there's a new hospital now with
15 Roper Berkeley at Carnes Crossroads.

16 Q: Are you aware of any geographical barriers in
17 Berkeley County that impede or hinder access to
18 your facility?

19 A: No. I mean, there -- certainly with patient
20 access, there kind of is the two-bridge rule
21 that we tend to see in healthcare that patients
22 won't cross two bridges or maybe drive 45
23 minutes for healthcare services, but certainly
24 that's not the case within Berkeley County.
25 Other than the county sign that you might see,

1 you really don't know when you're in our region
2 and particularly around Trident Medical Center,
3 you really don't know whether you're in
4 Berkeley County one minute, Dorchester County
5 the next, and Charleston County the next. I
6 mean, it literally is that seamless.

7 Q: How close are Goose Creek, Hanahan and Ladson
8 to your hospital, those communities?

9 A: Well, Ladson's a stone throw, within five to
10 ten minutes all three of those major cities or
11 towns in our service area are within five to
12 ten minutes of us.

13 Q: So, in your opinion, do you believe that those
14 communities and the residents therein have
15 reasonable access to tertiary and non-tertiary
16 healthcare services?

17 A: Well, they do.

18 Q: As CEO of Trident, I think you already have
19 testified that you're responsible for
20 monitoring the market share of your facility?

21 A: Yes.

22 Q: How about the market share of your competitors?

23 A: Yes.

24 Q: Do you know what Trident Health's market share
25 is in Berkeley County at this time?

1 **A:** **50 percent. I mentioned that we have a 50**
2 **percent market share in Berkeley County.**

3 **Q:** **How about Dorchester County?**

4 **A:** **It's a little bit higher. It is just over 60**
5 **percent.**

6 **Q:** **Okay.**

7 **A:** **Not quite 61.**

8 **Q:** **And do you monitor where your patients come**
9 **from within -- within the area on a zip code**
10 **run?**

11 **A:** **We definitely do. 80 percent of our patients**
12 **come from Berkeley and Dorchester County, with**
13 **the remainder coming from Charleston County.**

14 **Q:** **Do you know the zip code where MUHA is planning**
15 **to place its community hospital?**

16 **A:** **I could point to it on a map, but I don't know**
17 **the actual digits.**

18 **Q:** **All right. Well, maybe we'll get to that.**

19 **MR. THOMAS:** **Let's pull up Trident Exhibit 141 if we**
20 **could.**

21 **(Trident Exhibit Number 141 was referenced at this**
22 **time.)**

23 **Q:** **Mr. Gallati, do you recognize this document?**

24 **A:** **I do.**

25 **Q:** **Okay. What is it used for?**

1 **A:** It's an internal decision support patient
2 origin report for Trident and -- yeah, this
3 isn't Trident Health, this is just Trident
4 Medical Center, but includes center -- our two
5 freestanding ERs, too, so it's total patient
6 registrations coming from these various zip
7 codes.

8 **Q:** Is this something -- the type of data you rely
9 on as the CEO?

10 **A:** Yes.

11 **Q:** Do you know what zip code that you're in?

12 **A:** 29406.

13 **Q:** All right. And 29445 at the top, what city is
14 that?

15 **A:** Goose Creek.

16 **Q:** And is that your number one kind of utilization
17 source by volume?

18 **A:** Yeah, it is now. There was a couple of years
19 ago there was a split in two Summerville zip
20 codes where prior to that that was our number
21 one. But Goose Creek is now.

22 **Q:** Okay. How far away is Goose Creek from Trident
23 Medical Center?

24 **A:** Six minutes.

25 **Q:** How about next on the list there, 29483, is

1 that your second source?

2 A: It is, Summerville. I think that encompasses
3 downtown Summerville.

4 Q: Okay. And a number it looks like 29461, which
5 one is that?

6 A: Moncks Corner.

7 Q: Okay. And that's number three on the list?

8 A: Yes.

9 Q: All right.

10 MOTION TO ADMIT TRIDENT 141:

11 MR. THOMAS: Your Honor, I'd like to admit this data
12 into evidence, TMC -- or Trident Exhibit 141.

13 MS. CRUM: No objection.

14 MR. WICEVIC: No objection.

15 THE COURT: It's admitted.

16 (Trident Exhibit Number 141 was admitted into
17 evidence.)

18 MR. THOMAS: Okay. Thank you. Let's go to MUHA
19 Exhibit 38M, if we could.

20 (MUHA Exhibit Number 38M was referenced at this
21 time.)

22 Q: Mr. Gallati, I'm showing you a zip code map
23 that was prepared by the Medical University
24 Hospital Authority. Just take a second look at
25 it and let me know if the zip codes that are

1 represented on this map comport with your
2 knowledge of where they are in the service
3 area.

4 A: Yes.

5 Q: Do you ever consult zip code maps as a CEO?

6 A: Yes.

7 Q: Why do you do that?

8 A: For exactly kind of the discussion we just had
9 regarding patient origin, knowing where your
10 patients are coming from helps you to
11 understand the referral sources, as well as
12 potential needs. If you see growth in a
13 certain area, to look at physician recruitment
14 and services enhancements in areas where you
15 see growth.

16 Q: Great. Now, on this map, do you see a pin
17 there for MUHA Berkeley, what zip code does
18 that appear to be in?

19 A: 29486.

20 Q: Now, we just talked about -- I guess we just
21 looked at the -- and I don't have the great
22 ability to toggle in between this, but we
23 looked at kind of the top five or six zip codes
24 in Exhibit -- Trident Exhibit 141. In terms of
25 29445, do you see that there on the map or do

1 we need to go back to that?

2 A: Yeah, it's just to the right of Trident in
3 Goose Creek.

4 Q: Okay. All right. Does that zip code border on
5 the zip code in which MUHA Berkeley is gonna be
6 located?

7 A: Yes.

8 Q: So, number two on the list was 29483
9 Summerville, do you see that on the map there?

10 A: Yes.

11 Q: Does that border 29486?

12 A: Yes.

13 Q: The next one there is the third major source of
14 utilization is 29461, Moncks Corner, do you see
15 that on the map?

16 A: Yes.

17 Q: Does that border 29486?

18 A: It does.

19 Q: And then it looks like 29406, you said that's
20 where your hospital was located earlier. Does
21 that border 29486?

22 A: No. Trident's located right there at the top
23 of that zip code. We -- we don't border 29486.

24 Q: Okay. How far away is Trident -- well, what
25 exit is Trident located?

1 A: 205.

2 Q: Off I-26?

3 A: We're right off I-26, yes.

4 Q: Do you know the exit that MUHA Nexton's going
5 to be located off of?

6 A: You can get to it through 199 or 197.

7 Q: Let's go to 29456, that's the Ladson zip code,
8 do you see that zip code on here?

9 A: Yes.

10 Q: That's numbers -- looks like number six on your
11 utilization list there, does that also border
12 29486?

13 A: It does.

14 Q: If it's not already abundantly obvious, Mr.
15 Gallati, can you tell the Court why you're here
16 today testifying?

17 A: Well, you know, this reminds -- this exercise
18 reminds me of -- not that I need to be
19 reminded, but certainly because of MUSC's
20 proposed project being right in the middle of
21 our service area where we receive the vast
22 majority of our patients. We're concerned.
23 We've looked at the bed counts in this area
24 being right around 500 beds to service this
25 area and we think that's sufficient to meet the

1 needs of the community into the future. So
2 we're obviously concerned. We don't tend to
3 draw patients towards the peninsula from the
4 location of our hospital. That's why you see
5 many of the zip codes that show up on the top
6 of our list as top drawing areas are really
7 more inland for us. I think there's a general
8 pattern of transportation within the greater
9 Charleston area. Everything kind of flows one
10 direction towards downtown and drawing patients
11 reverse of that direction has been a little bit
12 more of a challenge for us.

13 Q: Who made the decision to oppose the project?

14 A: I did.

15 Q: Did you consult with your local Board of
16 Trustees?

17 A: Yes.

18 Q: Did they support your decision?

19 A: They did.

20 Q: In terms of MUSC, what's your understanding of
21 where MUSC believes its patients are going to
22 come from?

23 Q: Well, in looking at their process, they do
24 speak to a portion of their patients,
25 obviously, coming from in and around the site

1 of 29486 and many of our -- many of our zip
2 codes that we currently service now, but I
3 think that's one of my questions, too, is that
4 many of the patients they're talking about
5 drawing into their facility are actually coming
6 from downtown, east of the Cooper, as well as
7 the West Ashley area. We don't tend to see
8 that -- that migration of patients coming from
9 downtown into Trident Health and we have to
10 question the legitimacy of that claim.

11 Q: MUSC has stated in their application that they
12 plan on just 100 percent patient redirection.
13 Do you agree with that?

14 A: I don't. I mean, currently, I think Med U
15 draws -- has about an 18 percent market share
16 from this northern -- this north area, if you
17 will, all the zip codes we just mentioned about
18 Goose Creek in 29486 and Summerville, as well
19 as Moncks Corner. That's a relatively low
20 market share to be -- to be assuming that
21 they're going to fill a hospital with with just
22 those patients.

23 Q: With their own patients?

24 A: With their own -- with that 18 percent, with
25 their own patients.

1 Q: Where do you think the patients are more likely
2 to come from based on your experience?

3 A: Well, I think they're gonna come from Trident
4 Health patients.

5 Q: Why?

6 A: We -- we've seen that experience already just
7 in 30 days or so of Roper Berkeley being open.
8 We've seen a significant volume decline within
9 Trident Health so we're living that example.
10 It's something we claimed during that trial
11 that Roper was going to gain market share in
12 that area with their hospital, and it appears
13 that they're doing just that.

14 Q: Have you had occasion to quantify what you've
15 lost since they've been open?

16 A: Oh, yeah, we've -- we've dug into it quite
17 extensively. Certainly had enough questions
18 from our medical staff and from our employees,
19 as well as from our HCA colleagues that we work
20 with. And comparing the 30 days prior to
21 Roper's opening in Berkeley, which is about 15
22 minutes away from us, to 30 -- 30 days before
23 and 30 days after their opening, it's a
24 significant -- a significant change in the
25 admission patterns, as well as the ER visits.

1 So, admissions only, it's been about five per
2 day -- it has been five per day that we're down
3 30 days prior to 30 days post opening.

4 Obviously equating to over 150 patients in a
5 month -- in their first month of operation.

6 THE COURT: We're going to take a five-minute break
7 here.

8 MR. THOMAS: Okay. I don't have too much more to go
9 on my direct, Your Honor, so we're getting
10 pretty close.

11 THE COURT: Okay. Thank y'all.

12 (A break was taken from 11:39 a.m. until 11:47 a.m.)

13 THE COURT: Is everybody good? All right.

14 MR. THOMAS: Your Honor, my abled paralegal, Ms.
15 Mitchell, reminded me that I forgot to admit
16 Exhibit 152 into evidence, which is the 2018
17 JAR report for Summerville Medical Center that
18 Mr. Gallati went through.

19 MOTION TO ADMIT:

20 THE COURT: Well, if you can admit it, then go
21 ahead and admit it.

22 MR. THOMAS: I'm trying to, Your Honor.

23 THE COURT: I think that was that you forgot to move
24 for its admission.

25 MR. THOMAS: Yeah. I'm sorry. Forgot to move to

1 admit it. Very good point, a key point.

2 THE COURT: Any objection?

3 MS. CRUM: No objection.

4 MR. WICEVIC: No objections.

5 THE COURT: Then it's admitted.

6 (Trident Exhibit Number 152 was admitted into
7 evidence.)

8 Q: All right. Mr. Gallati, I believe when we took
9 a break, you were talking about the number of
10 admissions Trident was down in the first month
11 of Roper Berkeley's operation. Can you just
12 repeat that number for us again for the record?

13 A: Yeah, for the 30 -- it was -- it was -- I think
14 I said 30 days, but it was 31 days, so it was
15 155 admissions that we -- that we lost or that
16 we were down from September in comparison to
17 post opening.

18 Q: Any other explanation that you can think of
19 other than the opening of Berkeley that could
20 have caused that?

21 A: No. I mean, we have consistently grown a
22 little bit this year, kind of month over month,
23 so that was the -- that was the only change
24 that we could point to.

25 Q: Okay. The type of services that we looked at

1 earlier that MUHA is offering or is proposing
2 to offer at the Nexton facility, are you aware
3 of any services that are gonna be offered at
4 Nexton that are not offered at Roper St.
5 Francis Berkeley based on your knowledge of
6 that application?

7 A: No, very similar services.

8 Q: Based on your experiences as a CEO for Trident
9 Health, the type of services that MUHA is
10 planning to offer, do you believe MUHA's new
11 hospital will affect Trident's patient volumes
12 from the zip codes that we identified earlier?

13 A: Absolutely. Absolutely. We've seen that with
14 Roper Berkeley. We'll see that if this
15 hospital -- MUHA's hospital is built, we'll see
16 that, as well.

17 Q: Okay. How many beds is MUHA, do you know?

18 A: Their proposal I think is 128 beds.

19 Q: About two and a half times the size of Roper
20 Berkeley?

21 A: Correct.

22 Q: Okay. Now, I believe MUHA claims in its CON
23 application that there's been explosive growth
24 in the area in which you operate. Do you agree
25 or disagree with that?

1 **A:** Well, there's certainly been growth and I think
2 it's in the neighborhood of two percent
3 population growth per year in our area, higher
4 than the national average. Over the years, we
5 have at Trident worked to stay in front of that
6 growth, with ER expansions, bed expansions,
7 service expansions, and we think we're prepared
8 to continue to do that.

9 **Q:** In terms of that population growth that has
10 occurred over the years and since you've been
11 CEO since 2008, has that affected patient
12 access to your facilities and services, the
13 ability of patients to access your facilities
14 and services?

15 **A:** No, I don't think it has. I mean, we've, as I
16 said, invested in emergency services, that's
17 really where we have seen any potential pinch
18 at all. We don't want your patients to wait
19 and certainly those that are most acute don't
20 wait, but some of your less acute patients tend
21 to wait in emergency departments across the
22 nation and we fight very hard to keep those
23 wait times down. When we have trouble is when
24 our ER bays are filled and that's why we've
25 spent so much time building Centre Pointe,

1 expanding the ER at Trident, and now expanding
2 the ER at Summerville, to keep those wait times
3 down.

4 **Q:** Has Trident, since you've been CEO, Has Trident
5 Health ever challenged a MUHA CON project on
6 its downtown campus, Mr. Gallati?

7 **A:** No.

8 MR. THOMAS: Your Honor, I have no further questions
9 of this witness.

10 THE COURT: Okay.

11 MS. HOLLINGSWORTH: No questions, Your Honor.

12 MR. WICEVIC: No questions.

13 MS. CRUM: Your Honor, I do have some questions.

14 THE COURT: I know that. About an hour's worth or -
15 --

16 MS. CRUM: Your Honor ---

17 THE COURT: Let's just go ahead and get started now.

18 MS. CRUM: Depending on the length of the answers,
19 an hour to an hour and a half.

20 THE COURT: Do y'all want to take a break now or go
21 ahead and finish this out?

22 MS. CRUM: Your Honor, it would suit if we could go
23 ahead and take a break, I might actually even
24 be able to shorten my direct -- I mean, my
25 cross; I'm sorry.

1 MR. THOMAS: No objection here, Your Honor.

2 THE COURT: Well, I'm in favor of you shortening it.

3 So it's right at ---

4 MR. THOMAS: Can we stipulate to a 45 minute cross

5 then?

6 (Laughter)

7 MS. CRUM: I won't talk more than that. I can't

8 stipulate for the witness.

9 THE COURT: All right.

10 MR. GALLATI: I'm short-winded.

11 THE COURT: What time are we gonna come back then?

12 1:00 o'clock good or do you want to make it a

13 little later than that?

14 MS. CRUM: 1:15 -- can I look to see if it's raining

15 outside because if it's raining, we're gonna

16 need to ---

17 THE COURT: It was raining the last I looked. Y'all

18 can send somebody out the slider window.

19 MS. CRUM: The idea was to get somebody to come

20 pick us up.

21 THE COURT: Okay. All right. Well, 1:15.

22 MS. CRUM: Yes, sir.

23 THE COURT: All right.

24 MS. CRUM: Thank you.

25 THE COURT: If somebody ends up being a little late,

1 I understand. All right.

2 (A break was taken from 11:54 a.m. until 1:16 p.m.)

3 THE COURT: Proceed, Ms. Crum.

4 MR. GALLATI - CROSS-EXAMINATION BY MS. CRUM:

5 Q: Mr. Gallati, I'm Liz Crum and we met at your
6 deposition and if I ask a question today and
7 you don't understand it, please let me know so
8 I can rephrase it, okay?

9 A: Okay.

10 Q: Mr. Gallati, you testified, I think, today
11 you've already testified that you are a witness
12 for Trident in the Trident Parkway Roper St.
13 Francis Berkeley CON cases in 2012, right?

14 A: Correct.

15 Q: And you still agree with the principals of
16 healthcare planning that were stated in that
17 application, don't you?

18 A: Yes.

19 Q: In Trident's application.

20 A: Yes.

21 Q: Okay. Now, let's look at Exhibit -- DHEC
22 Exhibit 8.

23 (DHEC Exhibit Number 8 was referenced at this time.)

24 MS. CRUM: Just pull up the first page, please, sir.

25 Q: Do you recognize that as the August 13th, 2018,

1 application that was filed by Trident Medical
2 Center for a 50-bed hospital in Berkeley
3 County?

4 A: Probably 2008; I think you said '18.

5 Q: Yes, sir.

6 A: Did you say '18?

7 Q: August 13, 2008.

8 A: Yes.

9 Q: Okay. Now on page 3, you recognize Mr.
10 Rardin's signature there?

11 A: Yes.

12 Q: When he signed that application, he certified
13 that to the best of his knowledge and belief,
14 that the material in the application was
15 correct, right?

16 A: Yes.

17 Q: Okay. Let's go on over to page 5, please, sir.
18 The -- when you filed the application, and
19 correct me if I'm wrong, please sir, but
20 Trident took 17 of the bed need that it had in
21 the 2004-05 State Health Plan, moved those bed
22 -- that bed need from Charleston County to
23 Berkeley County and took advantage of the 50-
24 bed economic unit in the 2004 State Health Plan
25 to develop a 50-bed application, correct?

1 A: I'm not familiar with the shift of beds, but

2 ...

3 Q: Well, let's see if we can help. Would you have
4 any reason to doubt what's in the application?

5 A: No, I wouldn't.

6 Q: Okay. If you'll look on page 9. See right
7 there, need for a hospital in Berkeley County?
8 In the first couple of sentences there it says
9 that the facility need for Berkeley County, I'm
10 sorry, for Trident Medical Center in 2004-05
11 was for 42 acute beds. You see that?

12 A: Yes.

13 Q: Okay. And that Trident implemented --
14 converted 25 of their nursing beds to acute
15 beds, right?

16 A: Yes.

17 Q: And acute beds are inpatient hospital beds,
18 right?

19 A: Yes.

20 Q: Okay. I promise that wasn't a trick question,
21 so. And then it also says, however, 17 beds
22 remain to be utilized, right?

23 A: Yes.

24 Q: And that's the 17-bed need, institutional bed
25 need for Trident Medical Center that it

1 transferred to Berkeley County to develop the
2 50-bed hospital, isn't it?

3 A: It appears so, yes.

4 Q: Okay. Thank you, sir. Now, look on page 13,
5 if you would, please, sir. Paragraph 5, you
6 understand, don't you, that that's part of the
7 CON application Regulation requirement as to
8 what an applicant has to put in their
9 application for DHEC, right?

10 A: Yes.

11 Q: Okay. Now, paragraph 5 says, "Provide details
12 regarding any proposed construction and/or
13 renovation, discuss alternatives to new
14 construction, and why those alternatives were
15 rejected." Would you look at paragraph 5 in
16 your Answer and show me where you discussed
17 alternatives -- when I say you, I'm talking
18 about Trident -- where Trident Medical Center
19 discussed alternatives to new construction?

20 A: I don't see that on that half-page you're
21 showing me.

22 Q: Well, look onto the next page 14 and see if you
23 see it there.

24 A: I don't.

25 Q: Okay. Now, let's go on over, if you would,

1 please, sir, to page 16. This is the ownership
2 disclosure information that each applicant has
3 to provide in a CON application, isn't it?

4 A: Yes.

5 Q: Okay. Now, look under (b), please, sir.
6 Trident Medical Center, LLC d/b/a Berkeley
7 Medical Center, is the licensee in this case,
8 right?

9 A: Yes.

10 Q: And (b) says that "the licensee must be the
11 entity to whom the certificate of need is
12 issued", correct?

13 A: Yes.

14 Q: Okay. And look under (e), please, sir. (e)
15 requires the applicant, or the licensee, to
16 list any entities that have legal ownership in
17 the licensee, right?

18 A: Yes.

19 Q: And under (e), the entity having 100 percent
20 legal ownership is Healthtrust, Inc., right?

21 A: Yes.

22 Q: Okay. And look under (f), Healthtrust, Inc.,
23 is also listed as 100 percent owner, correct?

24 A: Yes.

25 Q: Flip on over to page 20. Go on down to (I).

1 **Now, Trident Medical Center, LLC, is a**
2 **subsidiary, right?**

3 **A: Yes.**

4 **Q: And the -- it's a sub- -- its ultimate parent**
5 **company is HCA, Inc., right?**

6 **A: Correct.**

7 **Q: And Healthtrust, Inc., is a subsidiary of HCA**
8 **that owns Trident Medical Center, right?**

9 **A: At that time it appears so.**

10 **Q: Yes, sir. Okay, thank you. All right. Let's**
11 **see here. Let's go on over to 31, please, sir.**
12 **You would agree with me that MUSC and Roper,**
13 **being on the peninsula, are not conveniently**
14 **accessible to most of the residents of Berkeley**
15 **and Dorchester County, wouldn't you?**

16 **A: Not as convenient as they are to the patients**
17 **of Charleston, correct.**

18 **Q: Okay. Go on to page 31, bottom of 31, and let**
19 **me ask you that question again.**

20 **MS. CRUM: How about highlight where it starts, "in**
21 **addition, all of the other hospitals in the**
22 **tri-county service area". It's right there,**
23 **"in addition," there we go. All the way down**
24 **to the paragraph.**

25 **Q: Now, let me ask you. These, Roper and Berkeley**

1 -- I'm sorry, MUSC and Roper Hospitals, on the
2 peninsula, are not as conveniently accessible
3 to most of the residents of Berkeley or
4 Charleston -- or Dorchester counties, are they?

5 A: They are not.

6 Q: Okay. And they'll be even less so in the
7 future, because the population centers of those
8 two counties move north and west, isn't that
9 correct?

10 A: Correct.

11 Q: All right, sir. And the population, in fact,
12 has moved north and west, hasn't it?

13 A: It's grown in the tri-county area, I think,
14 relatively evenly; each county has.

15 Q: The population has grown up the I-26 corridor,
16 north and west predominantly, has it not?

17 A: It's grown in all three counties.

18 Q: All right, sir. Go on over for me to page 129.

19 That requires the applicant ---

20 MS. CRUM: Would you highlight 12 for me, please,
21 Ann.

22 Q: That requires the applicant to discuss
23 alternative facilities and services considered
24 and including the advantages and disadvantages
25 of each alternative. Look on down under --

1 alternate number two, adding beds to existing
2 Trident Medical Center campus. That was an
3 option you had for those additional 17 beds,
4 wasn't it?

5 A: Yes.

6 Q: And you rejected it, in part, because the scale
7 of projected population growth is significant
8 as will be the scale of incremental demand for
9 acute care services, right?

10 A: Eleven years ago, yes, it appears so, that they
11 did reject that idea.

12 Q: Now, Mr. Gallati, I think that you testified on
13 direct that there's been two percent population
14 growth per year, right?

15 A: Correct.

16 Q: You got here in 2008, right on here you got to
17 Trident in 2008, right?

18 A: Right.

19 Q: If you did the compound population growth since
20 2008, would that be 24.3 percent ---

21 A: Yeah.

22 Q: --- population growth?

23 A: Yeah, a little over 20 percent.

24 Q: So, the 24.3 to be exact.

25 A: If -- if the previous growth rate was two

1 percent. I think of recent years, it's been
2 about two percent each year.

3 Q: Okay.

4 A: If it's been two percent for the last ten
5 years, yes, it would be 20 percent.

6 Q: Okay. And that's significant population
7 growth, isn't it?

8 A: A little bit above the national average, yes.

9 Q: What about South Carolina average?

10 A: I don't know a comparison bench mark to that.

11 Q: Look on down under deposi- -- the disposition
12 number two, not deposition. It says -- you
13 would agree with me, wouldn't you, that the
14 population growth that you were projecting then
15 and that we are having now, puts additional
16 stress on the roads and transportation systems
17 in all three counties, doesn't it?

18 A: Yes.

19 Q: Okay. And you would also agree with me that a
20 predictable outcome of population growth will
21 be slower drive times between the various
22 locations in the area?

23 A: We've seen that at times, yes.

24 Q: Okay. And not only -- you would agree with me,
25 too, wouldn't you, that not only would the

1 distances between the population centers for
2 Berkeley and Dorchester counties and the
3 service areas of existing acute care hospitals,
4 it will increase -- the drive times will
5 increase, as the development moves north and
6 west of Charleston and North Charleston; you
7 would agree with me, wouldn't you?

8 A: I would.

9 Q: Okay. And finally, on the last part of that
10 page, you would agree with me, wouldn't you,
11 that adding beds in 2004 -- well, 2008, to the
12 Trident Medical Center's existing campus would
13 be a poor distribution and allocation of
14 resources to meet the needs of the service
15 area's population, wouldn't you?

16 A: I wouldn't. I wouldn't agree with that.

17 Q: All right, sir. Look down ---

18 A: For that reason -- for that reason. That's the
19 reason we expanded Trident Medical Center, as
20 well as Summerville Medical Center over the
21 years is -- is to meet the needs. They had,
22 like I said earlier, stay ahead of that
23 population growth for the convenience of our
24 patients.

25 Q: So are you telling me today, and telling the

1 Court today, that one of the reasons that --
2 one of the reasons that you moved your beds
3 from Trident to Berkeley was not to help
4 increase maldistribution?

5 A: It was to meet -- it's to meet a need in Moncks
6 Corner.

7 Q: Okay. And it was not to help meet a need for
8 a better distribution of beds?

9 A: It's to meet a need of community hospital in
10 Moncks Corner.

11 Q: Thank you, sir. Let's come on over to page
12 142. Trident -- you would agree with me that
13 Trident has been very successful in recruiting
14 staffing, don't you?

15 A: I think we've been more successful recruiting
16 on the physician side than we have the employee
17 side.

18 Q: You would agree with me that at least in 2008,
19 you recruited staff for the Berkeley Medical
20 Center using traditional recruitment methods
21 such as newspapers and traditional trade
22 advertisements, etcetera, is that right?

23 A: We did not recruit staff for Berkeley Medical
24 Center ---

25 Q: I'm just saying what you ---

1 A: --- so it's not ---

2 Q: --- projected ---

3 A: --- correct.

4 Q: --- because you haven't recruited any for
5 Berkeley Medical Center yet because it doesn't
6 exist, right?

7 A: Correct.

8 Q: Okay. But that's what you projected to DHEC,
9 isn't it, as to how you would recruit?

10 A: I -- I'm not sure what they projected. I can
11 read this and maybe not disagree with it, but
12 we're not typically using trade journal
13 advertisements these days to recruit staff.

14 Q: And, in fact, what Trident Medical Center and
15 Summerville Medical Center traditionally use is
16 HCA; it's, in effect, your recruiting agency,
17 isn't it?

18 A: Yes, I have recruiting resources within HCA --
19 within my local HR department and within HCA.

20 Q: All right.

21 A: And we're still 70 nurses short.

22 Q: What areas are you short in?

23 A: Really, throughout the inpatient areas is what
24 we're seeing. I mean, it's not just in the
25 specialty areas like you would expect, with ICU

1 and OR, but really all of our med/surg areas,
2 as well as labor and delivery nursing.

3 Q: And you haven't had to shut down any units or
4 anything like that, have you?

5 A: We have gone some times where we haven't been
6 able to staff beds on a shift or for several
7 shifts in a row in our ICU. I'm thinking most
8 notably at Trident. We had to cap patients at
9 24 beds as opposed to 28 beds; we just did that
10 last month.

11 Q: And you are still continuing to operate, aren't
12 you?

13 A: Yes.

14 Q: Let me ask you something else about -- you
15 testified a bit about average daily census,
16 right?

17 A: Correct.

18 Q: Now, average daily census is, in fact, that, an
19 average, isn't it?

20 A: It's -- yes.

21 Q: Okay. You would agree with me, wouldn't you,
22 that hospitals generally are more full Monday
23 through Friday, the weekdays, correct?

24 A: Wednesday and Thursday for us, but yes.

25 Q: Okay. But it's the weekdays, it's not the

1 weekend?

2 A: Right.

3 Q: Okay. And weekends, generally, HCA and any
4 other hospitals, have a lower census, don't
5 they?

6 A: Correct.

7 Q: So to get the average daily census, you're
8 taking all of the patient days for the year and
9 dividing it by 365, right?

10 A: Or the month or the week, yes.

11 Q: Well, DHEC does it by the year, right, in the
12 State Health Plan?

13 A: Yes, in the State Health Plan.

14 Q: Now, let's -- I'll come back to that. Okay,
15 but let's look at DHEC Exhibit, I think it's 5.

16 (DHEC Exhibit Number 5 was referenced at this time.)

17 Q: It is the 2018-19 State Health Plan.

18 MS. CRUM: If you would, please, sir, go to the
19 page 27. And scroll on down to Trident Medical
20 Center. It's the last hospital listed before
21 Charleston County total. If you could
22 highlight that, please, sir? There you go.

23 Q: Now, DHEC projects an average daily census --
24 oh, I'm sorry. Trident Medical Center has a
25 need for 37 beds in the 2018 Plan, right, '18-

1 19?

2 A: Yeah, I'm not -- I don't see the column
3 headers, but knowing this report, I think that
4 is the net deficit ---

5 Q: Go ahead and look ---

6 A: --- for added ---

7 Q: --- all the way up to the top where it says, to
8 be added excess?

9 A: Yes.

10 Q: Okay. So Trident has a bed need of 37, right?

11 A: Yeah. Is this the most recent Health Plan or
12 is this -- is this the draft Health Plan or ---

13 Q: No, sir ---

14 A: --- is this the

15 Q: --- this is the ---

16 A: --- enacted one?

17 Q: --- 2018 -- it's the 2018 current Health Plan.

18 A: Okay.

19 Q: And look down under Dorchester County.
20 Summerville Medical Center has a need for two
21 beds, doesn't it?

22 A: Yes.

23 Q: Okay. Of those 37 bed need, Trident has a CON
24 application in right now to add six additional
25 beds, doesn't it?

1 A: Yes.

2 Q: Okay. Has that been approved yet?

3 A: Yes.

4 Q: When was that approved?

5 A: We got the letter last week.

6 Q: Okay.

7 A: We also will put online when we complete that
8 project, additional med/surg beds on that same
9 floor, although it doesn't take us above our
10 previous license capacity, other than those six
11 beds. We actually have converted those beds,
12 in effect, from labor and delivery, postpartum
13 beds to med/surg beds. So, they do give us
14 capacity in that area since we consolidated our
15 bed count for labor and delivery and mother-
16 baby to Summerville, that does give us excess
17 -- the extra bed count.

18 Q: And that's the 25 bed -- OB beds that you moved
19 from Trident Medical Center to Summerville
20 Medical Center when you consolidated the OB
21 delivery services, right?

