

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO.

94-3286 E

_____)
IN THE MATTER OF)
))
CAPE ANN & NORTHEAST)
HEALTH SYSTEMS, INC.)
_____)

ASSURANCE OF DISCONTINUANCE

The Commonwealth of Massachusetts (the "Commonwealth"), by its Attorney General, has caused an investigation to be made into whether the proposed consolidation between Northeast Health Systems, Inc. ("NHS") and Cape Ann Health Systems, Inc. ("CAHS") might violate the Sherman Act, 15 U.S.C. §1, the Massachusetts Antitrust Act, M.G.L. c. 93, §4 and the Massachusetts Consumer Protection Act, M.G.L. c. 93A, §2.

1. Beverly Hospital Corporation is a Massachusetts non-stock charitable corporation, engaged in the provision of health care services, which is controlled by NHS. Beverly Hospital has its main campus in Beverly, Massachusetts (the "Beverly Campus").

2. Addison Gilbert Hospital is a Massachusetts non-stock charitable corporation engaged in the provision of health care services, which is controlled by CAHS. Addison Gilbert Hospital

has its main campus in Gloucester, Massachusetts (the "Addison Gilbert Campus").

3. NHS and CAHS have notified the Attorney General's Office that they intend to form and consolidate into Cape Ann & Northeast Health Systems, Inc. ("CA&NE"), a Massachusetts non-stock charitable corporation. (This transaction is referred to hereafter as the "Consolidation.") The Consolidation will bring Beverly Hospital Corporation and Addison Gilbert Hospital under common governance. Beverly Hospital Corporation and Addison Gilbert Hospital will continue to exist as separate corporate entities after the Consolidation.

4. After the Consolidation, Beverly Hospital Corporation and Addison Gilbert Hospital expect to reduce duplication of hospital services by consolidating many services now offered separately by Beverly Hospital and Addison Gilbert Hospital. They also expect, however, that after the Consolidation some of the same services will continue to be offered both at the Addison Gilbert Campus and at the Beverly Campus.

5. This Assurance is intended to resolve a concern arising from the Attorney General's review of the proposed Consolidation.

6. Beverly Hospital Corporation and Addison Gilbert Hospital hereby give assurance that, after the Consolidation and during the term of this Assurance, neither hospital will enter

into any third party payor contract (a "Contract") or set new prices such that the price for a service offered at the Addison Gilbert Campus will be higher than the price for the same service offered at the Beverly Campus. The renewal of an existing Contract by either hospital at the current prices, by Beverly Hospital Corporation at higher prices than those in its current Contract, or by Addison Gilbert Hospital at lower prices than those in its current Contract, shall not be deemed a violation of this Assurance. In particular, after the Consolidation and during the term of this Assurance:

- (a) Beverly Hospital Corporation and Addison Gilbert Hospital will not enter new Contracts such that the price for a service offered at the Addison Gilbert Campus is higher than the price to the same third party payor for the same service at the Beverly Campus. The existing Contracts which pertain to Addison Gilbert Hospital and Beverly Hospital may, however, continue until terminated in accordance with their terms and the parties have no obligation to amend their existing Contracts.
- (b) The existing separate posted charges at Addison Gilbert Hospital and Beverly

Hospital may remain unchanged, but neither party may change its posted charges in such a way as to cause the posted charge for any service offered at the Addison Gilbert Campus to be greater than the posted charge for the same service offered at the Beverly Campus. Nothing in this Assurance is intended to prohibit initiation of an increase in posted charges for the same services at Addison Gilbert Hospital and Beverly Hospital, or either of them singly, so long as the percentage increase at Addison Gilbert Hospital is no greater than the percentage increase for the same service at Beverly Hospital.

7. The term of this Assurance is five years. The term of this Assurance will expire at such earlier date as the Beverly Campus and the Addison Gilbert Campus cease to be under common control.

8. Nothing in this Assurance prevents the Attorney General from enforcing the antitrust laws against NHS, CAHS or CA&NE for anticompetitive actions subsequent to the Consolidation.

9. Throughout the term of this Assurance, NHS, CAHS or CA&NE shall respond promptly to any reasonable requests for information or documents made by the Attorney General to ensure compliance with this Assurance.

10. This Assurance will bind each of the undersigned as well as their respective parents, affiliates, successors and assigns.

BEVERLY HOSPITAL CORPORATION

By: Robert R. Fanning, Jr.,
its President

Robert R. Fanning, Jr.

Dated: 6/15/94

ADDISON GILBERT HOSPITAL

By: James E. Dunne, its
Acting President

James E. Dunne

Dated: 6/15/94

COMMONWEALTH OF MASSACHUSETTS
SCOTT HARSHBARGER
ATTORNEY GENERAL

By: G. K. Weber
George K. Weber, Chief
Consumer Protection and
Antitrust Division
Public Protection Bureau
(617) 727-2200