

## News Release

**For Immediate Release**

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## Department of Justice Reaches Negotiated Resolution Regarding Acquisition of LRGHealthcare Assets by Concord Hospital, Inc.

Concord, NH – New Hampshire Deputy Attorney General Jane E. Young announces that the Charitable Trusts Unit and Consumer Protection and Antitrust Bureau have completed their respective reviews of the proposed sale of the assets of LRGHealthcare to Concord Hospital, Inc.

The Attorney General's Charitable Trusts Unit will take no action to oppose the proposed transaction at this time, subject to conditions.

The Attorney General's Consumer Protection and Antitrust Bureau filed a Final Judgment containing agreed upon terms of relief in the public's interest based a Complaint, filed on April 20, 2021, in Merrimack County Superior Court alleging that the proposed transaction combining the health care systems is anticompetitive.

### Charitable Trusts Review

The Charitable Trusts Unit is required to review acquisition transactions involving nonprofit hospitals in accordance with RSA 7:19-b. In conducting its review of the proposed transaction, the Charitable Trusts Unit considered the extensive documentation provided by the parties, which included outside experts' findings; the analysis of a health policy expert; input from members of the communities served by LRGHealthcare and Concord Hospital, Inc., stakeholders with an interest in healthcare in the region served by LRGHealthcare, and the Department of Health and Human Services and information provided by LRGHealthcare board members.

The Charitable Trusts Unit issued its written decision to take no action, subject to 21 separate conditions on March 29, 2021. The bases for the Charitable Trusts Unit's decision and the imposition of conditions are outlined in detail in the report available here: <https://www.doj.nh.gov/charitable-trusts/lrghealthcare.htm>.

The New Hampshire Circuit Court, Probate Division issued an order on April 1, 2021, authorizing the transaction, subject to terms and conditions established in the Charitable Trusts Unit's March 29, 2021 report.

## Consumer Protection and Antitrust Bureau Review

The Consumer Protection and Antitrust Bureau has the authority to evaluate the likely impact that a proposed transaction to combine health care systems will have on competition under the New Hampshire Combinations and Monopolies Act, the New Hampshire Consumer Protection Act, and Section 7 of the Clayton Act – laws designed to protect free and open markets for the benefit of consumers.

For the proposed transaction to combine LRGHealthcare and Concord Hospital, the Consumer Protection and Antitrust Bureau evaluated the likely impact in the region served by the two systems. The Bureau considered the systems' submissions and evaluated health care data for market share, market concentration, and patient choice among the two systems. It also considered information provided by marketplace participants and input of agencies with subject matter expertise.

The Bureau filed a proposed Final Judgment on April 20, 2021, in Merrimack County Superior Court containing the agreed upon terms which include:

- Protections for addressing potential demands for unfair payment rates and related reimbursement terms by the newly merged entity for the health care services of the Concord Hospital-Laconia and Concord Hospital-Franklin (post-transaction names) through a binding arbitration process.
- Prohibitions against anticompetitive provider contract terms and practices such as most favored nations clauses, anti-tiering or anti-steering clauses, must-have or tying clauses, and exclusivity clauses, including gag clause terms that would prevent a health insurer from disclosing cost, access, and quality information to its members, patients, or employers.
- Protections for physicians and mid-level clinicians in relation to restrictive covenants, interference with patient referral patterns and treatment decisions, and inappropriate criteria for continuing or granting medical privileges at the newly combined entity's facilities.
- Prohibitions against discriminatory practices relating to, among other things, the provision of health care services to patients and the release of patients' electronic medical records.

The Office of Attorney General has consented to the terms of the proposed Final Judgment as in furtherance of the public's interest under the circumstances. The terms are subject to court approval.

## Background

LRGHealthcare operates Lakes Region General Hospital (LRGH) in Laconia and Franklin Regional Hospital (FRH) in Franklin. LRGH is a community acute care hospital with a licensed bed capacity of 137 beds, 50 of which are currently staffed. It is the regional Doorway under New Hampshire's hub and spoke system for delivery of substance use disorder services. FRH is a critical access hospital with 25 licensed beds, 20 of which are currently staffed, and a 10-bed inpatient psychiatric unit, 8 of which are currently staffed.

On October 19, 2020, LRGHealthcare filed with the United States Bankruptcy Court for the District of New Hampshire a voluntary petition for Chapter 11 relief, along with a motion to sell substantially all of its assets pursuant to an auction process. No other prospective bidders submitted a qualified bid as determined by LRGHealthcare, leaving Concord Hospital as the sole qualified bidder emerging from the bankruptcy auction process. On December 24, 2020, the Bankruptcy Court issued a Sale Order, approving the proposed transaction with Concord, subject to a number of conditions.