22 A: Correct.

23 Q: Okay. And so you've done a renovation to take
24 the old space from the 25 OB -- excuse me -- 25
25 OB beds that were moved to -- I think that was

1 neuro and intensive care; am I right on that?

2 A: Correct.

3 Q: And ---

4 A: 10 ICU beds and 35 med/surg beds.

5 Q: Right. And of those 35, that -- you've got the
6 six additional beds from the 37 bed need in the
7 2018-19 Plan?

8 A: Correct.

9 Q: Right. Do you remember whether or not the
10 project cost was over 3 million dollars a bed?

11 A: I don't recall.

12 Q: Okay. Let's look at MUHA Exhibit 18, please,
13 sir.

14 (MUHA Exhibit Number 18 was referenced at this time.)

15 A: Going back to your previous question, I think
16 just doing some quick calculation, it looks
17 like it was \$500,000 per bed to renovate that
18 area.

19 Q: We'll look at it. We'll look at the CON
20 application. Okay. Sorry I had to get this
21 out because I can't read it up on the screen.
22 If you would, please, sir, you -- do you
23 recognize this as the women's and neonatal
24 services consolidation and modernization that
25 we were just talking about in the application?

1 **A:** Yes.

2 **Q:** Okay. And the licensee -- look on page 3, it's
3 MUHA RFP 000320. Trident Medical Center is
4 listed as the licensee there, right?

5 **A:** Yes.

6 **Q:** Look on over on page 10, if you would.

7 MS. CRUM: And would you highlight (b), please, sir?
8 And bring it out so we can read it?

9 **Q:** All right. Now, again, Trident Medical Center,
10 LLC, is the licensee there, right?

11 **A:** Yes.

12 **Q:** And it's the entity to whom the Certificate of
13 Need is issued, right?

14 **A:** Yes.

15 **Q:** And look on over on page 11. Now, Healthtrust,
16 Inc. is the hospital company, that's the one
17 that owns 100 percent interest in the LLC?

18 **A:** Yes.

19 **Q:** I think you testified that Trident Medical
20 Center paid taxes. It's an LLC, wouldn't, in
21 fact, Healthtrust, Inc. pay the taxes?

22 **A:** As a -- I don't know who exactly starts the
23 check for the taxes, but it certainly shows on
24 our books that there's a tax payment that's
25 made on our behalf due to sales tax, property

1 tax and income tax.

2 Q: Okay. Look on page 329. The fifth name listed
3 down there, Todd G. Gallati, is that you?

4 A: Yes.

5 Q: Okay. So you are one of the managers of
6 Trident Medical Center, LLC? Are you one of
7 the managers of Trident Medical Center, LLC?

8 A: Yes.

9 Q: Okay. Flip on over to page 23- -- well, it's
10 15. Okay. Under (I) -- let's look on over to
11 page 16 here. Healthtrust, Inc. is again the
12 100 percent owner of Trident Medical Center,
13 LLC, right?

14 A: Yes.

15 Q: The CON application for the Berkeley County
16 Medical Center, that was issued in May of 2016,
17 is that right?

18 A: Sounds about right.

19 Q: Okay. Let's go ahead and look at MUHA 22.

20 MOTION TO ADMIT:

21 MS. CRUM: Well, before we do that. Your Honor, I
22 would move to introduce the MUHA Exhibit 18,
23 the Summerville Medical Center application,
24 it's excerpts of it, from -- that Mr. Gallati
25 just identified.

1 MR. THOMAS: No objection, Your Honor.

2 MR. WICEVIC: No objection.

3 MS. HOLLINGSWORTH: No objection.

4 THE COURT: It's admitted.

5 (MUHA Exhibit Number 18 was admitted into evidence at
6 this time.)

7 Q: Now, Mr. Gallati, look for me at MUHA Exhibit
8 22, please, sir. If you could put that up, the
9 first page.

10 (MUHA Exhibit Number 22 was referenced at this time.)

11 Q: Do you recognize that?

12 A: I do.

13 Q: Okay. And that's the CON for the freestanding
14 emergency department on James Island?

15 A: Correct.

16 Q: Okay. And that's dated April 9th, 2018? Is
17 that right?

18 A: Yes.

19 Q: Okay. Mr. Gallati, you need to say yes. The
20 court reporter can't get you if you nod your
21 head.

22 A: No, that wasn't a nod; I waiting for a
23 question.

24 Q: Okay. Well, I'll just say right at the time,
25 and if I don't, look at me and say, ask the

1 question, okay?

2 A: Sure.

3 Q: Look on over to page 18 -- well, it's number 1,
4 page 1. It's the application for certificate
5 of need. There you go, that's your signature,
6 isn't it?

7 A: Yes.

8 Q: And you certified that everything was correct
9 to the best of your knowledge and belief in the
10 application, right?

11 A: Yes.

12 Q: Look at the bottom of page 9. And that's ---
13 MS. CRUM: I can't see it. Your Honor, I'm sorry.

14 There we go.

15 Q: That's the beginning of the question 8,
16 ownership information, correct?

17 A: Yes.

18 Q: Now, I'm going to show you page 10 of this
19 application. See if you recognize page 10.
20 Under (b), Trident Medical Center, LLC, is the
21 licensee and the entity to whom the CON would
22 be issued, right?

23 A: Yes.

24 Q: Okay. Go on down to (e). AC Med, LLC, now has
25 100 percent of the ownership interest in

1 Trident Medical Center, LLC, is that correct?

2 A: Yes.

3 Q: Okay. Flip on over to (I), it's on page 15.

4 Again, this is the subsidiary chart for Trident
5 Medical Center, LLC, correct?

6 A: Yes.

7 Q: Now look on over to page 16. You see
8 Healthtrust, Inc., The Hospital Company?

9 A: Yes.

10 Q: Now, that's the company that had 100 percent
11 interest in Trident Medical Center, LLC, in the
12 2016 -- August 2016 Summerville Medical Center
13 and neonatal consolidations, right?

14 A: Correct.

15 Q: Okay. And now, it has 100 percent interest in
16 AC Med, LLC, right?

17 A: Yes.

18 Q: And AC Med, LLC, has the direct 100 percent
19 interest in the licensee, Trident Medical
20 Center, correct?

21 A: Yes.

22 Q: So, the direct ownership of Trident Medical
23 Center has changed since the CON was issued in
24 May of 2016, correct?

25 A: Based on this, it appears so, yes.

1 **Q: All right.**

2 MS. CRUM: Your Honor, when we put the application
3 in, we inadvertently left out pages 9 through
4 18 ---

5 THE COURT: When you put it into where?

6 MS. CRUM: --- through 16. I'm sorry?

7 THE COURT: You said when you put the application in
8 ---

9 MS. CRUM: I'm sorry. When we put the exhibit in --
10 -

11 THE COURT: Exhibit in.

12 MS. CRUM: When we put in Exhibit 22, we
13 inadvertently left out pages 9 through 16. I
14 would like to include those in the application.
15 He was able to identify them and include them
16 in the application and, I'm sorry, yeah, in the
17 CON application in Exhibit 22 and move to
18 admit.

19 MR. THOMAS: I'd like to see what the pages are
20 before I agree to that, Your Honor. And I
21 would like a copy, as well.

22 THE COURT: Do you wish to see -- you say it doesn't
23 affect you?

24 MS. HOLLINGSWORTH: If -- completeness of the
25 records, I have no problems to make sure we add

1 pages.

2 THE COURT: Any position?

3 MR. WICEVIC: I have no objection.

4 MR. THOMAS: I don't have any objection to the
5 inclusion of those pages.

6 MOTION TO ADMIT:

7 MS. CRUM: Thank you. Your Honor, with those pages
8 included, I would move the addition of MUHA 22.

9 THE COURT: So, they're not in there now. When will
10 -- how are you going to put them in there?

11 MS. CRUM: Well, I just had him identify them. I
12 can go through that again, Your Honor.

13 THE COURT: Well ---

14 MS. CRUM: It's their application.

15 THE COURT: --- No, I was just saying, where's the
16 exhibit?

17 MS. CRUM: Oh. I've got the hard copy right here.

18 THE COURT: Okay. Okay. So you just inserted it in
19 there?

20 MS. CRUM: Yes, sir, but we haven't inserted it in
21 the hard copy here, but we will do that.

22 THE COURT: That's what I'm asking.

23 MS. CRUM: In fact, I will give this -- if I may
24 approach and give it to the clerk or to the ---

25 THE COURT: Yeah.

1 MS. CRUM: --- court reporter.

2 COURT REPORTER: Thank you.

3 THE COURT: I just want to make sure it gets
4 inserted somehow.

5 MS. CRUM: Yes, sir. And we will also e-mail that
6 as we had provided ---

7 THE COURT: Yep. Okay. All right. So those are
8 admitted.

9 (MUHA Exhibit Number 22, with pages 9 through 16, was
10 admitted into evidence at this time.)

11 **Q: Mr. Richardson -- I'm sorry and I did Mr.**
12 **Richardson too long on Friday. So, Mr.**
13 **Gallati, you had testified about the financials**
14 **this morning.**

15 MS. CRUM: Excuse me just a minute, Your Honor, I
16 seem to be missing an exhibit. If you could
17 put up Exhibit 27, please, sir, MUHA Exhibit
18 37, I'm sorry. 27, I was right the first time.
19 (MUHA Exhibit Number 27 was referenced at this time.)

20 **Q: Now, Mr. Gallati, do you recognize this as the**
21 **Trident Regional Flevel financial statements**
22 **and income statements, and you can look through**
23 **it, it's 2014 through 2018?**

24 **A: Yes. I recognize these as our income**
25 **statements for 2014 on the screen.**

1 Q: Okay. And earlier you talked about the Trident
2 Health System. If I remember correctly, you
3 said the Trident Health System was comprised of
4 Trident Medical Center, Summerville Medical
5 Center, Centre Pointe, Moncks Corner Medical
6 Center. Now, were there any other facilities?

7 A: That is correct. Those are the facilities that
8 make up Trident Health System. Inclusive of
9 Flevel financials is also our ambulatory
10 surgery center, which is a joint venture, as
11 well as our physician practices.

12 Q: Okay. So this is the financial statement for
13 everything that comprises Trident Health
14 Systems?

15 A: Correct.

16 Q: Now, I think we talked about this in your
17 deposition, but am I correct that there are no
18 separate budgets for Trident Medical Center and
19 Summerville Medical Center?

20 A: Correct.

21 Q: And when I -- for example, when I look at --
22 looking at December 2014, when I look at the
23 inpatient revenue ancillar- -- routine and
24 ancillary services, that's going to be all
25 inpatient services and revenues from Trident

1 Medical Center and Summerville Medical Center,
2 right?

3 A: Correct.

4 Q: It's, obviously, there's no inpatient service
5 with the freestanding EDs or ambulatory surgery
6 centers or physicians' offices.

7 A: Correct.

8 Q: Okay. All right. Now, with the outpatient
9 gross revenue, how can I tell what percentage
10 of that comes from the two hospitals versus the
11 two freestanding EDs, physicians' offices and
12 the ambulatory surgery center?

13 A: Can't from this.

14 Q: Okay. Can you tell me what the dollar amount
15 is that comes from the two hospital outpatient
16 services?

17 A: No, I couldn't -- I couldn't tell you based on
18 this or my recollection.

19 Q: Can you tell me a percentage?

20 A: I -- I can tell you that typically ours split
21 between just Trident and Summerville Medical
22 Centers.

23 Q: Uh-huh.

24 A: Typically, 65 percent is attributable to
25 Trident, 35 percent to Summerville Medical

1 Center.

2 Q: Okay. I'm trying to figure out. The 65
3 percent Trident Medical Center, is that 65
4 percent of the total revenue? I'm trying to
5 figure out it's 65 percent of what?

6 A: Yeah. 65 percent of most any number on here is
7 attributable to -- to Trident Medical Center.

8 Q: Okay.

9 A: So the revenue that you have highlighted here
10 -- now, there's, you know, the outpatient
11 surgery center, as well in here, so that's a
12 rough approximation. But if we're just looking
13 at Trident Medical Center and Summerville
14 Medical Center in a vacuum, it's kind of 65/35
15 split.

16 Q: Okay. All right. And look on down to the --
17 I'm gonna refer to this as TMC00018 so that we
18 can identify pages. Down here at the bottom,
19 your net income for Trident Health System in
20 two thousand -- at the end of 2014, is that
21 \$92,053,000?

22 A: Correct.

23 Q: Okay. And let's look on over to page 19. In
24 2016, this Acute LOS, that's the same as the
25 average length of stay?

1 A: Yes.

2 Q: Okay. And that's the average length of stay,
3 it's a blended rate between Summerville Medical
4 Center and Trident Medical Center?

5 A: Correct.

6 Q: Okay. So it was -- it was 4.3 in '16 and '17,
7 and it went up to 4.4 in '18?

8 A: Yes.

9 Q: With the addition of critical care beds, do you
10 anticipate that the average of length of stay
11 might go up some more? I'm sorry, with the ICU
12 beds.

13 A: Potentially, a little bit.

14 Q: Now, let's go on over to page 24. As I ask you
15 each of these years, y'all are on a calendar
16 year, is that correct?

17 A: Yes.

18 Q: So for each one of these years, would the 65
19 TMC, 35 SMC split remain constant?

20 A: Yes, relatively constant.

21 Q: Okay. So in -- let's look on down. The total
22 revenue, total tax on income net revenue for
23 2015 was 73,512,000?

24 A: Pre-tax, yes.

25 Q: Yes, sir. And that exceeded your budget,

1 didn't it?

2 A: Yes.

3 Q: Okay. 2016, your pre-tax net income was
4 70,733,000?

5 A: Yes.

6 Q: And you didn't exceed budget on that one, did
7 you?

8 A: Correct. That was the year we added trauma
9 services.

10 Q: Okay. But you still made over -- almost \$71
11 million?

12 A: Pre-tax, right.

13 Q: Yes, sir. All of these are pre-tax that I'm
14 asking about, okay?

15 A: Okay.

16 Q: Now, look on 2017. Your income net -- net
17 income pre-tax was \$81,965,000, right?

18 A: Yes.

19 Q: And you exceeded the budget by about \$4
20 million?

21 A: Yes, for net income.

22 Q: For net, yes, sir. And then let me ask you
23 about this last fiscal -- this last calendar
24 year. Your net income was 91,077 -- I'm sorry
25 \$91,077,000, right?

1 **A:** Yes.

2 **Q:** And again, you exceeded the budget by about \$5
3 million, right?

4 **A:** Yes.

5 **Q:** The System has performed well, hasn't it?

6 **A:** I think -- I think we've done well, yes.
7 Continue to reinvest in our facility. We're
8 actually in the middle of a \$100 million
9 capital spending plan that really has come from
10 these earnings results.

11 **Q:** One other thing I wanted to ask you and I
12 should have. And just look -- let's just look
13 on that last page, which was TMC27. You see
14 under capital and other costs, see that?

15 **A:** Yes.

16 **Q:** Where it says management fee and mark-up costs?

17 **A:** Yes.

18 **Q:** The management fee, that management fee is paid
19 to HCA?

20 **A:** Yes.

21 **Q:** Okay. And what's the mark-up cost?

22 **A:** Part of the management fee related to the
23 shared services. Some of the recruiting that
24 you mentioned earlier that HCA has, but many
25 other services that are kind of back office

1 services that we buy from HCA.

2 Q: So what other types of services from the back
3 office services are there?

4 A: Yeah. The expenses you see under salaries do
5 not include salaries for things like our
6 registration staff, our billing staff, our
7 central supply staff, which are purchased
8 services through HCA.

9 Q: And of the, I guess, \$90 million this last
10 year, does any of that money go to HCA?

11 A: Yes.

12 Q: Okay. And you just talked about a \$100 million
13 capital project. HCA funds all of that,
14 doesn't -- don't they?

15 A: They do.

16 Q: Okay. You testified this morning about Trident
17 Medical Center and Summerville Medical Center's
18 ERs. Are they some of the busier ERs in the
19 tri-county area?

20 A: Yes.

21 Q: When a patient comes to either Moncks Corner,
22 which is -- or Centre Pointe, the two
23 freestanding EDs, if they need to be referred
24 to a hospital, do they go either to Trident
25 Medical Center or to Summerville Medical

1 Center?

2 A: Or any number of the other local hospitals,
3 yes.

4 Q: And how is that decision made where to send
5 them?

6 A: Patient discussion with the ER physician.

7 Q: Can that be the same as the patient chooses?

8 A: Yes.

9 Q: Okay. And the patients do have a choice as to
10 where they want to go, don't they?

11 A: They do.

12 MOTION TO ADMIT:

13 MS. CRUM: Your Honor, I would like to move MUHA 27
14 into exhibit -- into evidence.

15 MS. HOLLINGSWORTH: No objection.

16 MR. THOMAS: No objection, Your Honor.

17 MR. WICEVIC: No objection.

18 THE COURT: It's admitted.

19 (MUHA Exhibit Number 27 was admitted into evidence at
20 this time.)

21 Q: Now, patients generally have access to a
22 hospital through a physician admission and the
23 ED and sometimes from a nursing home, or
24 something like that, right?

25 A: Yes.

1 Q: How many patients a year does Trident Medical
2 Center transfer to MUSC?

3 A: I don't know that exact number, but there --
4 there are a number for services -- typically,
5 for services that we don't have, but also based
6 on patient choice. They may have a physician
7 that they've been seeing at MEDU, so continuity
8 of care, we see that as a reason sometimes on
9 some reports that I see. But NICU service is
10 a good example where we don't have the
11 services; although we've applied for a CON,
12 have not been granted that due to MUSC's
13 exclusive rights to that service. So, but
14 generally we work to fill those needs so that
15 we can take care of those patients.

16 Q: And the South Carolina State Health Plans, over
17 the years, have established a perinatal
18 regional system, haven't they?

19 A: Yes, highly controversial, but yes.

20 Q: And a lot of laws that are highly
21 controversial, but it's still the law, isn't
22 it?

23 A: Yes.

24 Q: Okay. And you talked this morning with Mr.
25 Thomas about your level II trauma. What is the

1 trauma activation fee?

2 A: It's a fee that's charged to insurance
3 companies and patients that come in that need
4 high level trauma response. So it's your most
5 severe trauma patients.

6 Q: And you would agree with me that the trauma fee
7 is activated either when the EMS declares a
8 trauma or when the hospital -- the receiving
9 hospital declares a trauma, right?

10 A: Correct.

11 Q: Okay. What is Trident Medical Center's
12 activation fee for your level II trauma?

13 A: I don't know.

14 Q: You do know, don't you, that there's been a lot
15 of controversy in the United States over the
16 high activation fee, trauma fee, that HCA has
17 applied nationwide; don't you know that?

18 A: No, I haven't -- I haven't received any -- any
19 complaints from any of our patients regarding
20 our individual fees. We have separate fees
21 within HCA, so I'm not aware of that.

22 Q: So, what percentage of your patients did you
23 say came through the ER?

24 A: About 75 or 80 percent of our inpatients have
25 come through the emergency department.

1 Q: Okay. And as we sit here today, you don't know
2 what trauma fee Trident Medical Center has?

3 A: No. I mean, our trauma volume is about 2,000
4 total of our 170,000 ER visits annually and
5 only a proportion of those 2,000 receive a
6 trauma fee. So I'm not sure what our -- I'm
7 not sure what our daily bed rate is, as I sit
8 here today. I certainly could get that for
9 you.

10 Q: Let's talk a minute again about patient choice.
11 You said, and I want you to correct me if I'm
12 wrong -- oh, wait, let me ask you this. What
13 is your midnight census at Trident Medical
14 Center on Monday through Friday?

15 A: I don't -- I don't know, I've not seen that
16 statistic.

17 Q: Well, you know what a midnight census is, don't
18 you?

19 A: My census at midnight?

20 Q: No, well, the term midnight census? Are you
21 not required to count your census at midnight?

22 A: Yes.

23 Q: Okay. And that's midnight census, right?

24 A: Right.

25 Q: Okay. So you don't track what your midnight

1 census is?

2 A: We do.

3 Q: Okay. But you just don't know what it is.

4 A: Correct.

5 Q: Okay. You would expect your midnight census to
6 be higher during the week, correct?

7 A: Yes.

8 Q: How much higher?

9 A: Wednesday and Thursday, as I said before, is
10 typically our peak and we are closer to 90
11 percent occupancy; other times we're closer to
12 70 percent occupancy, thus the average is right
13 around 80 percent occupancy.

14 Q: And when you say 90 percent occupancy, are you
15 meaning that 90 percent of your beds, licensed
16 beds, are occupied?

17 A: Correct.

18 Q: Okay. How often does that happen?

19 A: At least once during the week.

20 Q: How many beds do you have?

21 A: We have ---

22 Q: Licensed, I'm sorry.

23 A: Including our psych, as well -- psychiatry beds
24 -- inpatient psychiatry beds and acute rehab
25 beds, we have 322.

1 Q: And what about just med/surg beds?

2 A: 290-ish.

3 Q: I'm sorry?

4 A: Two- -- high 280s, I believe.

5 Q: Now, patients do have a right to choose their
6 healthcare provider, don't they?

7 A: Correct.

8 Q: And that includes MUSC patients, doesn't it?

9 A: Yes.

10 Q: And you would agree with me that there are
11 three health systems, effectively, in the tri-
12 county area, right?

13 A: Yes.

14 Q: And MUSC has their aligned patients, right?

15 A: I think there's patient loyalty within --
16 within the tri-county area. It's interesting
17 in the ten years I've been here, it's been --
18 the market share has been relatively stable.
19 So we've seen each of the major three health
20 systems that she refers to being about 30
21 percent each year from the market share
22 perspective. So 30 percent of the patients in
23 the tri-county area coming to Trident Health,
24 30 percent coming to Roper St. Francis, and
25 about 30 percent going to MUSC.

1 Q: And if I understood what you said, that's
2 basically a patient loyalty type thing?

3 A: I think some of that is patient loyalty; I
4 think it's service mix, yes.

5 Q: Some of it has to do with the specific
6 physicians?

7 A: Yes.

8 Q: Okay. You would agree with me, wouldn't you,
9 that there really is very little overlap
10 between the medical staffs of Trident Health
11 System, Roper St. Francis and MUSC?

12 A: Correct. I think because -- because we seem to
13 live in a region of the country that seems to
14 utilize ER services on a higher than average
15 level, we do tend to see the family physician
16 maybe isn't always as important as, you know,
17 where's my closest ER. Since so many of our
18 patients come in through the emergency
19 department, it's an important access point for
20 us.

21 Q: But yet, the market share has remained constant
22 since you've been there?

23 A: Yes.

24 Q: Okay. Now -- let's see here. The Trident
25 Health System is constantly working on raising

1 your level of physician staff loyalty by
2 offering services and care that your patients
3 need, right?

4 A: Yes.

5 Q: Okay. You would agree with me, wouldn't you,
6 that in the 2012 hearing, you testified that
7 Trident Medical Center thought it prudent, a
8 prudent business decision, not to build a 50-
9 bed hospital if Roper were going to build,
10 because if you built the 50-bed hospital, it
11 wouldn't be responsible to -- it would go
12 against your responsibility to make money for
13 your shareholders, right?

14 A: We felt it to be a difficult decision and if
15 Roper was gonna build their hospital in
16 Berkeley County, it made for a more difficult
17 decision for us. Two 50-bed hospitals so close
18 together, splitting that census -- we saw what
19 happened in Mount Pleasant where they had ten
20 percent occupancy at Roper and low occupancy at
21 Tenet and we didn't want to relive that. So
22 our initial financial projections did show that
23 we could fill about 20 of those beds pretty
24 quickly if there wasn't close-by competition,
25 but it was decided that Roper could build their

1 hospital. We felt like that number of
2 inpatients would be cut in half, leaving just
3 a 10 or 20 percent occupancy rate, which would
4 be difficult.

5 Q: Okay. And you'll agree with me that you have
6 a responsibility to your shareholders of HCA to
7 make money, right?

8 A: You know, I wake up every day thinking about
9 the responsibility that I have to my patients;
10 that's what gets me charged. Certainly, part
11 of my job is, of the six pillars that I worry
12 about, finance is one of those six. Service
13 and quality are the other two important ones,
14 along with growth, people and community.

15 Q: And I'm gonna ask you again. You would agree
16 with me, don't -- wouldn't you, that you have
17 a responsibility as an -- as a CEO of an HCA
18 hospital, to make money for your shareholders?

19 MR. THOMAS: Objection, asked and answered. He
20 answered that question already and she's
21 badgering the witness.

22 MS. CRUM: Your Honor, he didn't answer the
23 question.

24 MR. THOMAS: He absolutely did.

25 THE COURT: Well, I thought he did. I don't think

1 she's badgering, but could -- you can ask it
2 again if you need to further explain that, I'll
3 let her ask it again of you -- if there's ---

4 MS. CRUM: Your ---

5 THE COURT: --- anything else you need to answer.

6 MS. CRUM: If I might be heard, Your Honor.

7 THE COURT: Yes.

8 MS. CRUM: I heard him talk about all of his
9 responsibility to his patients. I never heard
10 him say the word shareholder or whether or not
11 he had a responsibility to them.

12 THE COURT: Well, he addressed the six pillars and
13 that included them.

14 MS. CRUM: But I didn't hear the word shareholder.
15 Maybe I missed it.

16 THE COURT: Well, I understood it in the context of
17 what he said, but go ahead and ask it again.

18 **Q: Do you have a responsibility, as the CEO of a**
19 **HCA hospital, to make money for your**
20 **shareholders?**

21 **A: I don't think about the shareholders ---**

22 **Q: Okay.**

23 **A: --- in doing my job. I think about one finan-**
24 **-- I think about the financial pillar ---**

25 **Q: And ---**

1 A: --- I -- can I finish?

2 Q: Sure.

3 A: Just keep it going. I mean, I think the
4 financial pillar is very important. Just like
5 MEDU, if you don't have money, you don't
6 mission and it's very important for us, as
7 well. It's one of six pillars that I pay
8 attention to. Shareholders is -- is not in
9 that list.

10 Q: Would you agree with me that HCA's stock closed
11 yesterday at 135?

12 A: I don't know.

13 Q: Would you agree with me that the HCA shares are
14 almost at a historic high now?

15 A: I guess I would agree that it's almost to the
16 historic high, yes.

17 Q: Okay. Let's look at exhi- -- the most recent
18 6-bed hospital application; it's a renovation
19 and 6-bed hospital, May of this year. Do you
20 recognize that, Mr. Gallati?

21 A: Yes.

22 Q: And that's the 6-bed -- that's the application
23 for the second floor renovations and the
24 addition of 6 acute beds?

25 A: Yes.

1 Q: Okay. Would you flip on over to page 3,
2 please, sir? Oops, back. It's really -- I'm
3 sorry, it's page 1, sorry. Is that your
4 signature?

5 A: Yes.

6 Q: Now, let's go on over to page 18. As I
7 understand it, and correct me if I'm wrong, Mr.
8 Gallati, that this is a picture of a service
9 area using zip codes of patient origin, is that
10 correct?

11 A: Correct.

12 Q: Okay. And you serve a reasonable population
13 and the patient origin, this is your inpatient
14 -- this is your historic inpatient discharge
15 zip code presentation in the Exhibit 2, right?

16 A: Correct.

17 Q: Okay. Look on down to 29488, that's
18 Walterboro.

19 MS. CRUM: Could you highlight that, please?

20 Q: So, Walterboro is in your primary service area?

21 A: No.

22 Q: Okay. Look on to page 19. You see 29407?
23 That's West Ashley, isn't it?

24 A: I don't know.

25 Q: Okay. Look at 29414. It says Charleston, but

1 that's West Ashley, isn't it?

2 A: I don't know.

3 Q: Okay. And 29403, is that the peninsula of
4 Charleston?

5 A: I think 29401 is, but I don't know about 03.

6 Q: Okay. Look on over to page 20. Now, am I
7 correct that the primary service area is in --
8 can't be that -- is that in the lighter?

9 A: Yes, I believe so.

10 Q: Okay. And the secondary service area, it's in
11 the darker color, is that right?

12 A: If you take that legend off of there for a
13 second.

14 MS. CRUM: Could you ... yeah.

15 A: Yeah, I think this is -- this was a combination
16 of two primary service areas, if I'm not
17 mistaken. This may include Colleton's --
18 Colleton Medical Center's service area, as
19 well. We do not have, for Trident Health, we
20 do not consider or have significant volume from
21 Walterboro, thus, that would not be light
22 yellow for us; it would be barely burnt orange.

23 Q: All right. I'm just trying to figure out what
24 the map's telling me.

25 A: Yeah. Like I said, I think -- I think it shows

1 the primary service area for Trident Health and
2 it also, separately, shows the primary service
3 area for Colleton.

4 Q: Okay. Well, look on back on page 18, please,
5 sir. For Walterboro, doesn't it show that you
6 get 2.6 percent -- you get 496 cases from
7 Walterboro, right?

8 A: Yes.

9 Q: And that's the seventh largest number of cases
10 you get, right there, is that right?

11 A: Yeah, that's what it shows. But it's
12 surprising, as I sit here today, that that is,
13 in fact, showing in our primary service area.
14 I may have our expert, when he testifies, to
15 come back and clarify that.

16 Q: Now, this -- the exhibit does say Trident
17 Medical Center inpatient service area, doesn't
18 it?

19 A: Yes.

20 Q: Doesn't say anything about Colleton.

21 A: Right.

22 Q: Okay. And on page 20, you would agree with me
23 that Exhibit 3 says, Trident Medical Center
24 service area?

25 A: Yes.

1 Q: So it is some combination of the primary
2 service area and the secondary service area,
3 right?

4 A: Yes.

5 Q: And you would agree with me that the total
6 service area population would increase at an
7 annual rate of 1.4 percent between 2019 and
8 2024, right?

9 A: Sounds about right.

10 Q: And you would also agree with me that the 65
11 and older population would accrue at a rate of
12 4.2 percent, right?

13 A: Yes.

14 Q: And the older population usually has a higher
15 percentages -- higher percentage of medical
16 conditions that require hospitalization,
17 doesn't it?

18 A: Yes.

19 Q: Let's look on over -- unfortunately, this page
20 is not numbered -- but look at Exhibit B-16 of
21 the 2000 -- of the 6-bed application. It's B-
22 16, it's pro formas. One moment. Now, that
23 first page there ---

24 MR. THOMAS: Your Honor, I've got a quick question
25 on the -- and not necessarily an objection, but

1 she was referring to the 6-bed application

2 earlier, is that an exhibit that ---

3 MS. CRUM: No, sir, it's not an exhibit.

4 MR. THOMAS: Okay. Well, I think as -- as she's

5 questioning my witness, she needs to hand out

6 a copy to every attorney in this courtroom when

7 she's questioning the -- and that's always how

8 I've done it -- as she's questioning our

9 witness and I don't have that. I never had a

10 copy of that.

11 MS. CRUM: Your Honor ---

12 THE COURT: Well, we've already passed that, so in

13 the future, I, you know, that's something that

14 would be ---

15 MS. CRUM: Yes, Your Honor.

16 THE COURT: --- I would think they would have a

17 right to ask for it.

18 MS. CRUM: Yes, sir.

19 MR. THOMAS: Is -- is the Court not going to compel

20 Ms. Crum to give the ---

21 THE COURT: Oh ---

22 MR. THOMAS: --- parties a copy?

23 THE COURT: --- if you want it now? Yeah.

24 MR. THOMAS: Yeah. I'd like a copy of that.

25 MS. CRUM: We'll have to take a break so I can make

1 them, Your Honor. I don't have additional
2 copies.

3 THE COURT: Well, do you all need a break, could you
4 use one? All right. We'll take about a five-
5 minute break right now.

6 MR. THOMAS: Well, wait. I don't, I mean -- when
7 you get the copies brought over here, is that
8 what you have to do? Or do you have copies in
9 the courtroom?

10 MS. CRUM: I don't have copies in the courtroom.

11 MR. THOMAS: Okay. I would just like for my
12 redirect to have a copy of that, so if they
13 want to work on that while she's continuing
14 with Mr. Gallati, then I think I would be
15 entitled to a copy of that.

16 THE COURT: Well, I -- can you do that?

17 MS. CRUM: Yes, sir, absolutely.

18 THE COURT: All right. Then we'll keep moving.

19 **Q: All right, sir, do you see this Exhibit B-16?**

20 **A: Yes.**

21 **Q: And this is the exhibit to the Certificate of**
22 **Need application, second floor renovations and**
23 **the addition of the six acute care beds, right?**

24 **A: Yes.**

25 MR. THOMAS: Your Honor, I'd like to know what

1 exhibit she's working off of and if she's not
2 working off an exhibit, I would like to have a
3 copy so I can go along with it. Because I have
4 -- I have a hard time reading the screen, I'm
5 sorry.

6 MS. CRUM: I agree. We just have to stop then, Your
7 Honor, because, as I said, it's -- I don't have
8 copies here. I'm very glad -- we have sent an
9 e-mail over to have them brought over here.
10 So, we can just wait until I get them.

11 MR. THOMAS: Okay.

12 MS. CRUM: Happy to do that.

13 THE COURT: Well ---

14 MR. THOMAS: We can move on in the outline on other
15 stuff, I'm fine with that.

16 MS. CRUM: I'm about finished.

17 MR. THOMAS: Okay. Well, I would like a copy, Your
18 Honor, because I would like to ---

19 THE COURT: Well, do you want it now or when -- you
20 said you were having trouble reading the
21 screen.

22 MR. THOMAS: Yeah. I'm having trouble and I can't
23 read this screen here even with my readers on.

24 MS. CRUM: And I absolutely appreciate what you're
25 saying about that because I'm having the same

1 problem reading it, Your Honor.

2 THE COURT: So do you wish that we stop until you
3 can get it?

4 MR. THOMAS: Yes, I would like to have a copy.

5 MR. WICEVIC: And, Your Honor ---

6 MR. THOMAS: And I think the witness would probably
7 like to have one ---

8 MR. SUMMER: I think that's another thing. It's
9 hard enough to watch the screen, but in
10 fairness to a witness, it -- I think the
11 witness ought to be able to have -- hold it in
12 his hand or her hand, what they're being
13 examined on. I think that's fair.

14 THE COURT: All right. Well, we're gonna take a
15 break ---

16 MS. CRUM: Yes, sir.

17 THE COURT: --- until we can get the exhibit over
18 here. How long do you think that will take?

19 MS. CRUM: I don't know, Your Honor, but I can find
20 out.

21 THE COURT: Okay. Well, let us know. Thanks.

22 MR. THOMAS: Sorry, Your Honor.

23 THE COURT: Anything else, Mr. Thomas?

24 MR. THOMAS: I didn't mean to disrupt things, but I
25 would like to have a copy of it.

1 THE COURT: No, no. I get it. All right. Thank
2 y'all.

3 (Off the record from 2:26 p.m. until 2:34 p.m.)

4 THE COURT: Y'all be seated, if you want.

5 MS. CRUM: Your Honor, that was really -- I'm pretty
6 much finished except for that.

7 THE COURT: Okay. Mr. Thomas?

8 MR. THOMAS: Yes, sir.

9 THE COURT: Do you need time to look over the
10 exhibits?

11 MR. THOMAS: I don't think so, Your Honor, I think
12 I know the portions where ---

13 THE COURT: Okay.

14 MR. THOMAS: --- I want to re-direct from.

15 THE COURT: I just wanted to know if I could -- if
16 I should go out the courtroom again.

17 MS. CRUM: Your Honor, there are a couple more
18 questions I could ask and then I'll be finished
19 except for this one thing.

20 THE COURT: Okay. Well, Mr. Summer.

21 MR. SUMMER: We have the stuff now.

22 MR. THOMAS: I'm fine.

23 THE COURT: Okay.

24 MR. GALLATI - CONTINUED CROSS-EXAMINATION BY MS.

25 CRUM:

1 Q: Mr. Gallati, You would agree with me, wouldn't
2 you, that there's no reasonable generic
3 alternative to inpatient hospital services or
4 beds except for beds?

5 A: Can you restate that?

6 Q: Yes, sir. You would agree with me that there
7 is no reasonable generic alternative to
8 inpatient hospital beds or services?

9 A: Hospital bed is not necessarily a hospital bed,
10 but I think I understand the nature of your
11 question to be if the patient needs an
12 inpatient bed, can they go somewhere else; can
13 they stay in a hotel, can they get outpatient
14 services instead? No, I don't think they can.
15 I think if there's a medical need, the
16 physician believes they need a hospital bed,
17 they need a hospital bed.

18 Q: All right, sir. Thank you.

19 MS. CRUM: That's it except for this one thing, Your
20 Honor.

21 THE COURT: Okay. Can y'all go check? I think
22 they're available.

23 MS. CRUM: Oh, I'm sorry. I didn't realize that.

24 Just for ease of reading; it's hard to read.

25 COURT REPORTER: And this is not currently marked as

1 an exhibit?

2 MS. CRUM: Correct.

3 COURT REPORTER: Thank you.

4 THE COURT: Do you need ours, because we don't need
5 it.

6 MR. GALLATI: No, I've got a copy of that. It's on
7 my computer.

8 THE COURT: Okay.

9 MS. CRUM: On the screen, yes, sir.

10 THE COURT: Okay.

11 MS. CRUM: Let me see where I was here. Your Honor,
12 I apologize for not having copies, but, as you
13 can see, that's really not demon, but I meant
14 to use it as a demo, so.

15 THE COURT: Okay.

16 **Q: Let's look, Mr. Gallati, at page 5, bottom**
17 **right-hand corner. The total project cost was**
18 **\$22,656,000, this is G under 5?**

19 **A: Correct.**

20 **Q: Okay. And I had asked you about the beds --**
21 **you see under H-2, it shows per bed (6 beds),**
22 **construction and equipment, 3,476,833.33?**

23 **A: Yes.**

24 **Q: Is that the total project cost or the cost per**
25 **bed?**

1 **A:** That's the cost of the net new beds to the
2 project. The project actually is renovation
3 and construction of 46 total beds.

4 **Q:** Okay. And so, it was the 46 total beds that
5 was the total project cost of 22,656?

6 **A:** Yes. 46 beds times 500,000 equals 22 million.

7 **Q:** Okay. All right. But to make sure I'm
8 correct, the 22,656,000 includes the renovation
9 costs also?

10 **A:** Yes.

11 **Q:** Okay. All right. Let's go to B-16 and it's
12 not numbered, but I'll tell you that it is
13 about the last five pages or so. And you see
14 the letter from Mr. Gingras, am I saying that
15 right?

16 **A:** Yes.

17 **Q:** Okay.

18 **A:** Gingras.

19 **Q:** Gingras, okay. This is his letter certifying
20 the review -- that he reviewed the assumptions
21 calculations and information contained in the
22 financial projections, is that correct?

23 **A:** Yes.

24 **Q:** Okay. And that his knowledge of those
25 projections are reasonable and premised on

1 reasonable assumptions?

2 A: Yes.

3 Q: Okay. And would you look for me at the bottom
4 of the next page, the pages aren't numbered.
5 This is the projection -- project -- the second
6 floor conversion, correct?

7 A: Correct.

8 Q: And this is the million -- look down here under
9 projected revenues for 2023. Am I correct that
10 the pre-tax income that Trident has projected
11 as of May 2019, is 136,9- -- I'm sorry,
12 136,958,202 for fiscal year -- well, for
13 calendar year 2023?

14 A: Correct, that's what this says.

15 Q: And when you made these projections, you knew
16 that Roper St. Francis Berkeley was coming
17 online in this fall, right?

18 A: I don't know the exact assumptions that Mike
19 used for these projections.

20 Q: Well, you knew that Roper Berkeley was coming
21 online in this fall, didn't you?

22 A: Yes.

23 Q: And wouldn't you assume that your CFO would
24 know that also?

25 A: I would.

1 **Q:** Okay. Look at the next page. Now, am I
2 correct that this is the incremental amount of
3 money that you're gonna make with the addition
4 of the 6 beds?

5 **A:** Correct.

6 **Q:** Okay. And the pre-tax income in 2023 is
7 4,578,655?

8 **A:** Yes.

9 **Q:** Okay. And I didn't see any assumptions.

10 MR. THOMAS: Objection, Your Honor. I don't hear a
11 question there, but it sounds like one may be
12 coming.

13 THE COURT: Okay.

14 **Q:** And do you see down at the bottom of page --
15 the project incremental total of that page?
16 You see a note there that says other operating
17 expenses includes contract services
18 repair/maintenance, rent/leases, utilities and
19 insurance. See that?

20 **A:** Yes.

21 **Q:** Do you see any other assumptions in here?

22 MR. THOMAS: Your Honor, I'm gonna object. I mean,
23 this isn't the full application. This is a
24 very small portion fo the application, looks
25 like sections A, B, C and D and then exhibit B-

1 16.

2 THE COURT: Well, she's asking about this one, so
3 I'll allow it. You can address that on
4 redirect.

5 MR. THOMAS: Okay. Thank you, Your Honor.

6 Q: And ---

7 A: I don't see any other assumptions on this page.

8 Q: Okay. And I was just looking at the letter
9 that Mr. Gingras wrote and he said, he
10 certified that the review of the assumptions,
11 calculations and other information contained
12 in the financial projections and he was
13 referring to these pages we looked at, right?

14 A: Yes.

15 Q: Okay. I think ... Would you agree with me that
16 cardiac services generally reimburse better
17 than most other inpatient services?

18 A: Surgical cardiac services do, yes.

19 MS. CRUM: Your Honor, I was just going to use this
20 as a demonstrative exhibit, but now that
21 everybody's got copies and, apparently, there's
22 going to be some cross on it, I would move to
23 admit it as our next exhibit which is ---

24 THE COURT: Well, we can settle that there was cross
25 on it because you did it.

1 MR. THOMAS: Right.

2 MS. CRUM: That's all right, Your Honor, I won't ...

3 THE COURT: Okay. Thanks. But redirect is the
4 issue.

5 MS. CRUM: I'm sorry?

6 THE COURT: You crossed on it.

7 MS. CRUM: Yes, sir.

8 THE COURT: The issue is whether he's going to
9 redirect, I assume he is, but what's your --
10 are you offering it or not?

11 MS. CRUM: That's okay, Your Honor, I ---

12 THE COURT: Okay.

13 MS. CRUM: --- can deal with it just like this.

14 THE COURT: All right.

15 MS. CRUM: Thank you, sir.

16 MR. GALLATI - REDIRECT EXAMINATION BY MR. THOMAS:

17 **Q: All right, Mr. Gallati, I've got some questions**
18 **for you on redirect. And I may be going in**
19 **kind of a reverse order, but do you have that**
20 **version up there that Ms. Crum was just showing**
21 **you and it's got the financials at the back and**
22 **she asked you about the net income for the**
23 **project, the \$4.578 millions in the projected**
24 **year 2023. Do you see that?**

25 **A: Yes.**

1 Q: Was that for 6 beds or the 46 beds that are
2 gonna be coming into operation?

3 A: That's the whole project, the whole \$22 million
4 project, which is 46 beds.

5 Q: Okay. And just for the record, when Ms. Crum
6 was asking you about pre-tax, you know, at the
7 net income line, that's pre-tax income for the
8 6-bed project budget 2019 through projected
9 2023, is that right?

10 A: Correct.

11 Q: Now, turn over to page 18 of this document,
12 your 6-bed CON application, if you will.

13 A: Okay.

14 Q: All right. What -- if you'll look at 18 at
15 Exhibit 2 at the top, Ms. Crum asked you
16 specifically about this chart, it says Trident
17 Medical Center inpatient service area. And is
18 this where -- from the zip codes from where
19 your -- most of your, if not all of your
20 patients come from, your inpatients?

21 A: Yes.

22 Q: Okay. Now, the first six there, can you read
23 which zip codes those are into the record for
24 me?

25 A: Sure. 29483, Summerville; 29445, Goose Creek;

1 29461, Moncks Corner; 29485, Summerville; and
2 29406, Charleston.

3 Q: Okay. And look at the -- what's the cumulative
4 percentage of those seven zip codes?

5 A: It's about half.

6 Q: Okay. So 58.6 percent? And Mr. Gallati, I'm
7 gonna point you to the column here.

8 A: Oh, yeah, I wasn't seeing the far right column.
9 Yeah, fifty -- through Charleston, 29406, it's
10 50.1.

11 Q: Okay. And are those zip codes the same zip
12 codes that are proximate to your facility in
13 the north area?

14 A: Yes.

15 Q: Okay. Is Ladson proximate to your facility in
16 the north area?

17 A: Yes. It's the closest zip code to Trident and
18 Summerville.

19 Q: Okay. And then everything after that, in terms
20 of after Ladson, those are all three-digit
21 inpatient service area cases, correct?

22 A: Yes.

23 Q: All right. So, 55 -- if I'm reading this
24 right, 55.8 percent, rounded up to 56 percent
25 are the -- is that the number that comes from

1 the zip codes closest to your facility?

2 A: Yes.

3 Q: Okay. And are those the same zip codes that
4 border on 29486 that we discussed earlier?

5 A: Those are.

6 Q: Okay. Go to page 5 of this document, Mr.
7 Gallati. You got your calculator up there for
8 me?

9 A: Yeah.

10 Q: Okay. You said there were 46 beds involved in
11 this project, the ---

12 A: Yes.

13 Q: --- 6 new plus the 40 coming on -- that were
14 being renovated?

15 A: Yes.

16 Q: Okay. The total project cost is 22,656 --
17 \$22,656,000, correct?

18 A: Correct.

19 Q: Can you divide that by 46 beds? You got a
20 calculator?

21 A: Yeah. I did that earlier and it came out to
22 about \$500,000 per bed.

23 Q: Okay.

24 A: 492,000.

25 Q: Okay. So less than 500,000. Ms. Crum asked

1 you about market share, didn't she?

2 A: Yes.

3 Q: You mentioned that it remained constant, is
4 that right?

5 A: Yes.

6 Q: Okay. Do you believe that that's gonna be the
7 case if MUHA locates its hospital next to you?

8 A: I don't, based on, you know, the recent
9 experience with Roper Berkeley coming up.
10 We're already seeing a shift. We've not just
11 seeing that hospital attract its own patients
12 that it had al- -- always attracted downtown,
13 but we're also seeing a loss of patients at
14 Trident just after one month of opening.

15 Q: Okay. Do you expect that number to go up or
16 down?

17 A: Well, I think it will go up with Roper
18 Berkeley. Certainly, it would go up
19 significantly as well with -- if MUSC opened
20 their hospital, which is over two times the
21 size of Roper Berkeley and approximately the
22 same distance away, maybe a little closer to us
23 at Trident and Summerville than Roper Berkeley.

24 Q: Okay. And you feel like the loss of that
25 number of patients, 155, is significant?

1 **A:** Well, it is. It is. I mean, it creates -- it
2 creates changes and it -- and adaptations that
3 we need to make and if you take the
4 contribution margin from 155 patients --
5 inpatients only per month, multiply that out
6 for a year, times the contribution margin,
7 you're talking about nearly \$10 million ---

8 **Q:** Okay.

9 **A:** --- of impact.

10 **Q:** And is that just from Roper Berkeley?

11 **A:** Just from Roper Berkeley.

12 **Q:** Ms. Crum asked you a question, patients have a
13 right to choose. Are you aware of any problems
14 with patients in your service area that you
15 service that have any problems with choosing
16 healthcare providers?

17 **A:** No.

18 **Q:** Okay. Are you aware of any part of the CON --
19 the State Health Plan or the CON Regulations
20 that have any requirements about patient choice
21 for a particular health system?

22 **A:** No.

23 **Q:** Okay. Ms. Crum asked you about JAR data with
24 respect to ADC, does DHEC require a ---

25 **MS. CRUM:** Your Honor, I don't believe I said

1 anything about JAR data. I did ask him about
2 the average daily census.

3 MR. THOMAS: Oh. I stand corrected, Your Honor.

4 THE COURT: Okay.

5 **Q:** She asked you about average daily census and
6 Monday through Friday versus the weekend and
7 that type of thing, do you recall that ---

8 **A:** Yes.

9 **Q:** --- line of testimony? Okay. Are you aware of
10 anything in the -- that the State requires that
11 Trident or any other healthcare system report
12 ADC about on a Monday to Friday basis?

13 **A:** No, we're not asked for peaks and valleys;
14 we're asked for the averages.

15 **Q:** Okay. And so, if your -- 90 percent of
16 licensed beds are occupied, is that all the
17 med/surg beds, or your full-bed compliment?

18 **A:** Full-bed compliment. We actually see higher
19 occupancy in behavioral health and ICU, a
20 little less in med/surg.

21 **Q:** How about rehab?

22 **A:** That's a new service for us, so it's been
23 ramping up, getting fuller, closer to 80
24 percent now.

25 **Q:** Okay. So if you got 90 percent, but your

1 overall average ADC, your occupancy rate's 80
2 percent, then sometimes you're at 70 percent,
3 correct?

4 A: Well, yeah. As I said before, we see, you
5 know, into the 70 -- 70 percent range on the
6 weekends and earlier in the week and then it
7 ramps up towards the middle of the week.

8 Q: Ms. Crum asked you about the significant
9 population growth in the north area, the area
10 that your hospitals service, do you recall that
11 line of questioning?

12 A: Yes.

13 Q: Okay. And are you aware of any access problems
14 that population growth has had to getting
15 inpatient hospital services in your area?

16 A: No.

17 Q: Okay. Have you seen any evidence or aware of
18 any studies that drive times are impeding
19 patients from accessing inpatient services from
20 the Berkeley County area?

21 A: No, I -- I think the fact that we see market
22 share being relatively stable in our market
23 over time, even with the increase in population
24 or the increase in traffic, tells us that there
25 aren't significant barriers. Those same

1 hospitals that are concerned about traffic,
2 continued to build downtown, as well.

3 **Q:** Okay. Are you aware of any traffic barriers,
4 drive time issues from the Nexton area ---

5 OBJECTION:

6 MS. CRUM: Your Honor, I -- that's beyond the scope
7 of cross.

8 MR. THOMAS: It's not. She specifically brought up
9 drive times and traffic problems and, you know,
10 roads that are congested and so I'm asking
11 questions about that, Your Honor.

12 MS. CRUM: Your Honor, I -- I read from their
13 application to them and asked him if that was
14 accurate and ---

15 THE COURT: Well, that was ---

16 MR. THOMAS: She opened the door.

17 THE COURT: --- but you asked about it.

18 MS. CRUM: That's all right.

19 THE COURT: Yeah. Proceed.

20 **Q:** So, again, Mr. Gallati, you're aware that Roper
21 Berkeley is in the Nexton area?

22 **A:** Yes.

23 **Q:** Okay.

24 **A:** Within a few miles of Nexton.

25 **Q:** Okay. And where is your -- where is the

1 Summerville Medical Center freestanding ED
2 going to open up?

3 A: At the entrance of Nexton.

4 Q: Okay. Are you aware of any evidence that there
5 are -- say the drive times or traffic patterns
6 are gonna impede the folks who live in the
7 Nexton area from accessing hospital services,
8 whether from Roper Berkeley or your facilities,
9 if MUHA Nexton is not built?

10 A: No. I mean, it's -- if you look at Roper
11 Berkeley and the positioning of our
12 freestanding -- new freestanding ER at Nexton,
13 it's proximal to a lot of the growth in that
14 area and patients won't have to drive. I mean,
15 where drive time really becomes an issue, is
16 for those emergent patients that choose to
17 drive themselves to the hospital or EMS and
18 with the freestanding ED and Roper Berkeley's
19 hospital in that region, in that area of
20 growth, it should address any of those emergent
21 patient concerns.

22 Q: Thank you. With respect to the Berkeley
23 Medical Center 50-bed hospital application, did
24 MUHA or -- it may have been MUSC at the time,
25 I'm not sure when the Hospital Authority was

1 established -- but did it oppose that project?

2 A: Did MUSC oppose Roper Berkeley's project?

3 Q: No, Berkeley Medical Center ---

4 A: Berkeley Medical Center. I don't believe they
5 did. It seemed like it went back and forth,
6 but in the end, they did not.

7 Q: Okay. Did they oppose your 6-bed hospital and
8 your 6-bed addition on your campus that was
9 just approved?

10 A: No.

11 Q: Okay. Now just for the record, the Berkeley
12 Medical Center 50-bed hospital is to be located
13 in what part of Berkeley County?

14 A: Which hospital?

15 Q: Berkeley Medical Center. Trident.

16 A: Trident's Berkeley Medical Center. It's gonna
17 be in upper Berkeley County, Moncks Corner.

18 Q: Okay.

19 MR. THOMAS: Bear with me, Your Honor, I'm just
20 going through this one more time.

21 Q: You were asked about -- strike that. Oh, yeah,
22 I'm sorry. You were asked about back in 2012
23 you testified that you thought it was not
24 prudent to build the Berkeley Medical Center.
25 How about today?

1 **A:** Well, I think it -- I think it would be
2 assistance to Moncks Corner -- Moncks Corner
3 residents to build that facility. It's still
4 a significant investment and one we don't take
5 lightly, but we fully intend to move forward
6 with our plans once we get through this
7 drainage issue.

8 MR. THOMAS: Thank you, Your Honor, I have no
9 further redirect. Your Honor, we'd like you
10 to, if you would, if nobody else has any
11 questions for Mr. ---

12 THE COURT: I was going to say if you ---

13 MS. BAKER: Nothing from me.

14 MS. CRUM: I do, very quickly.

15 MR. THOMAS: Well, no -- I didn't raise anything
16 that she didn't raise.

17 THE COURT: Well, it's got to be on new matter that
18 he raised.

19 MR. THOMAS: I stuck to my notes, so that's -- she
20 raised it.

21 MS. CRUM: It think it's -- Your Honor, I don't know
22 that it's a new matter, but there was a
23 misstatement that I wanted to correct. But I
24 can do it through my expert.

25 THE COURT: Okay. Vito?

1 MR. WICEVIC: No questions.

2 THE COURT: You may step down.

3 MR. THOMAS: I'd like to ---

4 WITNESS: Thank you.

5 MR. THOMAS: --- request the Court release this

6 witness.

7 THE COURT: Any objection?

8 MS. CRUM: Not any.

9 THE COURT: You're released.

10 COURT REPORTER: Did -- I need that, please. Thank

11 you. Sorry.

12 THE COURT: You're released, the exhibit is not.

13 MR. THOMAS: But the exhibit was not admitted,

14 correct?

15 THE COURT: Correct.

16 MR. THOMAS: Okay. All right.

17 THE COURT: All right.

18 MR. SUMMER: The next witness, Your Honor, would be

19 Ms. Lisa Valentine.

20 COURT REPORTER: State and spell your name for the

21 record, please.

22 WITNESS: Yes. Lisa Valentine, L-I-S-A, V-A-L-E-N-T-

23 I-N-E.

24 COURT REPORTER: Is that a B as in boy or V as in

25 victor?

1 WITNESS: V as in victor.

2 COURT REPORTER: V as in victor. V-A-L-L-E-N-T-I-N-

3 E?

4 WITNESS: One L.

5 COURT REPORTER: One L.

6 WITNESS: Just like the holiday.

7 COURT REPORTER: Thank you. Raise your right hand,
8 please. Do you solemnly swear the testimony
9 you're about to give in this matter is the
10 truth, the whole truth and nothing but the
11 truth, so help you God?

12 WITNESS: I do.

13 COURT REPORTER: Thank you.

14 LISA VALENTINE, having been duly sworn, testifies as
15 follows:

16 MS. VALENTINE - DIRECT EXAMINATION BY MR. SUMMER:

17 **Q: All right. Ms. Valentine, let's start with**
18 **what your current position is today. Where are**
19 **you living today?**

20 **A: Yes. Currently, I'm the CEO of Orange Park**
21 **Medical Center in Jacksonville, Florida.**

22 **Q: Okay. And how recently did you take on that**
23 **position?**

24 **A: I started that job on September 23rd ---**

25 **Q: Okay.**

1 A: --- of this year.

2 Q: All right. And prior to that, where did you
3 work?

4 A: I was the CEO of Summerville Medical Center in
5 Summerville, South Carolina.

6 Q: How many years were you the CEO there?

7 A: Five and a half years.

8 Q: Okay. And so, why have you driven from Florida
9 this morning to testify?

10 A: Well, you know, I was the leader there for five
11 and a half years; I am committed to continuing
12 to serve the mission of that hospital and have
13 invested a lot of time and energy and, frankly,
14 have a passion for making sure that community
15 is well served.

16 Q: Okay. Thank you very much. Let's start with
17 a little bit on your background and, if you
18 could, we're gonna have to do this piece by
19 piece. Tell me where you were born and where
20 you were raised.

21 A: Sure. Born in Gainesville, Florida, and raised
22 in Live Oak, Florida.

23 Q: Okay. And where'd you go to college?

24 A: My -- I went to college at Tallahassee
25 Community College, also University of Florida

1 and then Virginia Commonwealth University in
2 Richmond.

3 Q: Okay. And when did you finish the University
4 of Florida with your undergraduate degree?

5 A: 1986.

6 Q: And what was that degree in?

7 A: It was a bachelor's degree in physical therapy.

8 Q: And so you started in the clinical side of the
9 business?

10 A: Correct.

11 Q: Okay. What other education have you had
12 postgraduate?

13 A: So I have a master's in health administration
14 from Virginia Commonwealth University.

15 Q: Talk to me a little bit about your early
16 career. I'm assuming you started off as a
17 clinician.

18 A: I did. I was a physical therapist in an
19 inpatient rehabilitation hospital, then I --
20 also, I worked in an outpatient physical
21 therapy practice, and I worked in an outpatient
22 department of a hospital.

23 Q: Okay. And I'm gonna ask you, just because of
24 where you're sitting to try to enunciate as
25 best you can.

1 **A:** **Sure.**

2 **Q:** **And I know those chairs are low ---**

3 **A:** **They are.**

4 **Q:** **--- which makes it even more difficult because**
5 **there are things between you and the Court. So**
6 **the more you can raise your voice, the better.**

7 **THE COURT:** You can pull that microphone down closer
8 to you, too.

9 **A:** **Thank you.**

10 **Q:** **When did you get into the administrative side**
11 **of the business?**

12 **A:** **So, I, you know, it was a progressive role for**
13 **me from physical therapy supervisor to**
14 **department director of rehab, I then was a**
15 **strategic planner for five or six of the**
16 **Richmond HCA hospitals for rehabilitation**
17 **services, so that was an administrative role.**
18 **It was about ten or twelve years into my**
19 **career. In 1999, I received a master's in**
20 **health administration degree from VCU, and in**
21 **that same year, I began as an administrator for**
22 **a Henrico Doctors Hospital.**

23 **Q:** **Okay. And where is that located?**

24 **A:** **In Richmond, Virginia.**

25 **Q:** **And what size hospital was that?**

1 **A:** Currently it's a three-hospital campus
2 organization and there are 700-plus beds now.

3 **Q:** Okay. So you started as an assistant
4 administrator there in 1999. If you don't
5 mind, take us through your progression at
6 Henrico.

7 **A:** Sure. I went from assistant administrator to
8 associate administrator and then to chief
9 operating officer and held that role for about
10 ten or eleven years prior to moving to South
11 Carolina to assume the CEO role of Summerville
12 Medical Center.

13 **Q:** Okay. Did you also serve as interim chief
14 executive officer at Henrico.

15 **A:** I did, actually, for about a four-month period
16 during the summer, I think, of 2013.

17 **Q:** Okay. And so in 2014, you ended up in
18 Summerville?

19 **A:** Correct.

20 **Q:** Okay.

21 OFFER AS EXPERT:

22 MR. SUMMER: Your Honor, based upon her education
23 and experience, we'd offer Ms. Valentine as an
24 expert in hospital administration and hospital
25 operations.

1 THE COURT: Any objections?

2 MR. WICEVIC: No objections.

3 MS. BAKER: We're fine.

4 THE COURT: She so qualified.

5 MR. SUMMER: Thank you, Your Honor.

6 **Q: Ms. Valentine, let's start off by giving a**
7 **little bit of the history of the Trident system**
8 **in the tri-county area and let's start with --**
9 **we'll go ahead and start with the PowerPoint.**
10 **Let's see.**

11 MR. SUMMER: I'm gonna try, Your Honor, and see if -
12 - how challenged I am at running this. It's
13 on, but it doesn't click.

14 **Q: Okay. So, talk to me about what you understand**
15 **the history is of the institution.**

16 **A: Sure.**

17 MS. BAKER: Your Honor, I just want to make sure.
18 Is this an exhibit or ...

19 MR. SUMMER: It's demonstrative only, Your Honor.

20 MS. BAKER: Okay. Because we don't have copies of
21 it.

22 MR. SUMMER: We can fix that.

23 **Q: So what did the landscape look like in the**
24 **early 1970s?**

25 **A: So as I understand it, in early 1970s, there**

1 were ten hospitals in the Charleston -- the
2 tri-county area, referred to as Charleston,
3 Berkeley and Dorchester County. Eight of those
4 ---

5 MS. BAKER: Your Honor, I'm gonna object to hearsay.
6 She's testifying as she understands it. Is
7 this based on her personal knowledge or what
8 she's heard from some other source?

9 MR. SUMMER: Well, first of all, she's an expert.
10 So having been qualified as an expert, she has
11 wide latitude in what can she rely on,
12 including hearsay. But I can lay more of a
13 foundation, if it pleases the Court.

14 THE COURT: It's up to -- do you wish to stand by
15 where you are or do you wish to lay a
16 foundation?

17 MR. SUMMER: I'd like to stand where I am so we can
18 move on.

19 THE COURT: Okay. Any response to what he said.

20 MS. BAKER: Well, I think what she -- what you moved
21 her to be an expert in wasn't the history of
22 the early 1970s Charleston, I think it was her
23 experience as ---

24 THE COURT: Hospital administration.

25 MS. BAKER: Right.

1 THE COURT: Yeah.

2 MR. SUMMER: I'll lay the foundation.

3 THE COURT: Okay.

4 Q: In your capacity as CEO at Summerville Medical
5 Center, have you had an opportunity to review
6 past CON applications and corporate records
7 regarding the history of the Trident system?

8 A: Yes.

9 Q: Okay. And have you also testified on these
10 very same subjects in this very same Court with
11 this very same presentation before?

12 A: Yes.

13 Q: Okay. Do you know all of this based upon your
14 personal knowledge as a hospital administrator
15 in Summerville, South Carolina?

16 A: Yes.

17 Q: Okay.

18 THE COURT: Proceed.

19 MR. SUMMER: All right.

20 Q: So what was the landscape like in the early
21 1970s?

22 A: So eight of those ten hospitals were actually
23 down in the peninsula in Charleston County.
24 Excuse me, eight were in Charleston County, six
25 were down in the peninsula in Charleston.

1 Q: Okay.

2 A: And as you can see on the left, that is
3 actually the list of the hospitals that were in
4 existence at that time; six on the peninsula,
5 eight all total, including two that served non-
6 civilians.

7 Q: Okay. And then let's look at the county
8 breakup. What did the county hospitals look
9 like among Dorchester and Berkeley County?

10 A: At that time in Dorchester County, there was a
11 hospital in Summerville, downtown Summerville,
12 in fact. It was 78 licensed beds, but it had
13 some major issues. In fact, a few, in looking
14 at some of the materials from that original CON
15 for the Summerville Medical Center, what you
16 see is that they were in such disrepair that
17 they were requesting a waiver for the sprinkler
18 code requirement in 1972. So it needed major
19 renovation. And in Berkeley County, there was
20 also a hospital in Moncks Corner. It was 60
21 licensed beds, only 37 were in use and, again,
22 it needed major renovation or, in fact,
23 wholesale replacement.

24 Q: Okay.

25 A: And what we learned, and it's a part of that

1 original CON, is that, in fact, if a new
2 hospital was built, Berkeley County residents
3 were open to using that hospital for other
4 purposes.

5 Q: Okay. Now, are you aware that there was an
6 Area Comprehensive Health Planning Council in
7 the 1970s that looked at these issues?

8 MS. BAKER: Your Honor, he's leading.

9 THE COURT: Okay.

10 Q: What, if any, knowledge do you have regarding
11 the Charleston Area Comprehensive Health
12 Planning Council?

13 A: In the Summerville Medical Center CON there
14 were documents that indicated that there --
15 that referenced this Charleston Area
16 Comprehensive Health Planning Council, which
17 met to determine the appropriate hospital that
18 was needed to serve the area and, in
19 particular, the Berkeley, Dorchester and North
20 Charleston area. And it was recommended that,
21 in fact, there be a regional hospital built to
22 serve those areas.

23 Q: Okay. All right. And who ultimately answered
24 the call to build that regional facility?

25 A: So HCA was asked to come forward. This is

1 actually a headline from, again, the
2 Summerville Medical Center original CON
3 application and HCA was the hospital that
4 stepped forward to build the regional facility.

5 Q: It was actually in the Trident original
6 application, correct?

7 A: Excuse me, yes.

8 Q: Okay.

9 A: I apologize.

10 Q: All right. And so as part and parcel of
11 building this new hospital, what did the two
12 counties agree to do with the aged existing
13 infrastructure?

14 A: So because the regional hospital was to be
15 built there in that North Charleston area, both
16 Berkeley County Hospital and Dorchester County
17 Hospital were closed and those communities
18 agreed to close those hospitals in support of
19 the single regional facility.

20 Q: Okay.

21 A: And here, of course, you see that the CON was,
22 in fact, issued in December of 1972. It was a
23 200-bed hospital, larger than the other single
24 hospitals and this hospital is now today known
25 as Trident Medical Center. This is ---

1 **Q:** Yeah, go ahead, just talk to me a little bit
2 about the distribution of the assets now, in
3 terms of the Trident system and the hospitals
4 that closed?

5 **A:** Uh-huh. So North Trident Regional Hospital is
6 now knows as Trident Medical Center; you can
7 see in Berkeley County where that hospital was
8 previously and which was closed; and also,
9 where Dorchester County Hospital was previously
10 and where it was closed.

11 **Q:** Okay. Is that the facade of the original
12 hospital?

13 **A:** It's the original hospital, yes, so that CON
14 was received in 1972 and -- this new hospital,
15 this regional hospital, then known as Trident
16 Regional Medical Center, opened in 1975, and
17 this is the 200-bed facility.

18 **Q:** Okay.

19 **A:** Again, you can see here at that time it was a
20 full-service community hospital and had
21 medical/surgical beds, had ICU beds, it helped
22 to serve pediatric patients, maternity
23 patients, OB patients, as well. There and
24 again, centralized to serve that northwestern
25 part of the tri-county area.

1 Q: So when it began, would you characterize that
2 as a tertiary care hospital or a community
3 hospital?

4 A: It's community hospital.

5 Q: Okay. And so, did those other services evolve
6 over time at Trident?

7 A: They did. They did. Over the last 40-plus
8 years, at both Trident Medical Center and also
9 at Summerville Medical Center, services were
10 added to serve the community as it grew.

11 Q: Okay. Well, let's look at what Trident has
12 done in both Berkeley and Dorchester County
13 since 1975. We'll start with Berkeley.

14 A: So in Berkeley County, Moncks Corner Medical
15 Center began in 1983 as an outpatient facility,
16 and in 1999, a 24-hour, 24/7 emergency room,
17 freestanding emergency room was built. One of
18 the things that HCA did at the very beginning,
19 was commit to grow with the community. It was
20 the mission that was accepted in 1972 to serve
21 this area. And so what you see here is really
22 some beginning steps to ensure that planning
23 was made as the community grew and then
24 investments were made where they were needed as
25 the population grew.

1 Q: Okay. And how about in Dorchester County?

2 A: And in Dorchester County, Summerville Medical
3 Center actually started in 1989 as a
4 freestanding ER and outpatient imaging,
5 diagnostics and so forth, and in 1993, an acute
6 care hospital, the current hospital, was built.

7 Q: Okay. How about in North Charleston?

8 A: And then, North Charleston County at Centre
9 Pointe, that's a freestanding emergency
10 department that was opened in 2014, again
11 serving this growing market.

12 Q: I want you to talk to us a little bit about
13 what that vision looks like today.

14 A: Sure. On the left, of course, you can see the
15 original plan with the original regional
16 hospital that was committed to by HCA and
17 built. And then on the right, you can see the
18 existing two hospitals, Summerville Medical
19 Center, which sits in Dorchester County, but is
20 really minutes away from the Berkeley County
21 line and Charleston County line, Trident
22 Medical Center, as well, in North Charleston.
23 Of course, Moncks Corner Medical Center there
24 at the top and down below, Centre Pointe
25 emergency freestanding. So really, in 1972, as

1 HCA made the commitment and accepted the
2 request of the community to build, our
3 commitment was to not just build for that
4 moment in time, but to continue to invest in
5 the facilities to grow services as the
6 community needs grew. And you can see there on
7 the right, they did that over time.

8 Q: What is HCA's commitment to investment in
9 healthcare infrastructure?

10 A: Yeah. So over the last 40 years, hundreds of
11 millions of dollars have been invested both on
12 our campus and you can see at the two
13 freestanding ERs. So it is multiples of
14 hundreds of millions of dollars over the course
15 of 40 -- more than 40 years.

16 Q: Were you present in the courtroom earlier when
17 Ms. Crum was asking Mr. Gallati about the 2018
18 financials for the whole Trident system? Do
19 you remember that line of questioning?

20 A: Yes.

21 Q: And for 2018, do you remember that it was \$91
22 million of pre-tax income, do you remember that
23 number?

24 A: Yes.

25 Q: Let's take a look at 2018 and let's just look

1 at what that landscape looks like in terms of
2 the system. Okay. If you would, walk the
3 Court through what HCA did for the community in
4 2018.

5 A: Sure. As you look across the entire health
6 system hospitals and freestanding facilities,
7 treated over 376,000 patients across our health
8 system; more than 170,000 ER visits across
9 those four emergency rooms; we do employ a
10 little over 3,000 employees; and, of course,
11 you see the salary wages and benefits there
12 across the board of those Trident Health
13 employees. During 2018, we received funding
14 approvals for \$71 million in capital
15 investments and, as I mentioned, over the
16 course of 40 years, several hundreds of
17 millions of dollars have been invested and,
18 certainly, over the last several years, we've
19 continued to make those investments. In
20 addition, a little over \$51 million in charity
21 care and \$34 million in taxes.

22 Q: Okay. So what does Trident Medical Center look
23 like today?

24 A: So Trident Medical Center today is certainly a
25 community hospital and more. 24 hour emergency

1 room, of course. It is now a level II trauma
2 center, has a full array of neuro science,
3 stroke care, cardiovascular services, surgical
4 services, oncology. Serves a very important
5 behavioral health population here, a critically
6 needed population in our community. A burn
7 clinic, outpatient services and this is a
8 sampling of all that they are offering today.

9 Q: Okay. Talk to me a little about the evolution
10 of Summerville Medical Center. Was it 124 beds
11 when it was built or did it evolve?

12 A: I think it was 70-some-odd beds. I want to say
13 70 to 80 beds originally when it was built. Of
14 course, in 1989 it started as an outpatient
15 center. Dorchester County again, very close to
16 that central part of the tri-county area, but
17 it is the only hospital in Dorchester County,
18 but again, minutes to the -- from the other
19 county lines. But it started as a freestanding
20 emergency room, outpatient center and then,
21 four years later, I believe, the hospital was
22 built in 1993, and had some basic community
23 level services, medical/surgical beds, OB care,
24 ER, ICU care. And over the course of 25 years,
25 since that hospital opened in 1993, I believe

1 it was, we've added pediatric services, so
2 pediatric ICU, pediatric subspecialty care,
3 intens- -- pediatric intensivist care. We have
4 a level II neonatal ICU, maternal-fetal
5 medicine or high risk OB services, a broad
6 array of surgical services, stroke care and
7 multiple outpatient services, as well.

8 Q: Okay. Talk to me a little bit about what you
9 have at Centre Pointe in North Charleston.

10 A: So Centre Pointe's a freestanding ER and it's
11 a full-service emergency room open 24/7 with
12 board certified ER providers, outpatient
13 services imaging and lab and it serves that
14 North Charleston region.

15 Q: And what's up at Moncks Corner?

16 A: And then at Moncks Corner, it's also a 24/7
17 freestanding ER with board certified ER
18 physicians and providers there. There are some
19 physician offices there where we see physicians
20 rotate through. We have outpatient imaging
21 services, lab services, outpatient therapy and
22 other things at that site.

23 Q: Talk to us a little bit about the emergency
24 services that the system provides.

25 A: So across our four ERs, as I mentioned earlier,

1 there are more than 170,000 patients treated
2 annually. We have, over the course of several
3 years, made consistent investments to grow the
4 capacity and to upgrade services and equipment
5 and the space in which we care for emergency
6 patients. Trident Medical Center ER had an
7 expansion that was completed in 2018.

8 Currently, the Summerville Medical Center ER is
9 under expansion today and we also broke ground
10 and have begun construction on a freestanding
11 emergency room in Summerville, as well. And,
12 in addition, we have several outpatient
13 centers, urgent care centers in and around our
14 primary service area.

15 Q: Talk to us about the trauma center.

16 A: So trauma care is provided at our Trident
17 Medical Center campus. It is a level II trauma
18 center, as mentioned. Trauma surgeons are all
19 board certified and meet the required recom- --
20 requirements from a certification standpoint
21 and it's a program that's been in place for
22 several years.

23 Q: Okay. Continue to talk about these tertiary
24 services. Describe for the Court the
25 cardiovascular program at Trident.

1 **A:** Sure. And I'll preface my statement by saying
2 I'm not an expert on Trident Medical Center,
3 per se, but I certainly am very aware, as a
4 leader in the health system of the subspecialty
5 services that they're offering. They do have
6 a broad and very robust cardiothoracic and
7 vascular program that includes open heart
8 surgery, it includes interventional cardiology,
9 includes vascular surgery, minimally invasive
10 and other. And in addition we have stroke care
11 in all of our ERs through Telehealth and onsite
12 providers who ensure that there's rapid
13 assessment and care provided for patients who
14 come in with signs and symptoms of stroke.

15 **Q:** Let's talk a little bit about the behavioral
16 resources of the system and why they are
17 important.

18 **A:** Yeah. So this community, like many others,
19 unfortunately, does have a big demand for
20 behavioral health services. Several years ago,
21 Trident Medical Center added 17 inpatient
22 behavioral health beds and now opens -- and I
23 believe, as you can see here, has added to
24 that, I think, there were several beds added
25 recently. And so they offer not only

1 inpatient, but also outpatient services to
2 serve that behavioral health community.

3 **Q:** Okay. What oncology care is available in the
4 system?

5 **A:** So oncology services are primarily located at
6 our Trident Medical Center campus. They have
7 a full array of radiation therapy services,
8 infusion services, medical oncology, and some
9 surgical oncology, as well. It's a
10 comprehensive cancer program.

11 **Q:** Okay. Next, I want to talk to something that's
12 near and dear to your heart. Talk to us about
13 the women and children's care at Summerville.

14 **A:** So, this past summer, in July, we consolidated
15 the obstetric and neonatal services from the
16 Trident Medical Center campus to the
17 Summerville Medical Center campus. Previously,
18 we both provided care for moms and babies and
19 we consolidated that this summer. So we have
20 a brand new women's unit and that serves
21 obstetric patients, it serves postpartum moms,
22 of course, it serves level II neonatal infants
23 with a full array of specialists that care for
24 all of those patient populations. Board
25 certified neonatologist, as I mentioned, board

1 certified maternal-fetal medicine physicians
2 who care for high risk moms and babies, and a
3 full array of pediatric ENT, surgery, urology,
4 ER and ICU physicians, as well. In addition,
5 we have a 24/7 OB hospitalist program, so those
6 physicians who care for moms only in the
7 hospital are there when they need emergent
8 services. And we'll see about somewhere
9 between 2,800 and 3,000 moms each year going
10 forward.

11 Q: What, if any, efficiencies and quality
12 enhancements occur as a result of this type of
13 consolidation?

14 A: Yeah. So we had two duplicative programs that
15 were basically seven miles apart. And what
16 that meant for us, we had two separate staff,
17 two separate set of physicians, duplicative
18 resources. And so what we were able to do with
19 this project is combine those patients, combine
20 those resources and staff, build a new center
21 to support that total volume instead of the
22 partial volume and really create one location
23 in which all of that care could be provided.
24 And, in fact, we could resource it more
25 effectively and efficiently because we were

1 serving one location and not two. So it really
2 has been -- I think it's a good project, I
3 think the team has done a great job with it and
4 I think it will serve the community well --
5 very well going forward.

6 **Q:** Explain to the Court your, kind of, physician
7 infrastructure, if you would.

8 **A:** So the vast majority of our physicians are, in
9 fact, independent. We do employ some
10 physicians, but it's a small fraction of our
11 total medical staff base. What you see here
12 are only a sampling of the physicians that
13 we've recruited over the last several years.
14 At Trident and Summerville Medical Center,
15 we've really worked hard to make sure that we
16 are attracting high caliber, experienced,
17 specialty-trained physicians as our community
18 needs have grown, as our services have grown.
19 And so, again, you see some here, everything
20 from neuro surgery to cardiothoracic surgery,
21 orthopedic trauma, pediatric surgery. Really
22 some sub subspecialty physicians that, I think,
23 really help us make sure that patients are
24 cared for in our home community.

25 **Q:** As you know, quality care is one of the goals

1 **of the Certificate of Need program. Can you**
2 **explain to the Court what ---**

3 MS. BAKER: Your Honor, he's leading again.

4 THE COURT: Leading.

5 MR. SUMMER: Well, I was getting to say what.

6 THE COURT: Okay.

7 MR. SUMMER: I was laying the foundation for a
8 question.

9 THE COURT: Okay.

10 MR. SUMMER: But I can withdraw that question.

11 **Q: And say as a hospital administrator, is quality**
12 **important to you?**

13 **A: Quality of care and patient satisfaction are**
14 **job one.**

15 **Q: Okay.**

16 **A: It is job one for us.**

17 **Q: What, if any, measures exist in the industry to**
18 **look at those quality indicators?**

19 **A: Yeah. There's a variety of certifications,**
20 **accreditations and ratings that you have the**
21 **ability to pursue and/or receive. And so we**
22 **are Joint Commission accredited, all of our**
23 **facilities. You can see here for Trident**
24 **Health, many of those accreditations are for**
25 **subspecialty care, like the American College of**

1 Surgeons Commission on Cancer Accreditation.

2 We have Joint Commission certification in
3 subspecialty areas like total hip and knee
4 replacement. We have our wound programs are
5 accredited by the national society that serves
6 that -- that service line. And then we also,
7 at Summerville Medical Center, in fact,
8 achieved a pediatric readiness certification.
9 So those are certifications received by
10 hospital ERs that are prepared to care actively
11 for emergency pediatric patients. So this is
12 simply a sampling. As you look across on this
13 next slide, more of those same accreditations
14 and certifications.

15 Q: Okay. So what do you view -- what is Trident's
16 view as its mission in regards to the
17 community?

18 A: Well, in simple terms, it's to care for our
19 community. That was the beginning of our work
20 here in the community. It was to come to the
21 community, serve this northwestern portion of
22 the Lowcountry, meet the needs of the community
23 and continue to grow and invest and add
24 services that met the community's need as the
25 community -- has grown. HCA did that in 1972;

1 we continue to do it today. I take that
2 mission very, very seriously. You know, I've
3 lived in the community for five and a half
4 years; my family still lives there. We are
5 passionate about the work that we do there in
6 serving this tri-county area. We've invested
7 hundreds of millions of dollars over the course
8 of 40 years. Hundred million dollars since I
9 was there, you know, in the past five and a
10 half years. I believe we serve that mission
11 very, very well.

12 Q: Are you generally familiar with MUSC's project
13 to build a 128-bed hospital in Nexton?

14 A: I am.

15 Q: Okay. Let's toggle over to the next slide.
16 DHEC page 27, DHEC Exhibit 1. DHEC Exhibit 1,
17 page 27. There we go.

18 (DHEC Exhibit Number 1 was referenced at this time.)

19 Q: Ms. Valentine, this comes out of the DHEC
20 Exhibit. Gives drive times by zip codes, do
21 you see that?

22 A: I do.

23 Q: And you see where this proposed hospital is
24 projected to be located?

25 A: Yes.

1 Q: How close is that to the Summerville facility?

2 A: It's about a 15-minute drive time. I'm giving
3 you my estimate.

4 Q: Okay. What do you notice, what, if anything,
5 do you notice about the drive times to that
6 facility in terms of zip codes as it relates to
7 your facility?

8 A: So, I see 29483, 29486, those are zip codes
9 basically within our backyard. And those drive
10 times are 12 and 13 minutes.

11 Q: Okay. Where do your patients come from,
12 primarily?

13 A: 29483, 29486, 29485, in and around the
14 Summerville area.

15 Q: Basically, from these zip codes?

16 A: Correct.

17 Q: So what, if any, concerns as a hospital
18 administrator in that community, do you have
19 about this project?

20 A: Well, I have a concern that it's, frankly,
21 duplicative. We -- you know, we have
22 Summerville Medical Center, we Trident Medical
23 Center and now, of course, we have the Roper
24 Berkeley Hospital. This will be the fourth
25 hospital in about a 10 or 15 minute radius. I

1 think it's gonna impact us significantly.

2 Q: As a hospital administrator, what, if any,
3 perceived need do you see in the community for
4 an additional hospital?

5 A: I don't see a perceived need in this -- in this
6 area. I think, you know, again, we've served
7 this community for well over 40 years, we've
8 continued to make investment after investment
9 on our campuses as the community has grown. I
10 don't see a need. We also have, not only the
11 30 beds that were recently opened at
12 Summerville Medical Center in the fall of 2018,
13 but we also have a brand new hospital that just
14 opened last month that's a 50-bed hospital
15 that's yet to realize its full volume, frankly.
16 We're a month into it. I don't see a need at
17 all.

18 Q: In your tenure at Summerville Medical Center,
19 what, if any, complaints or concerns have you
20 ever heard about patients having problems with
21 access to care?

22 A: I have not received any complaints about access
23 to care in our home community.

24 Q: And do you perceive any problems with access to
25 care for inpatient and outpatient hospital-

1 based services?

2 A: I do not.

3 Q: Okay. As a hospital administrator, do you have
4 any concerns about the adverse impact that this
5 project might have on Summerville Medical
6 Center?

7 A: I do. You know, I think that patients more
8 often than not, whether it's, you know, whether
9 it's the right decision for them or not, will
10 go to the closest hospital in many cases. They
11 go where they live, they go near where they
12 work. I think it will shift patient volume in
13 a market that is already -- in a home community
14 that is already have new beds come into the
15 community. So I think we'll see a patient
16 shift. I also think that we will have
17 challenges with staff. We were experiencing
18 that with the Roper Berkeley Hospital already
19 and I think that the staffing challenges that,
20 you know, most hospitals experience will
21 worsen.

22 Q: While we're in Number 1, DHEC 1, jump over to
23 page 599.

24 MR. SUMMER: If you would, highlight the RN line.

25 That's the line right through there, 121, 148,

1 202.

2 Q: These are projections from MUHA's Certificate
3 of Need application. The question I have for
4 you, when you look at those numbers of RNs
5 projected, what, if any, concerns as a hospital
6 administrator in that market, do you have?

7 A: Well, RNs are typically the largest component
8 of your total staff. They are in short supply
9 in South Carolina and really in many parts of
10 the country. And so, again, when you increase
11 the demand and the supply doesn't change,
12 you're going to create challenges for the
13 existing providers as well as, frankly, a new
14 hospital.

15 Q: Were you here when Mr. Gallati testified that
16 he's got 70 travelers right now as RNs?

17 A: Yes.

18 Q: Okay. Would this projection of nurses needed,
19 what effect, if any, would that have on your
20 need for travelers?

21 A: Well, it would increase our need for travelers
22 and it would -- it has the potential to raise
23 compensation in the community, as well as all
24 the hospitals. We tend to compete for the same
25 supply, frankly.

1 Q: Is it ideal using travelers?

2 A: It is not.

3 Q: What are some of the drawbacks of using
4 travelers?

5 A: Yeah, so some of the drawbacks of travelers is
6 the ability to appropriately orient them to the
7 facility. So they may have experience in a
8 particular clinical area, but they may not know
9 your systems, your people, your processes and
10 it takes a while to actually get them
11 acclimated to that environment. You also want
12 to have a cohesive team and that's difficult
13 when you have team members who are new to the
14 team. So it does create a challenge, an
15 additional challenge for any hospital that has
16 travelers. They are necessary, but it's not
17 the way you want to sustain your operations
18 around.

19 MR. THOMAS: Beg the Court's indulgence.

20 Q: Ms. Valentine, are there any other concerns
21 that you have regarding this project that you
22 haven't expressed thus far?

23 A: Well, I think it's a complete duplication of
24 the hospitals that already exist within, again,
25 that 10 or 15 mile radius. This is proposed

1 to be a community hospital and, in fact, you
2 have three community hospitals already within
3 10 to 15 -- actually within 5 to 15 minute
4 drive time of this particular location. So it
5 is a duplication of services. I don't think it
6 helps our community-contained costs. It
7 certainly doesn't seem to meet that component
8 of the CON Regulation. And I do have a grave
9 concern about the adverse impact on our
10 facility. I don't believe there's a community
11 need, as we discussed previously, and I,
12 frankly, don't believe the logic around it.

13 Q: Would you please answer any questions the Court
14 or other counsel has. Thank you.

15 A: Yes, sir.

16 MS. HOLLINGSWORTH: No questions.

17 MR. WICEVIC: No questions from the Department.

18 THE COURT: Ms. Baker?

19 MS. VALENTINE - CROSS-EXAMINATION BY MS. BAKER:

20 Q: Ms. Valentine, I'm Pam Baker and I'm here on
21 behalf of the Medical University Hospital
22 Authority. If I ask you a question and it's
23 not clear, just please let me know and I'll try
24 my best to rephrase it. And so, first, I want
25 to ask, have you ever -- I know you went over

1 your work history, but have you ever worked for
2 an academic hospital medical facility?

3 A: No, I have not.

4 Q: Okay. And I -- we went through at great length
5 the PowerPoint that you had on the screen. Did
6 you prepare that?

7 A: I had provided input into the presentation,
8 yes.

9 Q: Okay. And what specific parts did you provide
10 as input?

11 A: You know, I don't recall because that's a
12 presentation that was utilized several months
13 ago, so it's -- actually, it was produced
14 several months ago. I believe as it relates to
15 information that was provided from our team
16 around the original CON, the current services
17 and data, so throughout the entire
18 presentation, I would say.

19 Q: Did you prepare and use it when you used it in
20 the prior trial?

21 A: I'm sorry, say that again?

22 Q: Did you personally prepare it when you used it
23 in the prior proceeding?

24 A: Provided input into.

25 Q: Okay. Now, I believe you testified a lot about

1 Trident Medical Center, but you said you are
2 not an expert at Trident Medical Center,
3 correct?

4 A: That's correct.

5 Q: And who would be that counterpart?

6 A: Todd Gallati.

7 Q: Okay. And he would probably know better about
8 the workings at Trident Medical Center than
9 you?

10 A: The details, yes.

11 Q: Let me ask you just a few details about your
12 PowerPoint. So I believe that there was a map
13 in your PowerPoint that I think showed, like,
14 it had the old Berkeley County Hospital and --
15 do you remember that map, do you recall that
16 map?

17 A: Yes. And we can ---

18 MR. SUMMER: We can put it back, would you like us
19 to put it up?

20 MS. BAKER: No, that's fine.

21 Q: So based on that map and your testimony, so it
22 appears that HCA shut down two county hospitals
23 in order to open TMC, is that correct?

24 A: No. HCA did not shut down hospitals. The
25 communities, those communities made a decision

1 to support a regional hospital, as I understand
2 it, from the document in the original CON for
3 Trident Medical Center. So those were
4 community decisions made by those respective
5 counties.

6 Q: But those two hospitals ---

7 A: HCA was not responsible for shutting down those
8 two hospitals. HCA stepped forward to create
9 the regional hospital that was recommended and,
10 in fact, requested by those two counties.

11 Q: Okay. But those two hospitals shut down, in
12 any event, right?

13 A: The counties chose to close those two hospitals
14 which were in disrepair and needed major
15 repairs and/or replacement.

16 Q: And you testified about, I guess, around the
17 1975 time frame and what Trident Medical Center
18 was doing. Do you recall what the population
19 was back during that time frame?

20 A: I do not.

21 Q: Do you know what the population was in Berkeley
22 County back during the 1983, '99 time frame?

23 A: I do not.

24 Q: And I assume the same would be true for
25 Dorchester County back during that same time

1 frame.

2 A: Correct.

3 Q: Do you know approximately how much money HCA
4 has invested in the community since 1970?

5 A: Several hundreds of millions of dollars. I
6 would say it has to exceed \$300 million, if I
7 were to make an estimate.

8 Q: Okay.

9 A: But it could be even more than that.

10 Q: And what about prior to 1970?

11 A: Prior to the 1970s, I don't believe that HCA
12 was in the market.

13 Q: Do you know whether MUHA was in the market?

14 A: I believe they were. I believe, however, they
15 were on the peninsula, not in Dorchester or
16 Berkeley County.

17 Q: So you don't know how long before Trident
18 entered the market -- how long before Trident
19 came into market and MUHA was there?

20 A: MUHA has been on the peninsula, I think, 50 or
21 60 years, and Trident Medical Center has been
22 in the market that we're talking about in that
23 community since 1975.

24 Q: As I said, I think you just testified that you
25 know that MUHA was in the tri-county area prior

1 to HCA, correct?

2 A: I believe they were on the peninsula, yes, 50
3 or 60 years ago.

4 Q: And I think you mentioned the investments that
5 HCA has made. Do you know how much money MUHA
6 has invested in the community?

7 A: I do not.

8 Q: Okay. I think you talked a little bit about
9 the drive time. Now, did you do any kind of
10 scientific analysis or study or did you just
11 drive past?

12 A: I lived in the community for five and a half
13 years. Those are my estimates from regular
14 commutes.

15 Q: Okay. So when was the last time you did that
16 drive to calculate your 15-minute?

17 A: Probably two months ago.

18 Q: And I think you also talked about in a few of
19 the last questions that Mr. Summer asked about
20 adverse impact, do you recall that?

21 A: Yes.

22 Q: Have you done any kind of study or analysis to
23 determine what that impact would be on SMC?

24 A: I have not. It could be that our expert has;
25 I haven't seen that.

1 Q: Okay. Have you done any sort of analysis to
2 determine what impact Roper Berkeley has had on
3 SMC?

4 A: I don't believe that I have.

5 Q: And you were still -- you were at SMC when
6 Roper Berkeley was being constructed and
7 implemented, correct?

8 A: Constructed, yes.

9 Q: Were you concerned at that time about any
10 adverse impact that facility would have on SMC?

11 A: Yes.

12 Q: So I believe, I think I heard you testify about
13 HCA's ability to meet the need as the community
14 grows, correct?

15 A: Correct.

16 Q: So is it fair to say that HCA's position is
17 that it's fine for them to move into a market
18 to meet the need as communities grow, but if it
19 -- there's a different standard for MUHA? We
20 should not be able to move into a community,
21 it's only for our patients on the peninsula?

22 A: No, that's not correct.

23 Q: So, out of the concerns that you identified
24 when Mr. Summer was questioning you, have you
25 done anything to quantify the impact of any of

1 those concerns?

2 A: Can you repeat the question, please?

3 Q: Out of the concerns, and I think you talked
4 about duplication, adverse impact, etcetera,
5 have you done any type study to quantify what
6 that impactor actually is?

7 A: I have not done any quantity of studies. I do
8 think it's fairly commonsense, frankly, that
9 when you have a new provider come into a
10 community and they are 5 to 15 minutes from
11 three existing hospitals, that, in fact,
12 patients will shift. They will go to the
13 closest hospital, they will go to a hospital
14 they drive by. I don't think, you know, to me
15 it's commonsense as an administrator with 30
16 years of experience.

17 Q: Wouldn't there also be patient choice?

18 A: There's patient choice today and there's access
19 today.

20 Q: And wouldn't you say, I mean, I think you went
21 over the history of HCA, so it would seem that
22 y'all have a very strong presence in the tri-
23 county area.

24 A: I think we came in 1975 or '72 and met a
25 community need as requested by the community

1 and continue to fill that need over the course
2 of 40 years.

3 Q: But wouldn't you agree that patients are still
4 -- are continuing today to drive past your
5 facility and Roper's facilities downtown to the
6 peninsula to seek services at MUSC or MUHA?

7 A: There may be some, however, I think the
8 tertiary and quaternary services that MUSC or
9 MUHA provides are really the services for which
10 patients bypass other hospitals to seek and
11 MUHA serves an important role in the state in
12 those very, very subspecialty services.

13 Q: Do you know how many or what percentage of
14 patients from the Berkeley, Summerville area or
15 Summerville drive down to the peninsula for
16 services at MUSC?

17 A: I reviewed some of the tables, I haven't
18 committed that data to memory; however, what
19 the information does not demonstrate is what
20 level of care those patients are provided. For
21 example, MUSC has the only level III NICU in
22 eight counties. That's a couple hour drive for
23 families who need that level of care, NICU III
24 care. So, certainly there may be some families
25 that are either transported via ambulance or

1 helicopter to MUSC and there may be some
2 families who are driving, but I can't tell you
3 which ones would need community hospital level
4 services and which ones would need subspecialty
5 or tertiary care.

6 Q: So you don't really know how many of those
7 patients are seeking tertiary/quaternary versus
8 non-tertiary/quaternary care?

9 A: I haven't seen any data in the MUHA application
10 that delineates out that patient care.

11 Q: You talked about the RN shortage. Is this
12 something that's just limited to the tri-county
13 area?

14 A: No, it's certainly a national issue and a South
15 Carolina issue.

16 Q: And I think during your deposition, you
17 testified that you weren't going to be
18 providing any testimony or any opinions
19 regarding the financial feasibility or anything
20 like that as a hospital administrator.

21 A: I'm not an expert in that arena.

22 Q: So I think I just asked you a question about,
23 and I think you stated that you did have
24 concerns with Roper Berkeley opening that that
25 having an impact on SMC. Do you have any

1 concerns about Roper Berkeley on the SMC FSED?

2 A: I'm sorry. Repeat the question.

3 Q: Do you have any concerns about what impact
4 Roper Berkeley Hospital will have on SMC's --
5 what -- I'm sorry. Do you have any concerns
6 about what Summerville Medical Center's FSED is
7 going to have on the Roper Berkeley Hospital?

8 A: So, Summerville Medical Center's freestanding
9 ER is in Summerville, South Carolina. It's in
10 our PSA. It's already the patients that we
11 serve from our primary campus. It sits ten
12 minutes from our hospital. So those are
13 already patients that we're seeing in our
14 hospital and we felt like we needed to provide
15 more access, but still be in their home
16 community.

17 Q: So they're already patients of Summerville?

18 A: That PSA is already served by Center. It's in
19 our primary service area.

20 Q: Okay.

21 MS. BAKER: One second.

22 Q: Do you know the distance from the FSED to Roper
23 Berkeley Hospital?

24 A: I don't know the distance. I would say maybe
25 it's a eight minute drive, roughly. I'm

1 **estimating.**

2 **Q: And do you know whether or not it's the same**
3 **exit?**

4 **A: It is the same exit off of I-26, yes.**

5 **Q: Okay.**

6 MS. BAKER: I don't have anything further.

7 MR. SUMMER: Just a couple clean-ups.

8 MS. VALENTINE - REDIRECT EXAMINATION BY MR. SUMMER:

9 **Q: Ms. Baker's questioning about in 1975 was MUHA**
10 **in the Dorchester, Berkeley market, do you**
11 **remember that line of questions?**

12 **A: Yes.**

13 **Q: Okay. What do you know based upon your review**
14 **of documents as to whether or not MUSC had an**
15 **opportunity to build in 1975 in Berkeley**
16 **County?**

17 **A: Based upon ---**

18 OBJECTION:

19 MS. BAKER: Your Honor, I'm going to object. That's
20 outside the scope of what I questioned Ms.
21 Valentine on.

22 THE COURT: Any response?

23 MR. SUMMER: Well, the question was, you know, was
24 MUHA there. Well, MUHA was not there. And I'm
25 gonna explain why MU- -- I want her to explain

1 what she knows about why MUHA was not there.

2 THE COURT: All right. Whether the balcony, there's
3 that argument about foundation is laid not an
4 issue or not objection yet, but I think this is
5 re- -- responsive to your examination so you
6 may want to lay a foundation.

7 MR. SUMMER: Okay.

8 **Q: Do you remember your testimony, your prior**
9 **testimony, about the community council that**
10 **looked at healthcare in the 1970s of what to do**
11 **for that market of Berkeley and Dorchester?**

12 **A: Yes.**

13 **Q: Okay. Did MUSC have an opportunity to build in**
14 **1975?**

15 **A: Based upon the committees ---**

16 OBJECTION:

17 MS. BAKER: Your Honor, I'm going to object again.

18 There's still no foundation laid for that
19 question.

20 THE COURT: By a foundation, what do you mean?

21 MS. BAKER: Well, I -- he's asking -- he's going
22 from whether or not MUHA was there to whether
23 or not she knows if they had the opportunity to
24 build. I don't think I ever brought that up in
25 any of my cross.

1 THE COURT: Okay.

2 MR. SUMMER: The mere fact that they're not there
3 now, haven't been since 1975, I think the Court
4 can take judicial notice of. But the fact of
5 the matter is, she's reviewed the information
6 about the competitive arena ---

7 THE COURT: Well, you're asking her to speak,
8 though, for the Medical University.

9 MS. BAKER: Or why they ---

10 THE COURT: Or why they took -- yeah, but ---

11 MR. SUMMER: I can rephrase the question.

12 THE COURT: Okay.

13 **Q: Did the Healthcare Council give other providers**
14 **an opportunity to build in the north area?**

15 **A: Yes.**

16 **Q: Okay. Did any of the other providers choose to**
17 **build in the north area?**

18 **A: I did not see any evidence of that, no.**

19 **Q: Okay. Did HCA choose to build in that area?**

20 **A: Yes.**

21 **Q: Okay. Do you remember the line of questioning**
22 **regarding what was the population in 1972, what**
23 **was the population in 1989 ---**

24 **A: Yes.**

25 **Q: --- do you remember those questions?**

1 **A:** Yes.

2 **Q:** Okay. Since 1975, has population grown?

3 **A:** Absolutely.

4 **Q:** What, if anything, has HCA done to meet the
5 needs of the community in answer to that
6 growth?

7 **A:** Yeah. So, just running through the list,
8 following the Trident Regional Medical Center,
9 it -- those beds were expanded from 200 to now
10 322. So over the course of 40 years,
11 additional beds and services were added to that
12 particular campus. In addition, Summerville
13 Medical Center outpatient services,
14 freestanding ER, hospital and then an expansion
15 of hospital and multiple expansions of
16 subspecialty services were added to that
17 particular campus, as well as capacity. In
18 addition, freestanding ER and outpatient
19 services in Moncks Corner, freestanding ER and
20 outpatient services in the North Charleston
21 area at Centre Pointe freestanding ER.

22 **Q:** Okay. Do you remember the questions regarding
23 are you worried about Roper Berkeley and their
24 new hospital, do you remember that?

25 **A:** Yes.

1 **Q:** How, if at all, is your concern about MUSC's
2 community hospital, how is that concern
3 exacerbated by the ramp up at Roper Berkeley?

4 **A:** Yeah.

5 OBJECTION:

6 MS. BAKER: Your Honor, I'm going to object to the
7 extent that he's asking her a question, but
8 he's asking her, like, testifying for her. How
9 is it exacerbated?

10 MR. SUMMER: I can rephrase ---

11 THE COURT: I guess that was a leading question and
12 a leading objection.

13 MR. SUMMER: The day is long ---

14 THE COURT: Yeah.

15 MR. SUMMER: --- but I can do it a different way.

16 THE COURT: Okay.

17 **Q:** What, if any, effect does it have on you as a
18 hospital administrator that MUHA is attempting
19 to open up a hospital when Roper Berkeley has
20 just opened?

21 **A:** Yeah. So, as I mentioned previously,
22 considering that we just recently opened up 30
23 additional beds at Summerville Medical Center,
24 Roper Berkeley just opened a 50-bed hospital,
25 to add another 128 beds right in the middle of

1 all of that hospital geography, from my
2 perspective, has a significant impact on
3 patient volumes; it has a significant impact on
4 staffing across the board; and it, you know, it
5 could in the future impact our ability to
6 continue and that's where we are. We've spent,
7 you know, more than 40 years at both of our
8 campuses in and around that community to make
9 sure that we've grown with the community, we've
10 made the right investments at the right time as
11 the population has grown. It certainly is a
12 concern, significant concern.

13 Q: Thank you very much.

14 THE COURT: Redirect on a new matter? You may step
15 down.

16 MR. SUMMER: Your Honor, may we excuse Ms. Valentine
17 to go home to Florida?

18 THE COURT: You may.

19 MR. SUMMER: Thank you.

20 THE COURT: Although you need to send some warm air
21 back up this way.

22 CONCLUDING MATTERS:

23 MR. THOMAS: We're ready to call our CEO tomorrow
24 morning from Walterboro, Your Honor.

25 THE COURT: All right. And what time will we --

1 will we be making that call?

2 MR. THOMAS: I've already told him to be here at
3 10:00 is the problem.

4 MR. SUMMER: Well, we've only got two witnesses on
5 the calendar for tomorrow any way, so.

6 THE COURT: Well, we've had witnesses go all day, so
7 I don't know what that means. If we start at
8 10:00, do y'all envision us being ---

9 MR. SUMMER: We'll be on schedule tomorrow, I can't
10 imagine us not being.

11 THE COURT: Okay.

12 MR. THOMAS: I agree. Y'all agree with that?

13 THE COURT: All right. We'll start at 10:00. Thank
14 y'all.

15 (The hearing adjourned at 4:02 p.m.)

16 DAY FIVE - WEDNESDAY, NOVEMBER 13, 2019

17 CALL TO ORDER:

18 COURT REPORTER: All rise.

19 THE COURT: Hey, y'all. Good to see you.

20 MS. JONES: Good morning.

21 MS. HOLLINGSWORTH: Good morning.

22 MS. SHOUN: Good morning.

23 THE COURT: Mr. Thomas?

24 MR. THOMAS: May it please the Court, Your Honor.

25 Colleton Medical Center would call James Hiott

1 to the stand.

2 COURT REPORTER: State and spell your name for the
3 record.

4 MR. HIOTT: It's James O'Neal Hiott, III. J-A-M-E-S
5 O-N-E-A-L H-I-O-T-T, III.

6 COURT REPORTER: Raise your right hand please.

7 MR. HIOTT: (Witness complies.)

8 COURT REPORTER: Do you solemnly swear the testimony
9 you're about to give in this matter is the
10 truth, the whole truth and nothing but the
11 truth, so help you God?

12 MR. HIOTT: I do.

13 COURT REPORTER: Thank you.

14 JAMES O'NEAL HIOTT, III, being first duly sworn,
15 testifies as follows:

16 MR. HIOTT - DIRECT EXAMINATION BY MR. THOMAS:

17 **Q: Good morning, Mr. Hiott, how are you?**

18 **A: Good morning.**

19 **Q: State your full name for the record for me**
20 **again, if you would.**

21 **A: James O'Neal Hiott, III.**

22 **Q: Where do you live, Mr. Hiott?**

23 **A: I live in Walterboro.**

24 **Q: Where did you grow up?**

25 **A: I grew up in Round O.**

1 Q: And where is that?

2 A: It's in Colleton County.

3 Q: How close is that to Walterboro?

4 A: About a ten-minute ride.

5 THE COURT: You grew up in Round O?

6 A: Yes, sir.

7 THE COURT: I used to be at the AG's office and I

8 handled calls from law enforcement officers.

9 I can't tell you how many times I'd get calls
10 and I'd say, and is this is in South Carolina.

11 (Laughter.)

12 THE COURT: Round O would've been one of them.

13 (Laughter.)

14 MR. THOMAS: Now you know somebody from Round O.

15 (Laughter.)

16 Q: Anything -- do you have any big plans this
17 weekend, Mr. Hiott?

18 A: I -- we've got some huge plans this weekend.
19 My daughter's getting married Saturday, so just
20 got a few days to -- two days to get ready for
21 that.

22 Q: And that's why you're going up today, right?

23 A: Yes, sir. And I appreciate the Court letting
24 me.

25 Q: Tell the Court where you're employed and what

1 your job title is?

2 A: I'm employed at Colleton Medical Center in
3 Walterboro, South Carolina; and I'm the CEO at
4 that facility.

5 Q: What were you -- have you always been the CEO?

6 A: Not always, no, sir.

7 Q: Okay. What did you do before you became CEO?

8 A: I was the chief financial officer for Colleton
9 Medical Center.

10 MR. THOMAS: Okay. I'd like to put Mr. Hiott's CV
11 up, which is TMC 4.

12 (Trident Exhibit 4 was referenced at this time.)

13 MR. THOMAS: I'm not gonna try to get it in.

14 Q: Mr. Hiott, do you see your resume on the screen
15 there?

16 A:A: Yes, sir.

17 Q: Can you read it?

18 A: Yes, sir, I can.

19 Q: All right. And I'm only gonna ask you, if you
20 can't remember your job history, your education
21 history, you know, refer to that to refresh
22 your recollection. If not, I'm fine with you
23 not.

24 A: Okay.

25 Q: Let's start with your educational background.

1 Where did you go to college?

2 A: I went to Newberry College?

3 Q: What was your degree in?

4 A: I have a degree in accounting.

5 Q: When did you graduate?

6 A: 1990.

7 Q: All right. Do you have any post-graduate
8 education?

9 A: I do. I have a MBA in healthcare management
10 from Western Governor's University which I
11 finished in 2016.

12 Q: After Newberry College, did you go to work?

13 A: I did.

14 Q: Where'd you go?

15 A: I went -- initially went to work for Blue Cross
16 Blue Shield here in Columbia.

17 Q: What did you do for them?

18 A: I was an auditor, a home health auditor.

19 Q: Okay. What did you do after that?

20 A: Transitioned, saw a job opening. At the time
21 it was called Colleton Regional Hospital in
22 Walterboro and took the position of assistant
23 controller.

24 Q: What did you do as the assistant controller at
25 Colleton Regional Hospital?

1 **A:** Oversight of the accounting functions, assisted
2 with the capital budget, and assisted just with
3 the development of a budget on an annual basis.

4 **Q:** Okay. And when did you leave that job?

5 **A:** Left in '96.

6 **Q:** What did you do after that?

7 **A:** I took a promotion as controller at Columbia
8 Raleigh General Hospital in Beckley, West
9 Virginia.

10 **Q:** And what did you do there as the controller?

11 **A:** As a controller, very similar, just a larger
12 facility, helped with the annual budget,
13 oversaw all the financial operations of the
14 facility, and I served -- I'm sorry, I'm
15 reading the wrong line. Just assisted with the
16 -- their budget, and, of course, all accounting
17 functions, accounts payable, payroll, etcetera.

18 **Q:** And I think we were talking about this this
19 morning, but, you know, why did you leave
20 Beckley, West Virginia?

21 **A:** Well, there was one joke we talked about of my
22 wife couldn't find the beaches in West
23 Virginia, but the other was -- it was a
24 promotional opportunity to return to Colleton
25 Medical Center as the CFO.

1 Q: Okay. And when did you do that?

2 A: When?

3 Q: Yes, when did you return?

4 A: I'm sorry, that was March of '97.

5 Q: And tell the Court a little bit about what you
6 did as the CFO from '97 to July 2006.

7 A: Okay. Certainly, oversight of all accounting
8 functions, oversight of the budget whether it
9 was operational or capital, and the other part
10 that I was responsible for was the -- I was the
11 first ethics compliance officer for the
12 facility.

13 Q: Now, when did you leave that job, CFO job?

14 A: I left it in July of 2006.

15 Q: And why did you leave?

16 A: An opportunity within the division office with
17 our physician service group and needed a
18 change.

19 Q: Okay.

20 A: Needed a change.

21 Q: Well, and what was your job title when you left
22 and started the new position?

23 A: Director of finance, and I was in the division
24 office and took that -- it was just a
25 transition in July 2006.

1 Q: Okay. Why don't you tell the Court a little
2 bit about what you did as the director of
3 finance for ---

4 A: It was more on the operational side working
5 with physician practices, oversight, helping
6 manage and look at their billing, their
7 collections, physician modeling as it pertains
8 to their production, and was more on the
9 operations side to provide financial analysis
10 of their P&Ls and billing and such.

11 Q: And how long were you in that position?

12 A: Right at six years.

13 Q: I looked at your CV; it looks like you left in
14 June 2012. What did you do after that?

15 A: So I returned to Colleton Medical Center for my
16 second stint as chief financial officer.

17 Q: Couldn't stay away?

18 A: Couldn't stay away.

19 Q: And were your duties as the CFO of Colleton
20 Medical Center similar to the ones when you
21 were CFO before hand?

22 A: Very similar. We had acquired the medical
23 office building back and added that to our
24 financials. So very similar to previous, yes.

25 Q: When did you make the change to transition to

1 chief executive officer?

2 A: I did in March 2017.

3 Q: How did that position present itself?

4 A: Well, it's something that, of course, I talked
5 with my previous bosses and -- who were in the
6 CEO roles and just discussed how do I get
7 there. And, of course, education was a part
8 of, continued education with my master's. And
9 then the CEO that was there took a promotion to
10 a larger facility and he moved, and it opened
11 up the door for me.

12 Q: And so you've been doing -- you've been in that
13 capacity since March 2017?

14 A: Right.

15 Q: Tell the Court a little bit about your
16 responsibilities and oversight as the CEO for
17 Colleton Medical Center.

18 A: Certainly, it's still you've gotta keep your
19 eye on the financials and making sure you've
20 got a good understanding of those. But it's
21 also the -- you know, the management of the
22 staff, employees, medical staff. You're
23 developing a culture within that hospital also.
24 So, you're involved in all the facets, not just
25 as a -- you know, more of a -- it's not a silo

1 view, it's you've got to have a good picture of
2 all the operations and everything that is going
3 on in the facility to ensure that we're
4 following policies and doing the right things.

5 Q: Do you participate in strategic planning for
6 the Medical Center?

7 A: I do.

8 Q: What does that entail?

9 A: We are always looking at, you know, what are --
10 where are the opportunities on service lines
11 that we could add, what are the opportunities
12 to look at the current service lines that we
13 have and could we add different procedures
14 within those. So, we're always looking to
15 what's the next thing a community hospital can
16 add to their book of business to help us
17 continue to grow.

18 Q: What types of marketing does Colleton Medical
19 Center participate in?

20 A: We do local advertising in our newspapers;
21 we'll do a little bit billboard ads and such.
22 We do advertise our -- as most facilities do
23 now, their wait times for the emergency
24 department. We do mailers if it's specific to
25 a certain month. It could be the recognition

1 of -- you know, hip and knee, you know, or
2 joint pain, and we'll do some flyers on things
3 such as that.

4 Q: What type of things do you do personally to
5 promote the hospital?

6 A: Active just in the community, whether it's
7 March of Dimes. Also, we have a economic
8 alliance board that I participate on. It's
9 more of what can we do for the community, how
10 can we help our economic department for the
11 County and assist them.

12 Q: What type of role does CMC or Colleton Medical
13 Center play in the Development Calculus Health
14 Account?

15 A: Very significant. If, you know, you look at
16 the facilities, you know, around the State or
17 anything that it's very important we have a
18 healthcare presence in our county to attract
19 businesses and if we don't have that hospital
20 or healthcare presence from a, you know, from
21 a high quality standpoint, it could negatively
22 impact the economic advancement of our county.

23 Q: Who are your direct reports, Mr. Hiott?

24 A: I have a chief nursing officer, CFO, I have a
25 VP of operations, and I've got a VP of risk and

1 regulatory compliance, and then, of course, an
2 executive assistant who are my directs.

3 Q: Even though you have a CFO, do you still
4 monitor the financial metrics of Colleton
5 Medical Center?

6 A: I do.

7 Q: Do you find yourself as a former CFO dabbling?

8 A: A little bit. A little bit.

9 Q: What type of financial metrics are you -- do
10 you pay attention to as the CEO?

11 A: We pay attention to daily metrics which could
12 involve anything in the emergency department on
13 patient turnaround to looking at the OR
14 schedule and seeing if -- did the OR start on
15 time that morning, did we have any delays, what
16 were our turnaround times. Then on a, you
17 know, weekly and monthly basis, certainly, it's
18 the focus of just making sure I know -- got my
19 finger on where the financials are, where are
20 we headed, and what they look like.

21 Q: Do you know how many employees, kind of total
22 ballpark, that Colleton Medical Center has?

23 A: You know, from -- we've got about 427 FTEs and
24 about 525 employees who are on -- on the
25 payroll per se.

1 **Q:** How would you describe Colleton County and the
2 various towns that are situated therein?

3 **A:** Colleton County is made up of small rural
4 towns. Walterboro being the largest of the
5 communities with only nine to ten thousand in
6 its proper, the city, but it's a very rural.
7 We are -- our county's the fifth largest county
8 from large -- from land mass and it is a lot of
9 rural farming land. You get outside the city
10 limits and it's -- you're in the country.

11 **Q:** Like Round 0?

12 **A:** Like Round 0.

13 **Q:** Okay. Tell the Court a little bit about the
14 services that Colleton Medical Center offers in
15 the community?

16 **A:** Okay. We -- you know, typical for a community
17 hospital, medical and surgical services,
18 certainly, are very important. You know, our
19 front door to the community is our emergency
20 department. We have a wound care center that's
21 very important to our community. We have
22 outpatient therapies; we have a lab, which we
23 run. We have respiratory therapy,
24 cardiopulmonary services. We do have a rehab --
25 inpatient rehab unit and inpatient behavioral

1 unit, labor and delivery, intensive care unit.

2 Q: Okay.

3 A: Yeah.

4 THE COURT: When you say the front door to the
5 hospital is the ER department, explain what you
6 mean by that.

7 A: Meaning that the community -- the community
8 wants to make sure if there's an emergent
9 situation, that they're very comfortable with
10 the quality of care that's provided in the
11 emergency department, so ensuring that that
12 front door -- this is where you can come for
13 care. It's more of we serve about 3,000
14 patients on any given month, so ensuring that
15 that door is open and available to them and we
16 are meeting their needs.

17 Q: Are you familiar with the payor mix of Colleton
18 Medical Center?

19 A: Yes, sir, I am.

20 Q: Can you give the breakdown generally for the
21 Court?

22 A: We're very high on the governmental. Medicare
23 is about 55 percent; our Medicaid runs right
24 over 20 percent; and then we run pretty high on
25 the charity and uninsured, which is running

1 about 14 percent right now, and then the rest
2 of it would be private insurance.

3 **Q:** Does that present any challenges for the
4 operation of the hospital?

5 **A:** It does each and every day. Of course, the
6 private insurers pay more than the governmental
7 and certainly that has an impact on us and we
8 want to attract more of those patients.

9 **Q:** Okay. Let's go to DHEC Exhibit 5, if we could.
10 I believe it's the 2018-2019 State Health Plan.
11 (DHEC Exhibit Number 5 was referenced at this time.)

12 MR. SUMMER: Is this the one that was stipulated?

13 MS. JONES: Is that a ...

14 MR. SUMMER: Yeah.

15 **Q:** Do you recognize this document ---

16 **A:** Yes.

17 **Q:** --- Mr. Hiott?

18 **A:** Yes, sir.

19 MR. THOMAS: If we could go to page 27 in that
20 document, please. It should be a bed need
21 chart. There we go. That looks like it. Is
22 that 27? That's 22. Let's go a couple more.
23 There we go. And if you could blow up Colleton
24 County there. All right.

25 **Q:** Mr. Hiott, on that first column there after 65

1 percent is bed need, what's your bed need
2 stated in the 2018-2019 Health Plan?

3 A: On the bed need it says 68.

4 Q: Okay. But how many existing licensed beds does
5 Colleton have?

6 A: 116.

7 Q: Okay. So, what is your to be added or excess
8 in that column there?

9 A: Excess of 48.

10 Q: Okay. And so what's your 2016 occupancy rate
11 there?

12 A: 38 and a half percent.

13 Q: Let's look at -- let's look at year 2018. I'll
14 show you your JAR. Are you familiar with the
15 JAR report?

16 A: Yes, sir.

17 MR. THOMAS: Some how this one didn't make it in my
18 exhibit list. I'll give you a copy of that
19 just so you have it.

20 THE COURT: So why does Dorchester County have
21 Colleton Medical Center in it and Colleton
22 County have Hampton Regional Medical Center in
23 it?

24 MR. THOMAS: Well, Judge, I think the Dorchester
25 County total there is for the Summerville

1 Medical Center.

2 THE COURT: Oh, so it's on a---

3 MR. THOMAS: Yes.

4 THE COURT: I'm looking at it wrong. Okay.

5 Q: Mr. Hiott, can we go to -- I believe this is
6 going to be called TMC demonstrative 4. Do you
7 recognize this document, Mr. Hiott?

8 (TMC Demonstrative Exhibit Number 4 was referenced at
9 this time.)

10 A: Yes.

11 Q: What is it?

12 A: The annual -- joint annual report as submitted
13 to the State of South Carolina.

14 Q: Okay.

15 MR. THOMAS: If we could go to page 4 of the
16 demonstrative exhibit.

17 Q: Does this page, Mr. Hiott, set forth Colleton's
18 utilization by service area?

19 A: It is.

20 Q: Now, I just wanna take you through a little bit
21 of this and if you could tell me in 2018 how
22 many beds -- adult medical/surgical beds did
23 Colleton Medical Center have set up and
24 staffed?

25 A: We had 84.

1 Q: Okay.

2 MR. THOMAS: And if we can go ...

3 Q: How many discharges did you have in 2018 for
4 adult medical/surgical?

5 A: 2,853.

6 Q: All right. And so what's your patient -- your
7 total patient days there in 2018?

8 A: For the adult medical?

9 Q: Yeah, just adult med/surg.

10 A: 10,760.

11 Q: Okay. And is that up or down from 2017?

12 A: It is down.

13 Q: Let's go to obstetrics for your level of unit
14 there, how many beds did you have set up and
15 staffed in 2018?

16 A: Six.

17 Q: Okay. And in 2018, how many OB discharges did
18 you have?

19 A: 283.

20 Q: And, again, patient days in 2018?

21 A: 645.

22 Q: Is that up or down from 2017?

23 A: It is down.

24 Q: And pediatric medical/surgical, it doesn't have
25 a number of beds there. Is there a reason for

1 that?

2 A: We're not licensed for any pediatric -- with
3 pediatric beds, but we do take care of
4 pediatrics.

5 Q: Is it your understanding you have to be
6 licensed separately for pediatric beds?

7 A: Not in my understanding.

8 Q: And many patient days did you do for -- in
9 pediatric -- I'm sorry let's talk about
10 discharge. How many discharges did you have in
11 2018?

12 A: 321.

13 Q: For a total patient days care there of?

14 A: 636.

15 Q: And you have rehab beds there?

16 A: I do.

17 Q: How many?

18 A: 14.

19 Q: Okay. And what was your number of discharges
20 there in 2018?

21 A: 76.

22 Q: And your total patient days?

23 A: 918.

24 Q: All right. You do have a psychiatric service
25 there, is that right?

1 **A:** Yes, sir.

2 **Q:** But those aren't -- are those considered
3 medical/surgical beds?

4 **A:** No, sir.

5 **Q:** Are they separately licensed?

6 **A:** Separate, yes, sir.

7 **Q:** Let's go down to your ICU. How many ICU beds
8 do you have?

9 **A:** We have eight.

10 **Q:** How many?

11 **A:** Eight.

12 **Q:** Okay. And how many discharges did you have in
13 2018?

14 **A:** 210.

15 **Q:** And patient days in 2018?

16 **A:** 1,998.

17 **Q:** All right. Is that up or down from 2017?

18 **A:** That is down.

19 **Q:** Okay. All right. Without doing all the math
20 here, do you have any idea what your ADC was in
21 2018?

22 **A:** For the total for the hospital, it was right
23 around 60-ish, give or take one or two. On the
24 acute side, though, it fluctuates, right around
25 38 to 40.

1 MR. THOMAS: Okay. We can take this one out.

2 **Q: Mr. Hiott, let me ask you this.**

3 MOTION TO ADMIT:

4 MR. THOMAS: Would y'all object if I offered this
5 into evidence, Colleton Medical Center JAR?

6 MS. JONES: I don't have any objection, no.

7 MR. THOMAS: Your Honor, I'd like to admit TMC Demo
8 4, which would be whatever the next exhibit is
9 -- I'd offer this as TMC Exhibit 161 into
10 evidence.

11 MS. JONES: No objection.

12 MR. WICEVIC: No objection.

13 THE COURT: It's admitted. Do you have it marked?

14 MR. THOMAS: We can have it marked. I can give it
15 to the court reporter.

16 THE COURT: If it's gonna get admitted ---

17 MR. THOMAS: Yes, sir.

18 THE COURT: --- it kind of needs to be marked.

19 (Trident Exhibit Number 161 was marked for
20 identification purposes and admitted into evidence.)

21 MR. THOMAS: I apologize for that, Your Honor. I
22 noticed when I was preparing that one some how
23 didn't make it into my JAR exhibits. I
24 appreciate the indulgence of the parties.

25 **Q: Mr. Hiott, in your experience working at**

1 Colleton Medical Center, it being a rural
2 hospital, does it face any particular
3 challenges that maybe some urban hospitals do
4 not?

5 A: We face several challenges. One being is the
6 economic growth where, you know, and with that
7 is the population or lack of population growth.
8 Our community is not projected to grow much
9 over the next several years and so we fight
10 every day for the one or two admissions that we
11 can -- to grow our facility and add to our, you
12 know, to our discharges and to our patient
13 days.

14 Q: In terms of -- we've heard a lot about net
15 revenue per adjusted admissions are, do you
16 know what Colleton Medical Center's is?

17 A: It runs pretty low. It's right around \$7,300.

18 Q: Okay. You just mentioned population. You've
19 been, I guess, living and grew up in Walterboro
20 or in the Round O and Colleton County area, how
21 much population growth have you seen in
22 Colleton County over the last two decades?

23 A: You know, I remember back -- you know, right
24 now, I'd say it's right around -- for the whole
25 county right around 38,000, but, you know,

1 being in the CFO role and looking back when I
2 started that, it was only around 32, 33,000,
3 you know, 15 years ago, so it wasn't a big --
4 has not grown as quickly as urban areas.

5 Q: Okay. Is one of your duties as the CEO to
6 monitor the activities of other hospitals and
7 health systems in and around your market?

8 A: Certainly.

9 Q: And how do you go about doing that?

10 A: Well, as one that's being involved in the
11 community, listen to what's going on, certainly
12 reading the newspaper, listening to what's
13 going on, you know, whether it's watching the
14 news, and then just keeping your ear open.

15 Q: You talk to other providers at all?

16 A: We talk to other providers, stay in touch with
17 them, what's going on. You know, if we go to
18 hospital association meetings or something, you
19 know, you bump into your peers and you just --
20 you start to ask them questions of what's going
21 on.

22 Q: So are you the only hospital in Colleton
23 County?

24 A: We are.

25 Q: Okay. Do you have any competition in Colleton

1 County for inpatient services?

2 A: I have plenty of competition.

3 Q: Tell the Court a little bit about the
4 competition you deal with as the CEO of
5 Colleton Medical Center.

6 A: Competition runs, you know, with several other
7 facilities that are outside our county. The
8 Medical University of South Carolina being one;
9 Roper and the -- and the St. Francis facilities
10 are big competitors of ours. Certainly worried
11 about patients leaving our community to go to
12 any competitor that we have.

13 Q: Who would you say is Colleton Medical Center's
14 biggest competitor?

15 A: The Medical University of South Carolina.

16 Q: How do you know that?

17 A: We use the State data that is produced on a
18 quarterly basis to be able to look at those --
19 look at that information and determine who are
20 getting the most of the discharges out of
21 certain zip codes of ours.

22 Q: Okay. Are you familiar with the term out-
23 migration?

24 A: Yes, sir.

25 Q: What does that mean?

1 **A:** Out-migration is looking at the discharges or
2 volume of patients that live in our community
3 and they out-migrate to facilities that are
4 outside our -- outside of my facility. So they
5 would go to a different facility, go to a
6 competitor.

7 **Q:** Do they go to competitors for the same exact
8 services that you offer?

9 **A:** A lot -- a lot of them do.

10 **Q:** Is CMC considered a for-profit hospital?

11 **A:** Yes, sir, we are.

12 **Q:** Okay. How profitable is CMC these days?

13 **A:** Not very profitable.

14 MR. THOMAS: Let's pull up TMC Exhibit 3.

15 (Trident Exhibit Number 3 was referenced at this
16 time.)

17 **Q:** Mr. Hiott, have you seen this document before?

18 **A:** Yes, sir.

19 **Q:** Did somebody prepare it for you at Colleton
20 Medical Center?

21 **A:** Yes, sir, my CFO did.

22 **Q:** Okay. And is this the type of data that is
23 kept generally in your records in your systems
24 at Colleton Medical Center?

25 **A:** Yes, sir.

1 Q: What is this document?

2 A: It's a trended document of five years of our
3 income statement for our consolidated
4 financials.

5 Q: Okay. What does the document show? I guess
6 we've got a five-year -- a five-year trend here
7 or five years of data, so let's look at 2014
8 and what was your actual pre-tax income there?

9 A: Pre-tax income was 2,724,819.

10 Q: And how about for 2015?

11 A: A loss of 855,693.

12 Q: Did you lose or make money or net end pre-tax
13 income in 2016?

14 A: We lost money.

15 Q: Okay. How much?

16 A: 1.8 million -- I'm sorry, well, \$1.8 million,
17 almost 1.9.

18 Q: And 2017, same question. Did you make or lose
19 money net income, pre-tax income wise for 2017?

20 A: We lost 4,962,692.

21 Q: Okay. And what was your actual pre-tax income
22 2018?

23 A: In '18, we lost money, 4,055,440.

24 Q: Now, what entities go into this P&L, profit and
25 loss statement?

1 **A:** We have our hospital; we have a medical arts
2 building; we have an ambulatory surgery center;
3 and then we have physician practices.

4 **Q:** Okay. There's another little chart there down
5 at the bottom there, what is that?

6 **A:** It just shows our length of stay broken out
7 between acute and subacute and then a total.

8 **Q:** For 2018, what was your acute length of stay?

9 **A:** 3.8 days.

10 **Q:** What services or beds would that be -- that
11 acute length of stay be comprised of?

12 **A:** It would be the medical/surgical, ICU, any of
13 our pediatric patients, and anyone in the
14 obstetrics.

15 **Q:** And how about subacute length of stay, what
16 services are in that particular line item
17 there? First of all, what was your subacute
18 length of stay in 2018?

19 **A:** 8.1.

20 **Q:** What services kind of make up that?

21 **A:** It would be our inpatient rehab unit and the
22 inpatient behavioral unit.

23 **Q:** Okay. So I'm gonna hazzard a guess here that
24 folks in those units are generally in those
25 units longer than med/surg units?

1 **A: They are.**

2 MOTION TO ADMIT:

3 MR. THOMAS: Your Honor, at this time I'd like to
4 offer TMC 3 into evidence.

5 THE COURT: Any objection?

6 MS. SHOUN: None, Your Honor. Thank you.

7 MS. JONES: No objection.

8 MR. GREWAL: No objection.

9 THE COURT: It's admitted.

10 (Trident Exhibit Number 3 was admitted into
11 evidence.)

12 **Q: I wanna ask you to just do some quick math on**
13 **the fly here, but if you look at your pre-tax**
14 **income from 2014 through 2018, can you ballpark**
15 **what the profit or loss was from a net income**
16 **-- pre-tax net income standpoint over those**
17 **five years?**

18 **A: Would be right around a loss of \$9 million.**

19 MR. THOMAS: Okay. Let's go to TMC 7, if we could.
20 (Trident Exhibit Number 7 was referenced at this
21 time.)

22 **Q: Mr. Hiott, do you recognize this document?**

23 **A: Yes, sir, I do.**

24 **Q: What is it?**

25 **A: It's a summary of the zip code data of**

1 inpatient and outpatient volume or discharges
2 of patients seen at Colleton Medical Center.

3 **Q:** Is this the type of data that you consult at
4 your facility?

5 **A:** Yes, sir.

6 **Q:** Is it maintained on behalf of your facility?

7 **A:** Yes, sir.

8 **Q:** So, let's take the Court through this even
9 though it may be pretty obvious, but where does
10 -- based on this chart, where does Colleton
11 Medical Center get most of its patient origin
12 from?

13 **OBJECTION:**

14 **MS. JONES:** I do have an objection about the
15 foundation. I know he said that they maintain
16 it, but he doesn't say how it's created or what
17 the source of the information is, so I don't
18 think it's an adequate foundation and it hasn't
19 been moved into evidence. So, that's my
20 objection that he just can't read from it.
21 He's got to lay a foundation.

22 **THE COURT:** Sustained at this point in time.

23 **Q:** Okay. Well, Mr. Hiott, how do you understand
24 this data is collected on behalf of CMC?

25 **A:** It's State data that we receive, a downloaded

1 file from the State and it's accumulated for us
2 by our decision support services group and it's
3 available through our systems for review.

4 Q: Okay. And is it the type of data that you rely
5 on as the CEO at your facility?

6 A: Yes, sir, I do.

7 MOTION TO ADMIT:

8 MR. THOMAS: Your Honor, I'd like to move this
9 document into evidence now, it's a business
10 record that they maintain at CMC that he can
11 access almost at any time he wants.

12 MS. JONES: Is he saying this is from the RFA data?

13 MR. THOMAS: I think he said -- what he's saying ---

14 THE COURT: He said it's State data. I don't know
15 what that means.

16 MS. JONES: I just -- I don't know what that means,
17 so I still have my objection on that.

18 MR. THOMAS: Your Honor, we've had two of these
19 admitted yesterday without objection, so ---

20 Q: So tell me how -- where does the State get the
21 data from that would go into this chart?

22 A: The data -- State gets the data from each
23 facility from their downloads to their
24 universal bills and it's submitted through a
25 clearinghouse. They accumulate the data and

1 then they produce the documents for us for
2 every facility in the State to review and look
3 at their discharges, whether it's inpatient,
4 outpatient, to be able to determine patient
5 trends.

6 THE COURT: When you say State data, you mean from
7 DHEC?

8 A: It's from ---

9 Q: Revenue and Fiscal Affairs?

10 A: Yes, the -- yes.

11 MS. JONES: Is it RFA data, is that what you're
12 saying?

13 A: Yes.

14 MR. THOMAS: Yes.

15 THE COURT: Okay.

16 MS. JONES: Okay. All right.

17 MR. THOMAS: But I think what it is, Celeste, is RFA
18 data that ---

19 MS. JONES: Because I didn't think they did it by
20 zip code.

21 MR. THOMAS: But then it comes to the facility and
22 then -- that's my understanding.

23 MS. JONES: I'm terribly confused I don't know. I'm
24 just trying to figure out what the source is of
25 the information so that I can make a proper

1 objection and present my side of the case,
2 that's all I'm trying to do.

3 THE COURT: Okay.

4 **Q: Well, what is your understanding of where this**
5 **data comes from, Mr. Hiott, that's all I can**
6 **ask you?**

7 **A: It's the RFA data and that's where it comes**
8 **from.**

9 MR. THOMAS: Your Honor, I mean, this came out of
10 their systems. We produced it actually to the
11 Medical University -- Medical University
12 Hospital Authority. They've had months to
13 object to this and this is the first I've heard
14 of it.

15 THE COURT: Any objection?

16 MS. SHOUN: None, Your Honor.

17 THE COURT: Any objection?

18 MR. GREWAL: No, Your Honor.

19 THE COURT: All right. Ms. Jones?

20 MS. JONES: I would -- okay, so if he's testified
21 that it's from the RFA data and that's his
22 foundation, then I think that -- then I think
23 it's just subject to cross-examination.

24 THE COURT: Yeah.

25 MS. JONES: Okay.

1 MR. THOMAS: Okay.

2 THE COURT: It's admitted.

3 (Trident Exhibit Number 7 was admitted into
4 evidence.)

5 Q: I want to go a little bit further with this.
6 How long has your facility maintained zip code
7 -- patient data origin by zip code?

8 A: Since I've been there.

9 Q: Okay. And have you found it to be reliable
10 when you use it?

11 A: We -- we use it on an annual basis. We use it
12 on a monthly basis and it is -- we use it as a
13 reliable document.

14 Q: Let's go through this document. Do you have
15 any reason to doubt the information that was
16 produced by your decision support staff?

17 A: No, sir.

18 Q: Now, is this just inpatient data?

19 A: No, sir, it's inpatient and out.

20 Q: Okay. So, where does this data in TMC 7, which
21 ---

22 MR. THOMAS: Your Honor, did I move it into
23 evidence? I can't even remember now.

24 THE COURT: It is admitted.

25 MR. THOMAS: Okay. Thank you.

1 Q: What is your number one source by zip code for
2 your patients, Mr. Hiott?

3 A: It's our main zip code, 29488, which is
4 Walterboro.

5 Q: Is that one of the more populated areas of zip
6 codes of Colleton County?

7 A: It is.

8 Q: Let's look at 29477, is that the second most
9 patient origin?

10 A: It is.

11 Q: How many patients discharges inpatient and
12 outpatient get there from -- in 2018 and
13 realize this looks like it's a January to
14 November number?

15 A: We received 3,337.

16 Q: Where is St. George?

17 A: It is north -- a little northeast of us, about
18 20 minutes.

19 Q: Okay. And is it going closer towards I-26 from
20 Walterboro?

21 A: It is.

22 Q: What County is St. George in?

23 A: Dorchester.

24 Q: And how about let's look at the -- look at the
25 -- where is Ruffin, 29475?

1 **A:** Ruffin is northwest of us, more to the west
2 actually.

3 **Q:** Okay. But you get patients from there, as
4 well?

5 **A:** Yes, sir.

6 **Q:** About Cottageville, that looks like it's number
7 four on the list. Where is Cottageville?

8 **A:** Cottageville's in the eastern part of Colleton
9 County, close to Dorchester County.

10 **Q:** Okay. And how many patients did you get from
11 there in 2018 for the 11-month period?

12 **A:** 3,087.

13 **Q:** All right. Now, I recognize this fifth one and
14 now I know the Judge does too. Round 0, where
15 is Round 0 located kind of in the county
16 proper?

17 **A:** It's eastern Colleton County, close to
18 Cottageville.

19 **Q:** Okay. How many patients discharges did you
20 have from that area from January to November
21 2018?

22 **A:** 2,260.

23 **Q:** All right. I'm gonna move down here. I wanna
24 go to 29446, where is that?

25 **A:** 29- ---

1 Q: Green Pond, where is Green Pond?

2 A: Green Pond's gonna be south of us.

3 Q: Okay.

4 A: South of Walterboro.

5 Q: All right. And it looks like you're still in
6 the four digits there. How many patients you
7 get from Green Pond?

8 A: 1,245.

9 Q: All right. Let's get down to Reevesville,
10 where is that?

11 A: Reevesville's gonna be a little northeast of
12 us. Also it is west a couple miles from St.
13 George.

14 Q: Okay. What County is Reevesville in?

15 A: It's in Dorchester.

16 Q: Okay. And let's skip down to 29472 or
17 Ridgeville. Where is Ridgeville? I think I've
18 even seen a road sign before.

19 A: Ridgeville is in Dorchester County. It's gonna
20 be east -- northeast of us across the Edisto
21 River towards -- more towards I-26.

22 Q: Okay. How many patients did you get there from
23 January to November 2018?

24 A: 422.

25 Q: Okay. In terms of these various zip codes that

1 we went over, especially the ones that are in
2 Dorchester County and eastern Colleton County,
3 what concerns, if any, do you have about your
4 patient origin with respect to MUHA's Nexton
5 hospital?

6 A: Proximity to that facility, that these patients
7 could use that facility and I would end up
8 losing volume out of these zip codes.

9 Q: Did you have an opportunity to review the MUHA
10 Nexton CON application?

11 A: I did.

12 MR. THOMAS: Let's put up DHEC Exhibit 1, which I
13 think we're familiar with, page 14.

14 (DHEC Exhibit Number 1 was referenced at this time.)

15 Q: Did you look at the service off- -- MUHA's
16 proposed service offerings for the Nexton
17 facility?

18 A: I did.

19 Q: Okay. Are there any services in this service
20 offering that Colleton Medical Center does not
21 offer?

22 A: I looked at the list and we offer all the
23 services. The only one I question was the
24 vascular lab, whether it was invasive or
25 noninvasive, so if it's invasive, we do not

1 have that.

2 **Q:** Okay. But Colleton Medical Center offers the
3 other services with the exception of that?

4 **A:** Yes, sir.

5 **Q:** Let's go to Joint Exhibit 1 ---

6 MR. THOMAS: Sorry, Your Honor, that's just a force
7 of habit.

8 **Q:** DHEC Exhibit 1, page 27. Do you recognize this
9 page, Mr. Hiott?

10 **A:** Yes, sir, I do.

11 **Q:** Okay. Now, first of all, I want to concentrate
12 on the map above figure 6, MUHA service area
13 with site location. Now, is Walterboro -- it's
14 not in the service area for figure 5, is it,
15 for MUHA?

16 **A:** It is not.

17 **Q:** Okay. How about so ---

18 THE COURT: Say that -- I didn't hear that question.

19 MR. THOMAS: I'm sorry. I asked him is Walterboro
20 within that particular service area.

21 THE COURT: Okay.

22 **Q:** And going a little bit east there, is that --
23 I'm trying to read that, is that Cottageville?

24 MS. JONES: You're going to have to blow it up more.

25 MR. THOMAS: Yeah, maybe.

1 **A:** Yeah, that's Cottageville.

2 **Q:** Okay. All right. And so St. George, let's
3 look at that one, that was your second -- I
4 believe that was the second place where you got
5 your most patients from. Where is that on this
6 map?

7 **A:** It's north, northeast of us inside the colored
8 area that's marked.

9 **Q:** Okay. And go down if you would to -- let's get
10 out of this table. Go down to the table here,
11 the drive time analysis. Did you review this
12 chart, Mr. Hiott?

13 **A:** Yes, sir.

14 **Q:** Did anything stick out in this chart to you?

15 **OBJECTION:**

16 **MS. JONES:** Foundation; objection.

17 **MR. THOMAS:** Okay. Your Honor, may I ...

18 **Q:** Mr. Hiott, you said you reviewed the chart?

19 **A:** Yes, sir.

20 **Q:** What is it?

21 **A:** It gives a review of the miles between
22 different zip codes and the proposed facility.

23 **Q:** And is there any -- anything of interest on
24 here to you in terms of the drive time
25 analysis?

1 **A:** Well, Colleton, my main zip code, 29488, is
2 noted on here at 40 and a half miles from that
3 facility.

4 **Q:** And how close is -- if you go over, I guess,
5 two columns here, how close is -- how many
6 miles to MUSC downtown?

7 **A:** 53.

8 **Q:** Okay. So, Nexton would be about 13 miles
9 closer to Colleton, this zip code, than
10 downtown?

11 **A:** Yes, sir.

12 **Q:** All right. Let's go to Joint -- DHEC Exhibit
13 1 at 425. Let's -- actually, can you go to 424,
14 just one page before and identify what it is?
15 What does this -- what is this chart in the
16 MUHA Nexton CON application as you understand
17 it, Mr. Hiott?

18 **A:** I understand it to be the assumed MUSC patient
19 redirection zip codes.

20 **Q:** And did you have to take a gander at it when
21 you were reviewing the application?

22 **A:** Yes, sir, I did.

23 **Q:** Okay.

24 **MR. THOMAS:** Let's go to 425.

25 **Q:** And in terms of the patient origin here or

1 drive time redirection, did anything jump off
2 the page at you here?

3 A: What started jumping off of the page was the
4 County of Colleton was noted in this document.

5 Q: And let's see here, let's find the first one if
6 we could, 29435, and what county is that?

7 A: That's in Colleton.

8 Q: And what is the percentage of redirection of
9 its own patients does MUSC say is gonna come
10 from there?

11 A: 30 percent.

12 Q: If we drop down a little bit, there's another
13 Colleton County zip code, 29433. Do you know
14 what the percentage -- well, first of all, what
15 county is that?

16 A: It's in Colleton.

17 Q: And do you know what percentage does it say
18 there, Mr. Hiott?

19 A: 30 percent.

20 Q: Okay. Go to the next page, did you see other
21 Colleton County references in the redirection
22 analysis?

23 A: I did. There's several on this page.

24 Q: Okay. Do you know how many there are total?

25 A: I believe there are seven or eight in total.

1 Q: All right. I'm not gonna make you go through
2 each one. But in terms of this, this is a
3 patient redirection analysis, does that give
4 you any comfort knowing that it's just gonna be
5 MUSC's own patients?

6 A: It does not.

7 Q: Why not?

8 A: It also just opens the doors for patients that
9 I'm taking care of and caring for now to drive
10 to that facility.

11 Q: Who made the decision for your organization to
12 oppose the MUHA application?

13 A: I did.

14 Q: And why did you make that decision? I mean,
15 why are you here today testifying?

16 A: I'm here because being a community facility for
17 the -- for our county and for parts of
18 Dorchester County that I'm worried about losing
19 volume, losing employees, and potentially could
20 it impact the financials of our facility.

21 Q: In terms of the loss, why are you concerned
22 about that when MUSC is already your main
23 competitor in downtown Charleston?

24 A: You know, my responsibility is to provide a
25 place for people to receive their healthcare

1 and I want to take care of those individuals
2 that are in our community and if I can't and if
3 I lose the volume, it's going to put our
4 facility in jeopardy.

5 Q: Will MUHA Nexton be more proximate and certain
6 in part to your service area than the downtown
7 hospital?

8 A: Certainly, yes.

9 Q: Which parts of your service area would be more
10 proximate?

11 A: The main areas are the zip codes that are in
12 and that we care for in the Dorchester County,
13 which was noted north, northeast of us, and the
14 areas that are in eastern Colleton County.

15 Q: During the CON review process, did you submit
16 or did Colleton Medical Center submit any
17 documents to the DHEC staff?

18 A: We did, yes.

19 Q: Let's go to DHEC CON 690. DHEC Exhibit 1. Do
20 you recognize this letter, Mr. Hiott?

21 A: Yes, sir.

22 Q: Did you draft it?

23 A: Yes, sir.

24 Q: Can you just give the Court an overview of what
25 you say in the letter?

1 **A:** It's a letter, of course, to DHEC with our
2 concerns over the Certificate of Need that was
3 approved for MUHA and I'm real concerned about
4 the volumes of and patients that we care for
5 that will be within 25 miles of their facility
6 and the potential loss of that volume from
7 Colleton Medical Center.

8 **Q:** And in the second paragraph of the letter
9 there, which zip codes did you highlight for
10 the Department?

11 **A:** I highlighted 29432, which is Branchville;
12 29471, Reevesville; 29477, which is St. George;
13 29435, which is Cottageville; and 29474, which
14 is Round O.

15 **Q:** Why did you highlight those particular zip
16 codes?

17 **A:** Those are the ones that were producing good
18 volume for us and they were in eastern Colleton
19 County or either in Dorchester County, which as
20 noted earlier in north, northeast of our
21 facility.

22 **Q:** Now, did you put together any type of adverse
23 impact analysis with respect to this project?

24 **A:** I did.

25 **MR. THOMAS:** Let's put up TMC Exhibit 8.

1 (Trident Exhibit Number 8 was referenced at this
2 time.)

3 Q: All right. Do you recognize this document, Mr.
4 Hiott?

5 A: Yes, sir, I do.

6 Q: What is this document?

7 A: This document takes several of the zip codes
8 that we talked about or I talked about in that
9 letter to DHEC plus a view of Colleton County's
10 volume, two different calculations in what if
11 I lost 10 percent, 25 percent, or 50 percent of
12 the volume in the main service lines, our most
13 critical service lines that we care for.

14 Q: I guess up top, you've got one that's by four
15 or five zip codes, and the bottom you've got
16 Colleton County volume, why did you do one that
17 was full Colleton County volume?

18 A: Well, main competitor being the Medical
19 University of South Carolina and I'm worried
20 about what other volume would leave my
21 community to go to that facility.

22 Q: Did -- were the zip codes that we talked about
23 earlier that were listed in the redirection
24 analysis, were those only ones in eastern
25 Colleton County?

1 **A:** Could you repeat the question?

2 **Q:** Yeah, of the zip codes that we looked at in the
3 CON application in the redirection analysis,
4 were those zip codes only zip codes in Eastern
5 Colleton County?

6 **A:** No, sir.

7 **Q:** Where were they, just generally?

8 **A:** Some -- there was four that I can think of.
9 There was Ruffin and Smoaks, which are in the
10 western part of the County; Green Pond, which
11 is in the southern part of the County, 15
12 minutes below Colleton Medical Center; and then
13 the one that caught my attention also was in
14 Jacksonboro, their zip code, which is southeast
15 of our facility, right off Highway 17.

16 **Q:** Let's go back -- yeah, we've got it up there on
17 the screen. So, tell the Court with respect to
18 the -- how did you develop or pick these what
19 you call most critical service lines? Why did
20 you pick those?

21 **A:** These are the service lines that have the most
22 benefit from a financial standpoint for our
23 facility.

24 **Q:** Okay. And so it says CM loss at 10 percent.
25 What does CM stand for?

1 **A:** **Contribution margin.**

2 **Q:** **What is a contribution margin?**

3 **A:** **A contribution margin's gonna be our net**
4 **revenue less the operating expenses that are**
5 **associated with providing the care for that**
6 **patient.**

7 **Q:** **Okay. And so the most critical service lines,**
8 **which ones can you list them out here on the**
9 **record for us?**

10 **A:** **Yes, sir. The cardiac medical, GI, general**
11 **medicine, general surgery, neurology,**
12 **orthopedics, and pulmonology.**

13 **Q:** **Is GI short for gastrointerology?**

14 **A:** **Yeah, I got tongue-tied.**

15 **Q:** **All right. And so I think I heard you say what**
16 **if, now, so if you lost 10 percent of the**
17 **patients from those zip codes for those service**
18 **lines, what is your loss at 10 percent?**

19 **A:** **\$168,030.**

20 **Q:** **Okay. And how about your loss -- your**
21 **contribution margin loss at 25 percent?**

22 **A:** **\$420,075.**

23 **Q:** **Okay. And how about your contribution margin**
24 **loss at 50 percent?**

25 **A:** **840,150.**

1 Q: Did you use the same service -- most critical
2 service lines when you were just looking at
3 this for Colleton County volume as a whole?

4 A: Yes, sir.

5 Q: And let's just do that same kind of -- let's do
6 the same exercise there. What was your
7 contribution margin loss at 10 percent for your
8 most critical service lines for the Colleton
9 County volume as a whole?

10 A: 1,333,751.

11 Q: Same category, same Colleton County volume,
12 what was your contribution margin loss at 25
13 percent?

14 A: 3,334,377.

15 Q: Same question for the Colleton County volume,
16 those critical service lines, contribution
17 margin loss at 50 percent?

18 A: 6,668,754.

19 Q: Do you have any idea which scenario is going to
20 happen?

21 A: I -- I do not know which ---

22 OBJECTION:

23 MS. JONES: Objection; foundation.

24 THE COURT: Plus he's offering it.

25 MR. THOMAS: What's that?

1 MS. JONES: And it's an opinion, too.

2 THE COURT: He's giving an opinion, yeah.

3 MS. JONES: It's a 7 -- you know, it violates 7.01

4 and there's no foundation for it.

5 MR. THOMAS: I disagree with that, Your Honor. I

6 think as a CEO, he can give a lay opinion in

7 this area about which scenario he is most

8 knowledgeable -- which scenario he thinks may

9 -- may happen. And I didn't put him up as an

10 expert, but I don't think I have to in this

11 situation. In fact, Ms. Crum yesterday said

12 that Mr. Gallati could give opinions as a CEO

13 even if he wasn't an expert. So, I agree with

14 her. But now it sounds like co-counsel over

15 there may have a little bit of a differing

16 opinion.

17 MS. JONES: I'm making the objection. My objection

18 is it's an improper 7.01 opinion. There's no

19 foundation for it, and it is -- it is also

20 defined based upon the information, the total

21 information, set forth in the CON application.

22 The reason this witness was proffered

23 apparently is to try to offer some 7.02 opinion

24 testimony without going through the rigors of

25 qualifying him in a particular area. This is

1 all speculation. Asking the witness which one
2 he thinks is going to happen is absolute sheer
3 speculation when the witness has already
4 testified under oath in his deposition and here
5 in the courtroom that he's done no analysis
6 based on any empirical evidence. It is nothing
7 but speculation and it's improper in any
8 proceeding.

9 MR. THOMAS: You know what, Your Honor, we'll let
10 Mr. Sullivan, our expert, deal with that.

11 THE COURT: Okay. I'm gonna sustain it.

12 **Q: Are you familiar with the hiring of RNs in your**
13 **area, sir?**

14 **A: Yes, sir.**

15 **Q: What's the current state of affairs in your**
16 **market with respect to hiring RNs?**

17 **A: It's very difficult. There is a nurse shortage**
18 **and it's very difficult to hire into a small**
19 **community such as ours.**

20 **Q: Why is it difficult to hire into your**
21 **community?**

22 **A: You know, people like the urban areas better.**
23 **And it's difficult to bring people into the**
24 **community to accept different roles and**
25 **specialties, whether it's registered nurse or**

1 others.

2 Q: Do you know how many vacancies you currently
3 have with respect to RNs on your medical staff?

4 A: On a full-time basis, right around eight right
5 now.

6 Q: Okay. Well, that doesn't sound like many.

7 A: For a small community hospital, that's a large
8 number.

9 Q: Okay. Are you familiar with the term traveling
10 RN or traveling nurse?

11 A: Yes, sir, I am.

12 Q: What is a traveling nurse, Mr. Hiott?

13 A: A traveler is a contract nurse who travels from
14 facility to facility, does 13-week contracts
15 with those facilities.

16 Q: Okay. And why would a facility like Colleton
17 Medical Center use traveling nurses?

18 A: If we have a need in a critical area, we'll
19 reach out to a agency to use a traveler based
20 on it takes a lot longer to hire a critical
21 care nurse versus a regular registered nurse.

22 Q: Is the use of a traveling RN or traveling nurse
23 for a hospital like yours an optimal situation?

24 A: It is not.

25 Q: Why not?

1 **A:** One, the cost, right off the bat. Two is
2 you're bringing somebody into the facility that
3 does not know your culture and you have to
4 quickly bring them in and bring them as a team
5 member and you've got to train them as quickly
6 as you can to ensure that they're as productive
7 as they can be.

8 **Q:** Now, you said cost was one thing. What -- in
9 terms of the costs, what is the cost of a
10 traveling RN as compared to a regular RN?

11 **A:** Currently, a regular RN costs us on average
12 about \$31 an hour. One of the travelers that
13 we have in-house currently is costing us \$85 an
14 hour.

15 **Q:** How many travelers is Colleton Medical Center
16 currently using?

17 **A:** We have three.

18 **Q:** Well, that doesn't sound like many.

19 **A:** That's a lot. That's a lot for our facility
20 and it shows up on our financials every month
21 and it's a big negative hit to us.

22 **Q:** Okay. Do you have -- you reviewed -- did you
23 review the staffing -- I guess the FTE staffing
24 budget, so to speak, I don't think it's
25 financial budget, but the actual numbers in the

1 MUHA CON application?

2 A: Yes, sir.

3 Q: Do you recall how many clinical nurses that
4 MUHA was gonna need in year three?

5 A: It was 200 or right at 213, I believe,
6 somewhere in there.

7 Q: Do you have any concerns as a CEO about the
8 number?

9 A: I have significant concerns.

10 Q: Why?

11 A: Where are these nurses coming from? There's a
12 nurse shortage in the State of South Carolina.
13 We're projected to have a nurse shortage five,
14 ten years out here in the State of South
15 Carolina. Where are these nurses coming from?
16 What's gonna end up is facilities stealing from
17 each other.

18 Q: Do you worry about losing nurses to MUHA
19 Nexton?

20 A: I do.

21 Q: Where does CMC get most of its inpatient
22 admissions?

23 A: Inpatient admissions come from our -- from our
24 Colleton County main zip code and Colleton
25 County and parts of Dorchester County.

1 **Q:** I'm not talking about patient origin; I'm
2 talking about how do they actually get into the
3 hospital now?

4 **A:** They will come through primary care physicians
5 in our community and over in the St. George
6 community and then through our emergency
7 department.

8 **Q:** Okay. Does Colleton Medical Center employ a
9 lot of the type of physicians who would refer
10 patients as inpatients to your facility?

11 **A:** We only employ one primary care physician; the
12 rest of them are independent.

13 **Q:** Does Colleton Medical Center rely on the
14 independent physicians for inpatient
15 admissions?

16 **A:** Significantly.

17 **Q:** Does Colleton Medical Center have any control
18 over where independent physicians refer their
19 patients for inpatient or outpatient services?

20 **A:** Have no control.

21 **Q:** Is there anything in your medical staff bylaws
22 that require them to refer to Colleton Medical
23 Center?

24 **A:** No, sir.

25 **Q:** Do you have any concerns as the CEO about the

1 **independent physicians in your service area who**
2 **admit to your facility instead ---**

3 **OBJECTION:**

4 **MS. JONES: Objection; leading.**

5 **MR. THOMAS: No, I don't think so.**

6 **THE COURT: He hasn't finished the question. Let**
7 **him finish it up.**

8 **Q: --- who admit to your facility instead of**
9 **admitting to other hospital facilities? Do you**
10 **have any concerns -- what, if any, concerns do**
11 **you have?**

12 **THE COURT: There you go.**

13 **A: I have significant concerns. They can make**
14 **that decision of, you know, there is a new**
15 **facility or I have a relationship with a**
16 **physician over there. It's a huge concern.**

17 **MR. THOMAS: Bear with me Your Honor. I may be**
18 **done.**

19 **Q: Mr. Hiott, please answer any questions Ms.**
20 **Tiller Jones may have for you.**

21 **A: Okay.**

22 **THE COURT: Well, let's start over here. Do y'all**
23 **have any?**

24 **MS. SHOUN: No, sir. Thank you.**

25 **MR. GREWAL: No, sir.**

1 THE COURT: All right. Now, Ms. Jones.

2 MS. JONES: Thank you, Your Honor. I appreciate the
3 Tiller Jones, too.

4 MR. THOMAS: I knew you would.

5 MS. JONES: I don't hear that much any more.

6 MR. HIOTT - CROSS-EXAMINATION BY MS. JONES:

7 Q: Good morning, Mr. Hiott. My name is Celeste
8 Jones. I'm one of the lawyers for the Medical
9 University. Congratulations on the wedding.

10 A: Thank you.

11 Q: I love a big family wedding. I wanna go back
12 through a couple of things that you talked --
13 that you talked about in your direct
14 examination. And I think I want to start with
15 -- and really, it's just an optic, but TMC 161,
16 if we could pull that up. That's the JAR's
17 report for Colleton Medical Center.

18 (Trident Exhibit Number 161 was referenced at this
19 time.)

20 Q: And you went over it ---

21 MS. JONES: Can you put that back up for me?

22 Because, I mean, I've got the hard copy, but
23 you're right, it's just in ---

24 MR. SUMMER: 161?

25 MS. JONES: Yes, please. Page 4. Yes, thank you.

1 Q: And in the admissions that you were talking
2 about and the discharges, you talked about how
3 in 2018 some of your discharges had gone down
4 for your adult med/surg beds and obstetrics,
5 but it's gone up, hasn't it, for your pediatric
6 service from 52 to 321?

7 A: It has.

8 Q: Okay. And it's gone up at your site from 633
9 to 747, correct?

10 A: Yes, it has.

11 Q: And it has -- your ICU -- well, your ICU was
12 217 discharges in 2017 and 210 in 2018, so it's
13 kind of steady, is that right?

14 A: Correct.

15 Q: And these -- this is the information, and just
16 for the Court's benefit, the JAR's report, the
17 Joint Annual Report, each year every hospital
18 in the State has to send this information to
19 DHEC, correct?

20 A: Yes, ma'am.

21 Q: And then DHEC publishes this?

22 A: Yes, ma'am.

23 Q: Okay. So you're down in some areas but then
24 you're up in others?

25 A: Yes, ma'am.

1 **Q:** And that's what you talked about about trying
2 to develop different service lines that you can
3 serve your community with in the Colleton or
4 Walterboro area?

5 **A:** That's correct.

6 **Q:** And that's why you've been developing the
7 medical/surgical and the pediatric services?

8 **A:** Those, yes.

9 **Q:** Okay. It's my understanding that Colleton
10 Medical Center does not operate an urgent care
11 center, is that correct?

12 **A:** That is correct.

13 **Q:** So you, in the community there, run an
14 emergency department, but you do not operate an
15 urgent care office for -- for patients of the
16 community?

17 **A:** No, ma'am.

18 **Q:** So, if someone gets sick, they don't have an
19 urgent care facility to go to, so they really
20 kind of have to go to the emergency room, don't
21 they?

22 **A:** They're -- I don't own an urgent care center.
23 They do have to come to my E- -- emergency
24 department, but there does exist an urgent care
25 center.

1 Q: Okay. And -- but it's not Colleton Medical
2 Center; it's not an HCA entity?

3 A: No, ma'am.

4 Q: And Colleton is owned by HCA ultimately, I
5 guess?

6 A: Subsidiary, yes, ma'am.

7 Q: Well, who's your direct owner right now?

8 A: Director owner?

9 Q: Uh-huh.

10 A: It's -- we're a subsidiary of HCA through the
11 ownership chart that they have -- that HCA has
12 set up.

13 Q: Do you know who the 100 percent direct owner of
14 Colleton Medical Center is right now today?

15 A: Not off the top of my head.

16 Q: Who do you report to?

17 A: I report to Hugh Tappan.

18 Q: And who does Mr. Tappan work for?

19 A: He works for the South Atlantic Division.

20 Q: Of?

21 A: Of HCA.

22 Q: Okay. All right.

23 MS. JONES: I'd like to go to DHEC Exhibit 5, the
24 State Health Plan for 2017-2018 at page 27.

25 (DHEC Exhibit Number 5 was referenced at this time.)

1 **Q:** And this is the document where you pointed out
2 to the Court that the Colleton Medical Center
3 and Colleton County has a negative 31 bed need
4 or it's got 31 excess beds, correct?

5 THE COURT: 31 or 48?

6 MS. JONES: Oh, I'm looking at the wrong year.

7 Sorry. Excuse me. You're right. Yeah, 48;
8 sorry. I got mixed up there. We've got the
9 2017-2018 and then the 2018 2019.

10 **Q:** So this one, just to keep the record straight,
11 is the 2018-2019 State Health Plan, correct?

12 **A:** Yes, ma'am.

13 **Q:** All right. It's, I guess, the most recent
14 final one and it shows that there are 48 excess
15 beds for the Colleton County population.

16 **A:** Yes, ma'am.

17 **Q:** And then above that for Charleston County, for
18 the Medical University, it shows a bed need for
19 MUSC or MUHA of 157 beds.

20 **A:** That's what the report says.

21 **Q:** And you have no basis or reason to dispute
22 that, do you?

23 **A:** You know, when the State Health Plan is done,
24 I thought this was for the hospital proper,
25 where it is located in downtown Charleston. I

1 don't have any.

2 Q: But you don't have any basis to dispute ---

3 A: No.

4 Q: --- that there is a need ---

5 A: I do --- I do not.

6 Q: --- a need for 157 additional beds for the

7 patients coming to the Medical University

8 Hospital Authority, correct?

9 A: I don't have any dispute over the 157 there.

10 Q: Okay. And just to, you know, just to put the

11 cards on the table, there are a lot of patients

12 from outside the tri-county area that go to the

13 Medical University today and have been doing it

14 for years for healthcare, right?

15 A: Yes.

16 Q: And that's not gonna change, is it?

17 OBJECTION:

18 MR. THOMAS: I'm gonna object, Your Honor, it calls

19 for speculation.

20 MS. JONES: Okay.

21 MR. THOMAS: Asking his opinion.

22 MS. JONES: Okay. Yeah.

23 Q: I mean, do you know of any reason that that

24 might change?

25 A: Well, you know, my job is hopefully I can

1 change it.

2 Q: Well, I know you hope you can change it. Well,
3 do you know of any facts as we stand here today
4 that is really going to change that fact that
5 people from all over the State ---

6 A: I don't.

7 Q: --- go down to the Medical University for
8 healthcare because that's what they want to do?

9 A: I do not.

10 Q: That's where they -- that's where they choose
11 to go in your territory?

12 OBJECTION:

13 MR. THOMAS: Objection, Your Honor; she's testifying
14 now and speculating as to what, you know,
15 patients, quote-unquote choose. She doesn't
16 know that fact.

17 THE COURT: Well, she can lead.

18 MR. THOMAS: I'm just objecting to the choosing to
19 go. She is now saying that that's where
20 patients choose to go. She doesn't know that
21 and there's no facts in evidence that states
22 that.

23 THE COURT: Do you wish to respond?

24 MS. JONES: I think that, you know, he's opened the
25 door, number one, by asking that whole series

1 of questions about the patients coming to the
2 Colleton Medical Center. But what they ignored
3 and what they left out is the fact that the
4 witness has candidly conceded is that a bunch
5 of people always have and will continue to go
6 down to Charleston because that's where they
7 want to get treated.

8 MR. THOMAS: I'll stipulate that patients go down to
9 Charleston. But what I will not stipulate to
10 is the fact that Ms. Tiller Jones says that
11 they choose to go down to Charleston, because
12 a lot of them don't. They actually are
13 transferred there for other reasons. They
14 listen to their doctor ---

15 THE COURT: Right.

16 MR. THOMAS: --- they go there. So there's a lot of
17 other reasons, Your Honor, and I just think
18 that is just an improper summary and I think
19 it's testifying.

20 THE COURT: I overrule your objection on that.

21 MR. THOMAS: All right.

22 **Q: I don't mean to put you in a bad spot here.**
23 **Isn't it true that a lot of patients have**
24 **historically chosen to go to Charleston for**
25 **healthcare -- to MUSC, to MUHA?**

1 **A:** Historically, yes.

2 **Q:** And isn't it true that that's likely to
3 continue?

4 **A:** Based on history, yes.

5 **Q:** And as we currently stand here, the demand that
6 at least through the date of this report, this
7 particular report from DHEC, the demand and the
8 need is 157 beds at MUHA?

9 **A:** That's what the State Health Plan says.

10 **Q:** Okay. All right. So for those patients and I
11 wanna dig into that a little bit -- All right.

12 MS. JONES: DHEC Exhibit 1 figure 17, please, and
13 it's page 39. Sorry. Page 39.

14 (DHEC Exhibit Number 1 was referenced at this time.)

15 **Q:** Now, this is the part of the Certificate of
16 Need that MUHA filed for the 128 bed Berkeley
17 Hospital, you said you had reviewed it,
18 correct?

19 **A:** Yes.

20 **Q:** All right. This particular information that
21 MUHA submitted to DHEC shows the redirection
22 analysis, and I think we all have the same
23 understanding of redirection, but is it your
24 understanding that these figures are intended
25 to reflect the people who are already coming to

1 MUHA for healthcare?

2 A: Yes.

3 Q: That's the basis of the numbers that MUHA gave
4 in this CON application is people that based on
5 their historical data, their actual historical
6 data, are already coming from all these other
7 places down there for care, right?

8 A: Yes.

9 Q: Now, and it says up here, it says -- it's got
10 0 to 15 minutes, 10 to 25, 26 to 40, 41 to 55,
11 56 to 70, and then it's got all other driving
12 71 minutes and secondary counties. Colleton is
13 a secondary county in this application, isn't
14 it?

15 A: I'd have to look at the redirection because I
16 thought on the first page, it might have been
17 noted as secondary, I don't remember off the
18 top of my head.

19 Q: Okay. Well, I'll show that to you. But what
20 is the percentage of redirection that MUHA put
21 in this application for the secondary counties?

22 A: Two percent.

23 Q: It's two percent. None of your calculations
24 were two percent, were they? You did 10 and 30
25 and 50?

1 OBJECTION:

2 MR. THOMAS: Objection, Your Honor. To the extent
3 that she is talking about his calculations,
4 they weren't redirection calculations.

5 THE COURT: Draw his attention to what you're
6 asking.

7 MS. JONES: Okay. I will.

8 Q: The attach- -- okay, this says let's just be
9 sure that we're all on the same page, that the
10 two percent redirection is what figure 17 says
11 here from the CON application, right? All
12 right. Then, flip over to page 425, attachment
13 N, and I believe that's the one you were
14 looking at, and -- all right. Where is it?
15 Colleton, do you see where it says Colleton
16 secondary?

17 A: Right, it does. Yes.

18 Q: All right. So it is in the secondary area,
19 we're clear on that. We've got that cleared
20 up. Okay. Then TMC Exhibit 8, all right, this
21 one.

22 (Trident Exhibit Number 8 was referenced at this
23 time.)

24 Q: When you did these calculations, you didn't use
25 two percent, did you?

1 **A: I did not.**

2 **Q: You used 10, 25, and 50?**

3 **A: I did.**

4 **Q: Even though the CON application only shows two**
5 **percent, correct?**

6 **OBJECTION:**

7 **MR. THOMAS:** Objection, Your Honor. That's a
8 mischaracterization of the facts in evidence.
9 There's one chart that shows two percent;
10 there's another chart that says 35 percent from
11 some zip codes from Colleton, 30 percent from
12 other zip codes, and 10 percent from other zip
13 codes. So, you know, she's trying to make him
14 choose between one or the other ---

15 **THE COURT:** Well, her question was even though the
16 CON application, I assume she's saying even
17 though their version of the facts says two
18 percent.

19 **MR. THOMAS:** But it doesn't. The CON application
20 has one chart that says two ---

21 **MS. JONES:** I get cross- -- I get to cross-examine
22 this witness.

23 **THE COURT:** Yeah.

24 **MS. JONES:** This is not a proper objection. I've
25 got him on cross-examination. I get to ask the

1 questions based on the evidence that's in the
2 record.

3 MR. THOMAS: So assumes facts not in evidence is not
4 a proper objection, Your Honor? Because my
5 evidence teacher said that it was and she is
6 making a -- she is assuming one set of facts
7 and we have two percent in one chart with 30
8 percent in another.

9 THE COURT: You can address that on redirect.

10 MR. THOMAS: All right.

11 Q: Okay. So in this chart, which is not part of
12 the CON application, this is something -- who
13 prepared this?

14 A: I prepared it.

15 Q: Okay. And why -- I mean, and you've got 10
16 percent, 25 percent, and 50 percent?

17 A: I do.

18 Q: Not two percent?

19 A: Correct.

20 Q: And when you prepared this chart, were you
21 looking at -- you're using here where it says
22 2018 inpatients and it starts out with your
23 critical service lines, and those are the
24 highest paid ones, that's where you get the
25 best reimbursement, is that correct?

1 **A:** That's the ones with the best contribution
2 margin.

3 **Q:** Okay. Those numbers up there, 51, 34, 62, are
4 those from the CON application or from your
5 Colleton Medical Center internal information?

6 **A:** That's from the Colleton Medical's internal zip
7 code data.

8 **Q:** Okay. So nowhere in this chart do you reflect
9 the patients that are already, as we stand here
10 today, driving down to MUHA for care? These
11 are your patients ---

12 **A:** These are mine.

13 **Q:** --- that you're serving historically?

14 **A:** Yes.

15 **Q:** Okay. What is -- you mentioned the
16 contribution margin, what is your contribution
17 margin at Colleton Medical Center today?

18 **A:** On a percentage basis, it runs in the 60
19 percent. I don't know the number right off the
20 top of my head.

21 **Q:** Okay. But it runs in the what?

22 **A:** 60 percent.

23 **Q:** 60 percent of what?

24 **A:** It's looking at -- it's looking at my -- at my
25 net revenue.

1 Q: And that's the net revenue that you were
2 talking ---

3 THE COURT: When you say looking at, contribution
4 margin is basically net revenue, is that right?

5 A: No, sir. That's not what I'm saying.

6 THE COURT: Okay.

7 A: Contribution margin is the net revenue less the
8 operating expense associated with the care of
9 the patients within these service lines.

10 Q: So it's 60 percent of what again?

11 A: The number -- it's 60 percent of net revenue.

12 Q: Okay; I'm confused. Up here on the chart, it
13 says contribution loss at 10 percent?

14 A: Uh-huh.

15 Q: What do you intend -- what are you trying to
16 reflect in that, then?

17 A: What I'm reflecting is the 10 percent is if you
18 use the first line, the cardiac medical, 51
19 patients that we cared for, 10 percent would be
20 five patients, which would be a contribution
21 margin of the 51 is five, so about \$5,000 each
22 on the contribution margin for that -- those
23 individual patients that I would lose.

24 Q: But the \$5,000 each that you're talking about
25 is that's how much money you're making off of

1 each one of those patients currently?

2 A: No, ma'am. It is net revenue less the -- less
3 cost to care for that patient. This does not
4 -- analysis does not include any of my fixed
5 costs.

6 Q: Okay.

7 A: This is -- that's all it recognizes.

8 Q: So it's your net revenue just taking out the
9 direct costs?

10 A: Direct. Yes, ma'am.

11 Q: None of the indirect costs?

12 A: Correct.

13 Q: Okay. And that number right now is about ten
14 percent?

15 A: The ten percent represents the value that -- of
16 the percentage of patients I feel that I would
17 lose within that service line.

18 Q: Okay. All right. And the ten percent, those
19 numbers, the 10, the 25, and the 50, those
20 percentages are based on -- is there any
21 calculation or underlying analysis to support
22 the 10, the 25 or the 50 percent?

23 A: My experience just in my role as CFO and CEO,
24 using charts to kind of give me a guide of, you
25 know, of what ifs, as it was used earlier, so

1 **just use those percentages.**

2 **Q: Well, I guess that's what I want to know about,**
3 **Mr. Hiott, you say you've got charts ---**

4 **OBJECTION:**

5 **MR. THOMAS: I'm gonna object, Your Honor.**

6 **Q: --- that show a what if?**

7 **MR. THOMAS: I'm objecting because she wouldn't let**
8 **me ask these same questions. Now, she's trying**
9 **to tell him or ask him about his opinions, but**
10 **I think if she's gonna do that, then I should**
11 **have been allowed to do it, too.**

12 **THE COURT: Well, that's really not how it works.**
13 **You can ask your questions, then she can cross-**
14 **examine. If she opens the door on cross-**
15 **examination, then you can redirect. She has**
16 **the right to ask whatever she wants on cross.**

17 **MS. JONES: And I don't want to belabor the point.**
18 **My objection was that there was none.**

19 **THE COURT: You're winning right now.**

20 **MS. JONES: I know. There -- you're right. That's**
21 **always a good lesson.**

22 **Q: So, the ten percent, did you have -- do you**
23 **have or can you share with us here in the**
24 **courtroom any underlying empirical analysis**
25 **that would reflect how you came up with that**

1 ten percent?

2 A: No, ma'am.

3 Q: And you don't have any for the 25 percent?

4 A: No, ma'am.

5 Q: Is it fair to say that you were just making
6 those calculations using those numbers for
7 impact?

8 A: I was using those percentages to give me a
9 ballpark of anything that I could potentially
10 lose. It could be -- it could have been two,
11 five, ten percent. It could have been any
12 percentages. I just chose 10, 25 and 50 to see
13 what the magnitude of the impact of any loss of
14 any volume out of Colleton Medical Center would
15 have been.

16 Q: Right. So you just could pick any number?

17 A: Could -- any of us could have.

18 Q: Okay. All right. And that's basically what
19 you did here?

20 A: Yes, ma'am.

21 Q: Okay. You were talking a little bit about how
22 MUHA is your competition and that Roper's your
23 competition. Do you -- do any of your patients
24 go to Trident -- to the other Trident
25 hospitals? Do you consider them a competitor?

1 **A:** They do go to those facilities and they are --
2 they compete with us on different service
3 lines, they do.

4 **Q:** And you have out-migration to Trident, as well
5 as Roper and the Medical University, correct?

6 **A:** Correct.

7 **Q:** And that's been going on as long as you've been
8 at Colleton Medical Center?

9 **A:** Yes, ma'am.

10 **Q:** How many -- in your hospital, how many beds do
11 you have staffed on an average weekday?

12 **A:** Average weekday staffed, our ADC and totals are
13 right around 60, so I'm staffing to that ADC as
14 best I can.

15 **Q:** Okay. And the -- do you know how many
16 registered nurses -- new registered nurses are
17 graduated each year from the Medical
18 University?

19 **A:** I do not know that.

20 **Q:** Okay. Do you know how many -- so I guess you
21 don't know how many they're gonna graduate
22 between now and when this project could
23 actually get constructed or built, do you?

24 **A:** No, ma'am.

25 **Q:** The nursing shortage that everybody talks

1 about, you can fill those slots if you pay them
2 more, right?

3 A: I don't agree with that.

4 Q: You don't?

5 A: (Shakes head.)

6 Q: You think there are just not trained nurses
7 available?

8 A: No, what I meant was, you know, you can pay
9 them more, but will they stay. I mean, that's
10 -- you're wanting -- you're wanting individuals
11 who've come into your organization to stay
12 there.

13 Q: Right.

14 A: I don't want to get in a pricing war with
15 anybody.

16 Q: I understand that.

17 A: Yeah.

18 Q: I do; I understand that. But the fact of the
19 matter is that is a significant driver for
20 where nurses go to work, isn't it?

21 A: It's a significant driver for any employee.

22 Q: For any employee; and it includes nurses?

23 A: It does.

24 Q: So the price point and what you pay for the
25 nurses to get the coverage is a more

1 fundamental issue for consideration?

2 A: Can you repeat the question?

3 Q: Okay. You said that you pay an average wage to
4 registered nurses for \$31 an hour and that's --
5 I think I understood that correctly.

6 A: It's a- -- it's approximate; it's average, yes.

7 Q: And the one nurse that you're paying \$85 an
8 hour to, where is that nurse working?

9 A: They are working in our ICU.

10 Q: Okay. So what is the average hourly wage for
11 an ICU trained nurse?

12 A: Off the top of my head, I know it's gonna be --
13 it's gonna be more than \$31.

14 Q: Right. And that's what I'm trying to compare
15 apples to apples instead of these two ends of
16 the spectrum. Are there any nurses in your
17 facility that make more than the ICU nurses?

18 A: Without a ledger in front of me, I mean,
19 there's -- you know, we've got specialty --
20 specialty nurses in the emergency department,
21 labor and delivery, and, as you noted, the ICU.
22 So I ---

23 Q: But the ICU -- I'm sorry. I didn't mean to
24 interrupt you.

25 A: No, that would just be hard to answer.

1 Q: Yeah. Okay. If you don't know, that's fine.

2 A: I don't know.

3 Q: Okay. But the ICU nurses, you will agree with
4 me that they are on the higher end of the
5 nursing pay scale?

6 A: They are.

7 Q: Did you perform any calculation or review to
8 determine the number of patients who
9 historically are driving from the zip codes
10 that you're concerned about down to MUHA?

11 A: I did not.

12 Q: Okay. The physicians that you talked about,
13 the independent physicians that can admit to
14 Colleton Medical Center, are any of those
15 physicians, to your knowledge, on the faculty
16 at the Medical University?

17 A: Faculty, no, ma'am.

18 Q: And so none of those physicians that are on
19 your medical staff could actually admit any
20 patients to the Medical University because
21 they're not part of the faculty there, correct?

22 A: I guess when you ask faculty, you know, I
23 wouldn't know -- let me back up. That means
24 they would have pri- -- and I apologize, they
25 would have privileges at the Medical

1 University. I am not aware of any of them
2 having those privileges, but ---

3 Q: Right.

4 A: --- if they do or don't, I don't know. I'm not
5 aware of it.

6 Q: But they have to have privileges obviously to
7 admit to a Medical University ---

8 A: Yes, they would.

9 Q: ---- Hospital facility?

10 A: Yes, ma'am.

11 MS. JONES: I think I'm finished. That's all the
12 questions I have. Thank you, Your Honor.

13 THE COURT: Redirect.

14 MR. THOMAS: I've got a couple.

15 MR. HIOTT - REDIRECT EXAMINATION BY MR. THOMAS:

16 Q: Mr. Hiott, just want some clarifications here.
17 The Medical University Hospital Authority, do
18 they have any physician offices in Colleton
19 County?

20 A: They do not.

21 Q: Okay. So how are patients from Colleton County
22 that come in to say your ER, how do they get
23 down to MUHA?

24 A: They come into our ER, depends on service, and
25 then it would depend on if the patient wanted

1 to go to that facility or not.

2 Q: Okay. But how does that happen if your ER
3 physician doesn't have privileges at MUSC, how
4 do they get to -- how do they become an
5 inpatient at MUSC?

6 A: They would -- they would have to call an
7 admitting physician at the Medical University
8 to accept that patient.

9 Q: Okay. And how often does that happen with
10 patients in Colleton County?

11 A: Too many.

12 Q: So, independent physicians in Colleton County,
13 can they call an admitting physician at MUSC
14 and get a patient admitted to MUSC?

15 A: Yes, they can.

16 Q: Can they send a patient to the emergency
17 department at MUSC for admission?

18 A: They could.

19 Q: Ms. Jones asked you about paying RNs more. If
20 you had to pay RNs more to -- at Colleton
21 County, how would that affect your already
22 negative bottom line at CMC?

23 A: It'd be a continued loss to us. I have no way
24 to make that money up.

25 Q: So that would ex- -- would that exacerbate your

1 negative ---

2 A: It would, yes, sir.

3 Q: Where do most of the patients who out-migrate
4 from Colleton County go now?

5 A: To the Medical University.

6 Q: Now, you were asked about the CON application
7 and the two percent -- yeah, the two percent
8 and then you were shown another chart, and the
9 30 percent, 35 percent redirection?

10 A: Uh-huh.

11 Q: Okay. Did you know at the time when you did
12 your analysis where the mistake was? Was it in
13 Attachment N or in the other body where it said
14 two percent?

15 A: The only percentage I saw at the time I did the
16 analysis was the 30 percent.

17 Q: That was by each individual zip code, correct?

18 A: Correct.

19 Q: And the fact of the matter is let's -- let's
20 look at that if we could because I thought it
21 was interesting. The -- I think it's page 39
22 of DHEC Exhibit 1.

23 (DHEC Exhibit Number 1 was referenced at this time.)

24 MR. THOMAS: It's the chart that had the percentages
25 in it. If we could get it upon the screen for

1 the Judge.

2 Q: Okay. So we've got there, we've got scenario
3 one patient redirection in year three and you
4 got zero to 15 minutes, what's the percentage
5 there of redirection, if you're within that
6 zero to 15 minute drive time?

7 A: 65 percent.

8 Q: And then let's go to the second one, what is it
9 for the 10 to 25 minute drive time?

10 A: 55 percent.

11 Q: How about 26 to 40 minute drive time?

12 A: 35 percent.

13 Q: And then lastly, I'm gonna go with 41 to 55
14 minutes.

15 A: 30 percent.

16 Q: Were some of the Colleton Medical Center in the
17 Attachment N, were there some 10 percent
18 redirections in that chart in the CON
19 application?

20 A: There was some 10 percent.

21 Q: Okay. So what was the drive time there at 56
22 to 70, according to this chart?

23 A: It's 10 percent.

24 Q: Okay. But then we have two percent and it says
25 secondary counties, right?

1 **A:** **Correct.**

2 **Q:** **Okay. So, I've got a question. You live in**
3 **Colleton County, right?**

4 **A:** **I do.**

5 **Q:** **Grew up there?**

6 **A:** **Yes.**

7 **Q:** **Grew up in Round O, the town that Judge**
8 **Anderson had never heard of before, right?**

9 **A:** **Correct.**

10 **Q:** **Is there somebody at the county line that stops**
11 **the car and asks you where you're going and for**
12 **what purpose?**

13 **A:** **No, sir.**

14 **Q:** **So, this two percent, it's just speculation,**
15 **isn't it?**

16 **A:** **It is.**

17 **OBJECTION:**

18 **MS. JONES:** **Objection. Scope and foundation.**

19 **MR. THOMAS:** **Well ---**

20 **MS. JONES:** **That's improper. This is in evidence.**

21 **THE COURT:** **Well, he can challenge it into evidence.**

22 **MR. THOMAS:** **Yeah, we actually have a stipulation as**
23 **to that fact.**

24 **THE COURT:** **Laying the foundation ---**

25 **MS. JONES:** **No, it's in evidence.**

1 MR. THOMAS: It's in evidence. It doesn't mean that
2 it is the ---

3 MS. JONES: It's not in evidence that it's
4 speculation. That's what I object to.

5 MR. THOMAS: Well, I'm asking him if it's
6 speculation.

7 THE COURT: He can challenge ---

8 MS. JONES: He can -- he can challenge.

9 THE COURT: --- an exhibit in evidence.

10 Q: So, all of those places in Colleton County, Mr.
11 Hiott, that were within the drive times, the 35
12 percent, 30 and 10 percent, correct? I mean,
13 they're within those drive times and that's how
14 they develop that, is that your understanding?

15 A: It is.

16 Q: Okay. So just because there's a county line,
17 you're only gonna lose two percent now, is that
18 your understanding?

19 A: Looking at this document, that's what it leads
20 you to believe, that there are towns that are
21 within the 10 to 25 and 26 to 40.

22 Q: And there's no signs; there's no checkpoint
23 saying that you can't continue on to the
24 hospital because you live in Colleton County,
25 right?

1 **A:** That's correct.

2 **Q:** Now, let's just get this for clarification.
3 CMC does not operate an the urgent care center,
4 is that right?

5 **A:** That is correct.

6 **Q:** Is there an urgent care center that operates
7 within Walterboro?

8 **A:** There is.

9 **Q:** So, patients do have an option to go to an
10 urgent care center if that's the level of care
11 they need?

12 **A:** Yes, sir.

13 MR. THOMAS: Let's go to TMC 161 or what I believe
14 was Demo Number 4 -- TMC Demo 4, that's what it
15 originally was in the system.

16 (Trident Exhibit Number 161/TMC Demo 4 was referenced
17 at this time.)

18 **Q:** Okay. I just have a question for you on this.
19 Ms. Jones asked you about this. Come down to
20 the grand total for me and go all the way
21 across, if you would. For 2017 what were your
22 total patient days of care?

23 **A:** 21,224.

24 **Q:** And in 2018, what was your total patient days
25 of care?

1 **A:** **20,609.**

2 **Q:** **Okay. So you actually had a grand total less**
3 **utilization in 2018 than you did in 2017?**

4 **A:** **I did.**

5 **Q:** **Ms. Jones asked you about your what if**
6 **analysis, so I'm not gonna ask any opinions**
7 **about the what -- any of your opinions about**
8 **the what if analysis in the individual**
9 **categories, but I will ask you this, can you**
10 **afford to take a hit in any of those categories**
11 **based on your net income?**

12 **A:** **I cannot.**

13 **Q:** **And just for clarification of the record, I**
14 **think -- and she may have just been making this**
15 **as an example, Ms. Jones referenced the one ICU**
16 **nurse traveler, how many travelers do you have**
17 **on staff?**

18 **A:** **I have three right now.**

19 **Q:** **Okay. Are they all ICU nurses?**

20 **A:** **They are not.**

21 **MR. THOMAS:** **That's all the questions I have, Your**
22 **Honor, for this witness.**

23 **THE COURT:** **Re-cross on new matter?**

24 **MR. THOMAS:** **I don't think we had new matter, Your**
25 **Honor. I tried to stay very closely within Ms.**

1 ---

2 THE COURT: I'm asking; not suggesting.

3 MS. JONES: I think the one matter is the

4 exacerbation of the net loss.

5 THE COURT: Proceed.

6 MS. JONES: All right.

7 THE COURT: Overruled.

8 MS. JONES: Please go to ---

9 MR. THOMAS: I do reserve the right for re-redirect,
10 Your Honor.

11 MS. JONES: There is no such thing.

12 MR. THOMAS: I do think that this is not new.

13 THE COURT: Well, Ms. Jones, I think there may be
14 such a thing. It's just whether it be allowed.

15 MS. JONES: Well, that's in the Court's discretion.

16 MR. HIOTT - RECROSS-EXAMINATION BY MS. JONES:

17 MS. JONES: I think it's TMC 27.

18 (Trident Exhibit Number 27 was referenced at this
19 time.)

20 **Q: The question was asked to you about paying**
21 **nurses more causing exacerbation of your losses**
22 **and I think you showed your losses in this**
23 **document for the last few years.**

24 MR. THOMAS: Your Honor, I didn't ask about this
25 document, MUHA 27.

1 THE COURT: You asked about the exacerbation aspect.
2 I don't know where we're going yet because she
3 hasn't finished her question.

4 OBJECTION:

5 MR. THOMAS: Well, I think I know where we're going.
6 I mean, she's -- I object to the fact this is
7 not a new matter. The matter that Ms. Jones
8 brought up was about what does it cost and, you
9 know, I stayed within about the cost and what
10 effect that would have. She could have asked
11 that question on cross-examination, Your Honor.
12 You know, but it's not a new subject matter.

13 THE COURT: Well, I haven't heard the question yet.

14 MR. THOMAS: Okay.

15 THE COURT: You can object then.

16 MR. THOMAS: Yes, sir.

17 THE COURT: Let me hear the question.

18 **Q: Well, in this document, that's in evidence,**
19 **that they put in ---**

20 MR. THOMAS: Wait a second. I object to that.

21 MS. JONES: TMC 27.

22 MR. THOMAS: It's not TMC 27. TMC 27 was not what
23 she has in her hand. We never talked about
24 this one.

25 MS. JONES: It's 3. TMC 3. TMC 3, that's what I

1 want. Yes. And you did put it in.

2 MR. THOMAS: TMC 3.

3 MS. JONES: Okay. TMC 3.

4 MR. THOMAS: But that's not what you're looking at.

5 **Q: On page 24, one page back. This is the page**
6 **you talked about with all your losses, right?**

7 **A: Yes.**

8 **Q: Okay. And the one page back, on page 24, this**
9 **one. This is the details, correct, that are**
10 **reflected in summary on the other page, is that**
11 **right?**

12 **A: No, ma'am.**

13 **Q: It doesn't show on here your revenues,**
14 **deductions, operating expenses, capital and**
15 **other costs and taxes on income?**

16 **A: This -- this is not our -- this is not my**
17 **document.**

18 MS. JONES: Oh, that's Trident. I'm looking for the
19 Colleton one. You know what, I'm gonna
20 withdraw the redirect because we can't find the
21 exhibit.

22 THE COURT: Okay.

23 MS. JONES: We can do it with our expert.

24 THE COURT: That means you can step down.

25 MR. HIOTT: Thank you, sir.

1 MR. THOMAS: I ask for this witness to be excused,
2 Your Honor.

3 THE COURT: I assume no objection?

4 MS. JONES: No objection.

5 THE COURT: You're excused.

6 MOTION:

7 MR. THOMAS: And make a motion that we break for
8 lunch.

9 MS. SHOUN: Second.

10 THE COURT: Motion?

11 (Laughter)

12 MR. THOMAS: Especially since I don't see Mr. Summer
13 here with his witness, but I think ---

14 THE COURT: Well, motion granted.

15 (Laughter)

16 THE COURT: If the -- let's come back at 1:00, 1:15.
17 Y'all decide.

18 MS. JONES: Doesn't make any difference to us.

19 1:15.

20 THE COURT: 1:15. All right. Thank y'all.

21 MS. SHOUN: Thank you, Your Honor.

22 (Off the record from 11:51 a.m. until 1:20 p.m.)

23 THE COURT: Y'all be seated.

24 MS. JONES: I just have, Your Honor, the counter-
25 designations for the deposition of Sarah Bacik

1 that I was supposed to hand up yesterday and I
2 forgot to and I am filing them today.

3 THE COURT: Okay.

4 MS. JONES: And I have served them on counsel for
5 all the parties.

6 THE COURT: Sarah Bacik.

7 MS. JONES: Sarah Bacik, yes. Will has -- Mr.
8 Thomas had put in his designations for her
9 deposition and these are just our counter-
10 designations.

11 THE COURT: Is the next person, Mr. Cummings?

12 MR. SUMMER: It would be Ms. Cummings.

13 THE COURT: Ms. Cummings?

14 MR. SUMMER: Yeah. Your Honor, are we ready to
15 proceed?

16 THE COURT: Who's after that?

17 MR. SUMMER: Today, no one.

18 THE COURT: Tomorrow?

19 MR. SUMMER: Tomorrow will be Mr. Solomon.

20 THE COURT: That's disappointing. I was hoping it
21 would be Cummings, Goings ...

22 (Laughter)

23 THE COURT: -- with the last witness being Went and
24 Leave.

25 (Laughter)

1 THE COURT: Oh, well.

2 MR. SUMMER: Sorry; I was a little slow on the
3 uptake.

4 THE COURT: Okay.

5 MR. SUMMER: Ready to proceed, Your Honor.

6 THE COURT: Okay.

7 MR. SUMMER: Thank you. At this time, Trident would
8 call Victoria Cummings to the stand.

9 COURT REPORTER: State and spell your name for the
10 record, please?

11 MS. CUMMINGS: It's Victoria Cummings, V-I-C-T-O-R-I-
12 **A. Cummings, C-U-M-M-I-N-G-S.**

13 COURT REPORTER: Raise your right hand, please. Do
14 you solemnly swear the testimony you're about
15 to give in this matter is the truth, the whole
16 truth, and nothing but the truth, so help you
17 God?

18 MS. CUMMINGS: I do.

19 COURT REPORTER: Thank you.

20 VICTORIA CUMMINGS, being first duly sworn, testifies
21 as follows:

22 MS. CUMMINGS - DIRECT EXAMINATION BY MR. SUMMER:

23 **Q: Ms. Cummings, if you would, please, tell the**
24 **Court a little bit about where you're from and**
25 **where you grew up.**

1 **A:** **Good afternoon, Your Honor. My name's Vicki**
2 **Cummings, the Vice President of Human Resources**
3 **for Trident Health. Actually, I am originally**
4 **from Charleston area, born and raised. I**
5 **started actually my career at Bon Secours St.**
6 **Francis Hospital in 1984 as a phlebotomist. I**
7 **went into a lab coordinator position and then**
8 **was promoted into a recruiter position.**

9 THE COURT: Promoted into a ...

10 **A:** **Recruiter. Nurse recruiter position.**

11 THE COURT: Okay.

12 **A:** **And then actually I was -- left there in 1999**
13 **and went to Trident Medical Center. Started**
14 **out as a nurse recruiter, was promoted to a**
15 **coordinator recruitment, went into management**
16 **in the manager recruitment, and then the**
17 **Director of Human Resources and now the Vice**
18 **President for Human Resources.**

19 THE COURT: I think the appropriate start to any
20 management career would probably be
21 phlebotomist.

22 (Laughter)

23 MR. SUMMER: I'm not gonna ask a follow-up question
24 on that.

25 **Q:** **Ms. Cummings, where did you attend high school?**

1 **A:** I went to Garrett High School.

2 **Q:** Did you attend any college or post-graduate
3 after that?

4 **A:** Yes, I actually went to Trident Technical
5 College.

6 **Q:** Okay. And when you started as a phlebotomist,
7 what campus were you on?

8 **A:** The Rutledge -- not towers, but Rutledge
9 Hospital at St. Francis downtown.

10 **Q:** The old St. Francis on Calhoun?

11 **A:** Correct.

12 **Q:** So that would be pre-merger, correct?

13 **A:** Correct.

14 **Q:** And how long did you stay in that clinical
15 position?

16 **A:** Seven years. Approximately seven years.

17 **Q:** And then how did you get into human resources?
18 What was the first move?

19 **A:** I was actually -- the CEO recommended me to go
20 into the recruiter position.

21 **Q:** And you were recruiting with St. Francis?

22 **A:** Yes, sir.

23 **Q:** And how long did you do that job approximately?

24 **A:** Approximately, okay, about eight years.

25 **Q:** Did you migrate from the downtown campus to the

1 new campus out in West Ashley?

2 A: Yes.

3 Q: And then how did you come to work for Trident?

4 A: I had actually somebody that worked at Trident
5 Medical Center called to see if I was
6 interested in maybe coming there to work.

7 Q: And what was your first position with Trident?

8 A: The nurse recruiter.

9 Q: And take us through other positions that you've
10 had as you've climbed that ladder in human
11 resources.

12 A: So, again, I worked as a nurse recruiter for
13 Trident Health, which was for Summerville,
14 Trident, and Moncks Corner at the time. Got
15 promoted to the recruitment coordinator, kind
16 of organized all the recruitment events, had
17 oversight of the recruiters, and then went into
18 the director position, and then had oversight
19 of the Human Resources Department and then went
20 into the VP of Human Resources.

21 Q: And what is your current job title?

22 A: Vice President of Human Resources for Trident
23 Health.

24 Q: And is that for a single campus or the whole
25 system?

1 **A: The whole system.**

2 OFFER AS EXPERT:

3 MR. SUMMER: Your Honor, at this point in time, we'd
4 like to offer Ms. Cummings as an expert in
5 clinical human resources.

6 MS. BAKER: Your Honor, I have just a couple of voir
7 dire questions.

8 THE COURT: All right.

9 MS. CUMMINGS - VOIR DIRE EXAMINATION BY MS. BAKER:

10 **Q: Ms. Cummings, have you ever done or worked in**
11 **recruiting for a medical research facility?**

12 **A: No.**

13 **Q: Have you ever done recruiting -- clinical**
14 **recruiting for a State agency?**

15 **A: No.**

16 MS. BAKER: We don't have any objection as long as
17 she is designated as an expert in human
18 resources for for-profit facilities.

19 MR. SUMMER: Your Honor, I mean, there's a lot being
20 made for this distinction between for-profit
21 and not-for-profit governmental. I think her
22 skill set is human resources. I think these
23 are great avenues for cross-examination, but I
24 don't think it affects her qualifications. So
25 we think that, you know, being an expert in

1 clinical human resources is an appropriate
2 designation. Counsel is free to ask any
3 questions on cross to challenge the depth of
4 that knowledge if they want to.

5 MS. BAKER: I would just say we limit it to what her
6 designation was and what she testified to in
7 her deposition, which would be -- she would be
8 an expert in the area of clinical human
9 resources and limit it to Trident Health, which
10 is what her designation was. So, for purposes
11 of Trident Health.

12 MR. SUMMER: I don't know that we limited her in any
13 way in that regard. What page are you on,
14 counselor?

15 MS. BAKER: It would be page 24 of her deposition.
16 Page 24, lines 1 through 8.

17 MR. SUMMER: All right. Well, if I could read it in
18 context, Your Honor. This was actually a
19 question, not testimony. And the question
20 begins on line 24 on page 23, "If you look down
21 at the third paragraph where it specifically
22 references your expertise and knowledge so
23 where you say it states that you'll be
24 providing factual and expert testimony in the
25 area of clinical human resources and the

1 challenges associated with clinical staffing of
2 Trident Health given the State-wide and nursing
3 shortages and how the addition of new hospitals
4 in the market will affect the ability to staff
5 Trident Health." And the answer was "uh-huh,"
6 which I assume was in the affirmative. I don't
7 think that really limits what we're trying to
8 get her to testify about.

9 MS. BAKER: Well, Your Honor, and I didn't mean to
10 say what about the testimony, but I was saying
11 limit to her experience at Trident Health.

12 THE COURT: I just think that goes to the weight.
13 I'm sorry.

14 MS. BAKER: Okay, sir.

15 THE COURT: Any other positions?

16 MS. SHOUN: I agree with Your Honor, no, sir.

17 THE COURT: Any other?

18 MR. GREWAL: No objection.

19 THE COURT: I qualify her as you requested.

20 MR. SUMMER: Thank you, Your Honor.

21 THE COURT: Human resources.

22 **Q: Let's talk a little bit about what are some of**
23 **the challenges you have in recruiting RNs. Is**
24 **there a shortage of RNs in the community?**

25 **A: Yes.**

1 Q: If you could, describe a little bit to the
2 Court what some of those external challenges
3 are in terms of who you compete with to get
4 staff and how that works.

5 A: Currently some of our challenges are basically,
6 you know, local, the other hospitals. We
7 currently compete with Roper St. Francis, the
8 VA, East Cooper, and MUSC. And based on the
9 amount of RNS that we do have that apply
10 normally within the community, there is
11 definitely a challenge for us to be able to get
12 experienced and new hires into our system. So
13 it's a big challenge. We currently have right
14 now 111 positions that are open and that
15 includes PRN, which is basically a flex
16 position that we have, but there's definitely
17 a need, especially for the specialty areas and
18 our critical care emergency rooms and our
19 women's services and our ED.

20 Q: I think we've heard from Mr. Gallati regarding
21 some of the stressors of staffing. I wanna
22 turn your attention specifically to critical
23 care in the ICU and recently have -- what have
24 those staffing constraints been like?

25 A: So over the last six to eight months, we've had

1 a challenge with the VA opening up a new unit
2 and we've actually lost 28 RNs to the VA, which
3 means what's happened is that we've had to cut
4 back on our beds and not be able to provide
5 that service for our patients. Currently we're
6 trying to recruit specialty nurses for the ICU,
7 but that's the concern that I have is not being
8 able to have those special nurses in those
9 specialty areas to be able to staff our units
10 with the beds that we currently have within our
11 system.

12 Q: So, what, if any, requirements does DHEC have
13 about how beds must be staffed? Explain that
14 to the Court.

15 MS. BAKER: Your Honor, I'm gonna object to the
16 extent that Mr. Summer is asking leading
17 questions.

18 THE COURT: What, if any, does DHEC have concerning
19 the requirements -- I didn't ...

20 MR. SUMMER: To staffing a bed.

21 THE COURT: To staffing a bed. I think that was a
22 quote. So, what's wrong with that question?

23 MS. BAKER: I'll withdraw.

24 THE COURT: Okay.

25 A: Well, based on, you know, DHEC and managing our

1 patients, we have to have enough nurses to take
2 care of the patients. So currently we do have,
3 like, on our med/surg unit, you at least have
4 to have, you know, one RN to take care of five
5 patients in the particular med/surg area. So
6 you have to be able to have the qualified nurse
7 to manage taking care of our patients.

8 Q: So, in other words, just because you have a
9 bed, can you deliver services without staffing?

10 A: No.

11 Q: And if you're short, what does that mean?

12 A: What that means is that we have to close beds.

13 Q: Talk to me a little bit about the cost of
14 competing, in other words how do you handle
15 that with wages?

16 A: So, currently over the last -- well, actually,
17 over the last year, we've actually made three
18 market adjustments for our RNs and what that is
19 is basically we look at the data within the
20 community and also look at when we have nurses
21 that leave that provide us with information
22 that other hospitals are offering more money.
23 And based on that, we have adjusted our pay
24 ranges three times over the last year to be
25 competitive within the market.

1 Q: I assume those adjustments are upward.

2 A: Yes, sir.

3 Q: So does that mean you've raised nursing
4 salaries three times in a year?

5 A: Yes, sir.

6 Q: Talk to me a little bit about what programs
7 your hospital is trying to utilize to recruit
8 and retain nurses.

9 A: We have actually a new grad program, it's
10 called our Star RN program and what that is is
11 a twelve to thirteen week program that we bring
12 on new grads and we put them through a training
13 program. The program basically gets them to
14 where they need to be as far as working with
15 preceptors on their units and being able to
16 touch ---

17 THE COURT: Working with?

18 A: Preceptor, which is somebody that actually
19 helps train them. So that program -- we've had
20 that program for the last couple of years and
21 it's been very successful with training our new
22 grads.

23 Q: Let's take a look at specifics. Talk to us a
24 little bit about what competition is like visa
25 MUSC as it exists today.

1 **A:** Currently, MUSC, actually their facility is
2 downtown, so if we're looking at, you know, our
3 staff, we have over 400- and I think it's 50
4 RNs that actually live in the
5 Summerville/Moncks Corner area. So we're
6 pretty comfortable that those individuals that
7 live in that area will not want to move
8 downtown. We may have some individuals that --
9 you know, RNs that, you know, they live
10 probably in the north area, but being
11 competitive with that long drive downtown is --
12 is not somewhat of a problem currently as far
13 as the amount of nurses that we've lost, but
14 one of the things that is concerning, if they
15 were to move a hospital closer to Trident
16 Medical Center or Trident Health, we would have
17 concerns with staff wanting to leave to go work
18 for that competitor.

19 **Q:** Let's talk about what some of your sources are
20 for market information. How do you know
21 whether or not somebody is leaving your
22 hospital to go to another facility? Do you
23 always know that?

24 **A:** We don't. We currently do exit interviews. We
25 realize that when we do sit down with our staff

1 to do exit interviews, probably maybe about 40
2 percent will tell us -- kind of give us, you
3 know, maybe some information on, you know, what
4 hospital they're going to. So there may be
5 more people leaving to go to MUSC, I'm not
6 really sure, based on the information that I
7 have on the exit interviews, but we track exit
8 interviews on all of our RNs that are willing
9 to provide us with that information.

10 Q: How often do people volunteer information about
11 where they're going at exit interviews?

12 A: 40 percent. I mean, right at 40 percent.

13 Q: So can you -- do you have any indication based
14 on the numbers that you track, how many nurses
15 you've lost to MUSC recently?

16 A: Approximately around nine.

17 Q: And then how about the new Roper Berkeley
18 campus, have you figured out has that had any
19 impact on you?

20 A: Yes.

21 Q: Explain to the Court what impact you believe
22 it's had thus far.

23 A: We have -- we know that we're aware of, we've
24 lost a total of approximately around eight that
25 we're aware of, RNs that have actually left.

1 And understanding that Roper Berkeley just
2 opened their doors, so we're not really sure
3 what that impact's going to be moving forward.
4 They're up and running. But approximately
5 that's about the amount that we're aware of
6 based on our exit interviews.

7 Q: Okay. So do you expect their staffing needs to
8 increase?

9 A: Yes.

10 Q: What, if any, pressure will that have on your
11 facility?

12 A: It goes back to supply and demand. What will
13 happen is if we are losing nurses, again, we're
14 gonna have to maybe bring in travelers. Also
15 go back and look and see if there's any type
16 of, you know, incentive that we would use to
17 attract, as well as retain. And then go back
18 again and look at the market.

19 Q: Talk to us a little bit, we've heard this
20 concept of travelers. Explain to the Court
21 what a traveler is.

22 A: Traveler is an individual that comes in to work
23 in a department that there is a need for
24 staffing, particularly like for our ICU, we
25 bring in travelers to help staff get to the

1 level where we are able to take care of the
2 patients that -- for those beds. The concern
3 that we have is that when you bring in
4 travelers, they're not really invested into
5 your organization. It's just that we're here
6 for the 13 weeks and, you know, we're moving on
7 to the next. So it's very important that we do
8 have the RNs or the staff, the employees, to be
9 there, to be committed to taking care of our
10 patients and, you know, and following our
11 mission and values. So it's a temporary fix to
12 make sure that we're able to take care of our
13 patients' needs, but that's not where we want
14 to be with travelers, and it is a big expense.

15 Q: Talk to the Court about the differential,
16 what's the delta when you have to hire a
17 traveler versus someone you recruit and retain?

18 A: The difference between bringing in a traveler
19 versus bringing in your staff RN is the pay is
20 like three times the amount you would pay your
21 regular staff RN.

22 Q: And why is that?

23 A: Well, you're paying the agency; you're paying
24 for their room and board; and you're also
25 paying, you know, I guess, for that service.

1 Q: So if you were to pay a starting nurse \$65,000
2 a year, what would you pay a traveler?

3 A: Double that, so.

4 Q: Let's talk a little bit also about ---

5 THE COURT: You said you -- how much would you pay a
6 traveler?

7 A: That's double the amount.

8 THE COURT: Well, you said while ago it was three
9 times and now ---

10 A: Well, I mean, it's -- yeah, it is -- it is
11 three times the amount, so.

12 THE COURT: Okay.

13 A: Yeah.

14 THE COURT: Under math three times is more than
15 times two, but I think I understand what you're
16 saying.

17 A: Okay.

18 Q: I think I'm getting ---

19 A: It's three times, but yeah, I was just saying
20 the double the 65,000.

21 Q: Would be the delta?

22 A: Right.

23 Q: Sorry. It was the way -- the poor way that I
24 asked the question. Okay. How many travelers
25 are you carrying right now?

1 **A:** Currently, let's see, we have a total of 56
2 travelers.

3 **Q:** Okay.

4 **A:** And with those 56 travelers that we have, we do
5 have what we call international nurses that
6 actually commit to us for two years.

7 **Q:** Okay.

8 **A:** And this is a moving target. This is what we
9 currently have, you know, now.

10 MR. SUMMER: Let's take a look at -- if we could go
11 to DHEC -- that'd be DHEC Number 1, page 599,
12 if we could put that up.

13 (DHEC Exhibit Number 1 was referenced at this time.)

14 **Q:** This says the staffing cart. Are you generally
15 familiar with the 128-bed proposed facility
16 that MUSC seeks to build in Nexton?

17 **A:** Yes.

18 **Q:** This is a staffing chart from their CON and I
19 would like to highlight just the RN line there.
20 There we go. So when you look at these numbers
21 knowing that they're for 2023 and 2024 and
22 2025, that's 121 RNs for '23; 148 RNs for '24;
23 202 RNs for '25, is that consistent with the
24 ramp-up numbers that you were talking about
25 with Roper?

1 **A:** Yes.

2 **Q:** Why do they ramp-up?

3 **A:** Well, when you start a facility, you actually
4 are waiting for the volume, so it's based on,
5 you know, patients. So what normally happens
6 is you bring in like a skeleton staff and then
7 as you increase your volumes, you increase your
8 staff.

9 **Q:** So over time it goes up?

10 **A:** Yes.

11 **Q:** When you look at those numbers, what does that
12 indicate to you in terms of challenges for you
13 and recruiting?

14 **A:** Well, when I look at the numbers based on over
15 35 years of, you know, working in healthcare,
16 to me this is very concerning. It's figuring
17 out how we're going to manage taking care of
18 our patients and making sure those beds that we
19 currently do have are being taken care of as
20 far as the staff with our patients. So it's
21 very concerning.

22 **Q:** What kind of challenges do you see that
23 presenting to you as a practical matter to
24 compete in recruitment?

25 **A:** Well, what will happen, you know, the insurance

1 that I have is, again, it's going to increase
2 the salary ranges; it's going to increase, you
3 know, the supply and demand as far as other
4 hospitals competing against one another. It's
5 going to be a big challenge to make sure that
6 we're able to staff and take care of the
7 patients for the beds that we have within our
8 hospital currently.

9 Q: What happens if you lose staff and can't
10 replace them?

11 A: We would have to close beds.

12 Q: What does that do in terms of your ability to
13 deliver services?

14 A: We're not able to deliver the service that our
15 community deserves.

16 Q: When you look at competition, are signing
17 bonuses ever given for nurses?

18 A: Yes.

19 Q: What kind of sources do you have to look for
20 what your competitors are doing? How do you
21 get that kind of information?

22 A: Well, we have our staff that actually provides
23 us with information. We actually, you know,
24 use Facebook, social media. A lot of times,
25 you know, that information does, you know, come

1 up on our Facebook page.

2 Q: Are you aware of USC posting things on social
3 media for recruiting nurses?

4 A: Yes.

5 MR. SUMMER: Will you put that up, please, on the
6 board?

7 Q: So this is off of Facebook?

8 A: Yeah, actually one of our employees actually
9 presented this to me. I think it was last
10 Friday. They were concerned that MUSC was
11 offering a \$20,000 sign-on bonuses for nurses.

12 Q: And that's in the Florence and Marion markets,
13 right?

14 A: Yes.

15 Q: Do you have any concern that that kind of
16 conduct would occur if they open a hospital in
17 Berkeley County?

18 A: Yes.

19 Q: And why?

20 MS. BAKER: Your Honor, I'm going to object. What
21 he's asking Ms. Cummings calls for speculation.

22 Do you have any concerns ---

23 THE COURT: Well, that ---

24 MS. BAKER: --- if they ...

25 THE COURT: Any response.

1 MR. SUMMER: Well, I think we've qualified her as an
2 expert so she's entitled to express her
3 opinion. I can rephrase the question, Your
4 Honor.

5 THE COURT: Well, if you wish to rephrase it, I
6 don't ...

7 MR. SUMMER: I will.

8 **Q: What is your opinion as to whether or not sign-**
9 **on bonuses might be utilized in Berkeley County**
10 **in the future?**

11 **A: This is a big concern and, again, as I**
12 **mentioned that we have like over 400 RNs that**
13 **live in the Moncks Corner, Summerville area,**
14 **that if they were offered a \$20,000 sign-on**
15 **bonus, that might be something that they'd**
16 **definitely be interested in and it would**
17 **definitely cripple our staffing if that was to**
18 **occur.**

19 MR. SUMMER: Beg the Court's indulgence.

20 **Q: All right. If you'd be kind enough to answer**
21 **any questions that Ms. Baker may have.**

22 THE COURT: Let me see if -- do y'all have any
23 questions?

24 MS. HOLLINGSWORTH: None from us, Your Honor.

25 MS. SHOUN: No, Your Honor.

1 THE COURT: Well, then, Ms. Baker.

2 MS. CUMMINGS - CROSS EXAMINATION BY MS. BAKER:

3 Q: Ms. Cummings, I'm Pam Baker. I think we met at
4 your deposition.

5 A: Yes.

6 Q: I just have a few questions for you and I will
7 start with I think Mr. Summer just asked you
8 about sign-on bonuses and your concerns, is
9 that correct?

10 A: Yes, ma'am.

11 Q: Does TMC or Trident health use incentives to
12 recruit?

13 A: Yes.

14 Q: And isn't it true that y'all offer sign-on
15 bonuses?

16 A: Yes.

17 Q: And isn't it true that y'all also offer to
18 compensate for relocation?

19 A: Yes.

20 Q: And isn't it true that y'all also have referral
21 bonuses?

22 A: Yes.

23 Q: And I think going back to bonuses, what are the
24 amounts of sign-on bonuses that Trident offers?

25 A: We've offered 2,500 for night shift med/surg

1 nurses. We've offered 5,000 for our OR. And
2 we've also offered 10,000 for OR that actually
3 is a specialty heart, because they're very hard
4 to recruit for, those RNs.

5 Q: And in addition to those bonuses, you would
6 also offer relocation compensation?

7 A: It's based on the position. I mean, not all.
8 We have, but not all.

9 Q: I think you talked about your concerns
10 regarding the nurse -- nursing shortage and
11 that you lost 28 RNs to the VA Hospital,
12 correct?

13 A: Yes.

14 Q: But you would agree with me that the VA
15 Hospital is located on the peninsula?

16 A: Yes.

17 Q: And so a facility located in Nexton, that
18 wouldn't -- that didn't matter with losing
19 those positions, correct?

20 A: Yes, it would.

21 Q: How many nurses does -- do you know how many
22 nurses MUSC graduates from its program?

23 A: No.

24 Q: I think you also talked about with the nursing
25 shortage that if you lost -- if you lost staff,

1 you would have to close beds, is that correct?

2 A: Correct.

3 Q: And how many beds has Trident had to close due
4 to a shortage?

5 A: We've closed I think it was three beds in our
6 ICU over the last eight months regarding the
7 shortage because of the 28 RNs that left.

8 Q: That left to go to the VA?

9 A: Yes, ma'am.

10 Q: Has the nursing shortage at Trident -- well,
11 let me rephrase that. You would agree with me
12 that the nursing shortage that you experienced
13 at Trident hasn't stopped HCA from expanding?

14 A: Correct.

15 Q: I believe during your deposition you testified
16 that Trident has never been fully staffed since
17 you've been working there, is that correct?

18 A: Correct.

19 Q: And that's been how many years?

20 A: 20.

21 Q: So, in 20 years, y'all have never been fully
22 staffed?

23 A: No.

24 Q: So is it fair to say that your position is you
25 do not want MUHA to build its hospital in

1 Nexton, correct?

2 A: Correct.

3 Q: But you would agree with me that HCA continues
4 to build and expand, correct?

5 A: Correct.

6 Q: And am I correct in saying they have a CON for
7 a six-bed expansion?

8 A: I'm not aware.

9 Q: Well, are you aware of the projects that HCA
10 has in the works in the tri-county area?

11 A: Not all.

12 Q: And I believe we've heard testimony over the
13 last several days that there's maybe
14 approximately five projects that HCA is
15 implementing. Would you -- would you -- let's
16 assume that that's the case, if you will, and
17 if that is the case, all of those projects
18 would have to -- would require additional
19 nurses, correct?

20 A: I don't know what those projects are, so if you
21 could let me know.

22 Q: Are you familiar with the FSED on James Island?

23 A: Yes.

24 Q: Are you familiar with the Summerville ED
25 expansion?

1 A: Yes.

2 Q: Are you familiar with the proposed new psych
3 hospital?

4 A: Yes.

5 Q: Are you familiar with Centre Point FSED?

6 A: Yes.

7 Q: Okay. And are you familiar with the Trident
8 six-bed expansion?

9 A: No.

10 Q: So all of those projects that I just listed
11 would require additional nurses, correct?

12 A: Well, with behavioral health, if we were to
13 build a hospital, those -- the staff that we
14 currently have would go over to that hospital.

15 Q: Okay. And so the Summerville ED would require
16 nurses?

17 A: I think they're expanding. I'm not aware of
18 any new open positions.

19 Q: Okay. So none of those projects are you saying
20 will require additional recruiting of nurses?

21 A: Based on the knowledge that I have, I'm telling
22 you that I'm not aware of any additional FTEs.
23 Now, I can't speak to the one over in James
24 Island because I haven't really seen much of
25 that.

1 Q: So, is it fair to say that your position is
2 that you support HCA's expansions, but not your
3 competitors'?

4 A: I'm saying that I support HCA's expansions
5 based on the knowledge that I have of how
6 they're going to staff those areas. I do not
7 feel like I can support the Nexton regarding
8 the staffing concerns that we have for the beds
9 that we have with Trident Health based on the
10 amount -- nursing shortage that we currently
11 have.

12 Q: One last question, how long are you aware that
13 there has been a nursing shortage in the tri-
14 county area?

15 A: 15 years.

16 Q: Thanks. That's all I have.

17 MR. SUMMER: Just a couple clean-ups, Your Honor.

18 MS. CUMMINGS - REDIRECT EXAMINATION BY MR. SUMMER:

19 Q: Ms. Baker asked you a lot about the nursing
20 shortage. Is it going to get better or worse?

21 A: It's not going to get better.

22 Q: What do you base that on?

23 A: Projections based on information that I've been
24 provided in regards to 2030 we're looking at
25 South Carolina being short 10,000 nurses.

1 Q: Statewide?

2 A: Statewide.

3 Q: She asked you a question about nursing
4 shortages in the past. How would you compare
5 where you are today in terms of degree of
6 magnitude to past experiences?

7 A: Based on past experience, we didn't have the
8 facilities, you know, around the North
9 Charleston campus. It was just Trident. We
10 were able to kind of confine and manage the
11 staffing needs. When other facilities started
12 opening, we noticed there being some concerns
13 with how we're staffing our hospital in regards
14 to that.

15 Q: In particular, are you referring to Roper?

16 A: Yes, sir.

17 Q: So is this as bad as you've ever seen it?

18 A: In my career, yes.

19 Q: Thank you.

20 THE COURT: Any ---

21 MS. BAKER: Nothing further.

22 THE COURT: You may step down.

23 A: Thank you.

24 CONCLUDING MATTERS:

25 THE COURT: So it's only 1:57 are we through for the

1 day?

2 MR. SUMMER: Through for the day, Your Honor.

3 THE COURT: That doesn't appeal to my workaholic
4 nature.

5 (Laughter)

6 MR. SUMMER: Well, I think we're ready to start at
7 9:30 in the morning, is that what we agreed on?

8 MS. JONES: Yes, Your Honor.

9 THE COURT: I'll try to be here at 9:30. I've got a
10 conference call at 9:00. We should be through.
11 I'll -- depends on how loquacious the lawyers
12 are. I'll see y'all tomorrow.

13 MR. SUMMER: Thank you, Your Honor.

14 MS. JONES: Thank you

15 (The hearing adjourned at 1:56 p.m.)

16 DAY SIX - THURSDAY, NOVEMBER 14, 2019

17 CALL TO ORDER:

18 THE COURT: Be seated. I got held up in part by
19 some law firm, Nexsen Pruet.

20 MR. THOMAS: Doesn't ring a bell.

21 THE COURT: Okay. All right. Mr. Sullivan?

22 MR. SULLIVAN: That's me. I think.

23 THE COURT: Well, I'm not calling you.

24 (Laughter)

25 MR. THOMAS: You can go on up there.

1 ORDER OF BUSINESS:

2 MR. THOMAS: Your Honor, we just have one order of
3 business before we start with Mr. Sullivan.
4 Ms. Jones and I. I submitted a deposition
5 designation of Ms. Sarah Bacik earlier in the
6 week.

7 THE COURT: Yeah. I remember that.

8 MR. THOMAS: And I believe Ms. Jones handed up some
9 counter designations.

10 THE COURT: Now, that's what I remember.

11 MR. THOMAS: Right. Right. And -- so, we're all
12 good with those and so we'd ask that they be
13 admitted into the record or the -- or evidence.
14 However, the Court's wishes are.

15 THE COURT: Now, it goes into the -- it goes into
16 evidence and ultimately becomes the record.

17 MR. THOMAS: Well, I was thinking the transcript.

18 THE COURT: Yeah.

19 MR. THOMAS: That was my bad, Your Honor. So, I'm -
20 - I'm fine either way.

21 MR. JONES: I did not submit the transcript. Did
22 you submit the transcript? Because you've got
23 the original. You took the deposition.

24 MR. THOMAS: Yeah. I -- I just submitted
25 designations and we -- what we can do is we can

1 do a color copy of like ---

2 MS. JONES: Of the designation.

3 MR. THOMAS: --- of the designations and maybe put
4 them in, you know, ours in yellow and theirs in
5 light green or something like that, so you know
6 who's designating what.

7 MS. JONES: Perfect.

8 THE COURT: So, that will be done later.

9 MR. THOMAS: Yes, sir.

10 THE COURT: Okay.

11 MR. THOMAS: That -- if that pleases the Court.

12 THE COURT: That pleases me.

13 MS. SHOUN: I don't want to displease you, Your
14 Honor. We -- we may have a few additional
15 designations. We just don't have -- having
16 gotten Ms. Jones' yesterday, we don't have ours
17 prepared yet. May we have until tomorrow?

18 THE COURT: Yes, you may.

19 MS. SHOUN: Okay. Thank you, Your Honor.

20 MR. WICEVIC: No. The Department doesn't have any
21 counter-designations.

22 MS. JONES: Thank you.

23 THE COURT: Ms. Jones, have -- have you misbehaved
24 and put to the back of the -- back ---

25 MR. JONES: Back row, yeah. The third row.

1 MR. THOMAS: Third row chair. Third row.

2 MS. JONES: The story of my life, Judge.

3 THE COURT: I hope you can work your way back up.

4 MS. JONES: I do, too. I'm on -- I've -- that's my
5 goal.

6 MS. CRUM: Your Honor, trust me. She will work her
7 way back up.

8 (Laughter)

9 THE COURT: Okay. Well, she will make it back up.
10 Okay. All right.

11 MR. THOMAS: Your Honor, may it please the Court,
12 the Petitioners, Colleton Medical Center,
13 Trident Medical Center and Summerville Medical
14 Center call to the stand Dan Sullivan.

15 COURT REPORTER: S-U-L-L-I-V-A-N?

16 MR. SULLIVAN: That's right.

17 COURT REPORTER: Perfect. Raise your right hand
18 please.

19 MR. SULLIVAN: (Witness complies)

20 COURT REPORTER: Do you solemnly swear that the
21 testimony you're about to give in this matter
22 is the truth, the whole truth, and nothing but
23 the truth, so help you God?

24 MR. SULLIVAN: I do.

25 COURT REPORTER: Thank you.