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October 7, 2002

VIA FACSIMILE

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Wendi Horwitz, Esq.
Office of the Attorney General
300 South Spring Street, Suite 5000
Los Angeles, CA 90013

Re: *Lockyer vs. Tenet HealthSystem DFH, Inc., et al.*

Dear Wendi:

Tenet HealthSystem DFH, Inc. ("Tenet DFH") has now received two letters – one from Leslie Bennett of Consumer's Union ("CU") and Lark Galloway-Gilliam of Community Health Councils, Inc. ("CHC"), and the other from Julie Inouye of Save Our Marina Hospital ("SOMH") – requesting detailed information regarding the current operations of Daniel Freeman Marina Hospital ("Marina Hospital"), as well as projected capital expenditures and alternate future profitability scenarios. Because CU, CHC and SOMH are not parties to the captioned litigation, we thought it appropriate to address our response directly to you.

Tenet DFH's responses to the questions posed in the letters are set forth below. To the extent a complete response would intrude upon the jurisdiction of either the Marina Hospital Governing Board, or the regulatory agencies with authority over the hospital (e.g., the Department of Health Services ("DHS") or the Los Angeles County Emergency Medical Services ("EMS")), certain of the requested information will not be provided.

Tenet DFH is pleased that, after some significant effort on both sides, a meeting has now been scheduled for October 11, 2002 with CU, CHC, SOMH, and the other groups with which they are aligned. In providing the information herein, Tenet DFH seeks to facilitate constructive dialogue with those groups, and hopes that the information will be used by them to provide input to Tenet DFH as part of the ongoing reassessment process. However, Tenet DFH's responses expressly are not, and should not be viewed to constitute, an acknowledgement that any of these organizations has authority to perform the functions of DHS, EMS, Tenet DFH, Tenet

Wendi Horwitz, Esq.
October 7, 2002
Page 2

Healthcare Corporation, Inc. ("Tenet Healthcare") or the Marina Hospital Governing Board with respect to the current or future operations of the hospital.

1. Equipment and Structural Repairs

The financial status of the hospital for several years prior to its acquisition by Tenet DFH was so dire that much needed repairs and maintenance were literally ignored. Since acquiring Marina Hospital, Tenet DFH has made a number of significant repairs, including all necessary repairs to patient care equipment and ancillary testing equipment. By way of example only, Tenet DFH has replaced two telemetry towers, replaced the floor in the Intensive Care Unit and added security lights in the parking lot. Repairs to the air conditioning system in patient areas, including the Emergency Room and the Telemetry Units, are ongoing. Since purchasing Marina Hospital, Tenet DFH has spent approximately \$390,000 on repair and maintenance, and additional expenditures are anticipated.

2. Non-Emergency Admissions

It is not correct that "current hospital policy requires prior approval for any new admission and has resulted in the inability of some patients to be admitted." Immediately following the entry of the Preliminary Injunction, when the hospital was increasing and stabilizing its staffing in order to be able to admit non-emergency patients, administrative approval was required for new admissions. This process was implemented in order to assure that an elective admission was not taken unless the hospital had the resources to provide effective care to that patient. By the end of August, the hospital began accepting all elective admissions without administrative approval.

Marina Hospital does not have a written "admission policy." Regarding non-emergency admissions, the percentage of non-emergency admissions for September, 2002 is 25%. The number for August, 2002 is less -- 15% -- because there were a very limited number of non-emergency admissions from August 1 to August 13, 2002, and because the number of non-emergency admissions was limited until the end of August while the hospital restaffed in order to be able to accept non-emergency admissions.

3. Library/Laboratory

The library at Marina Hospital is run by a librarian who has traditionally split her time between Marina Hospital and Daniel Freeman Memorial Hospital ("Memorial Hospital"). The librarian, who will henceforth be spending two days a week at Marina Hospital, is available during business hours to locate and forward materials upon request. Since Tenet DFH's acquisition of the hospital, the library has provided internet access for physicians and staff twenty-four hours a day, seven days a week. As of October 1, 2002, the textbooks that were

Wendi Horwitz, Esq.
October 7, 2002
Page 3

formerly shelved at Marina Hospital, and that were moved to Memorial Hospital, have been returned to Marina Hospital.

Despite the significant difficulty Tenet DFH has had finding staff for the laboratory, the Marina Hospital laboratory has been fully staffed and operational since on or about September 1, 2002.

With the exception of Chemical Dependency and Psychiatric, all services that were closed prior to August 13, 2002 are now fully staffed and operational.

4. On-Call Panel

The hospital currently has on-call panels covering general surgery, orthopedics, medicine and cardiology. Those four were identified because they cover the overwhelming majority of cases that come into the hospital. Because the hospital's medical staff has recently requested that the hospital try to establish on-call panels in other areas (vascular surgery, ophthalmology, and plastics), Tenet DFH has assembled an on-call panel for plastics and is in the process of arranging on-call panels in the remaining areas as well.

5. Chemical Dependency/Psychiatric

The letters from CU, CHC and SOMH suggest that their authors understand the Preliminary Injunction to require reinstatement of the hospital's Chemical Dependency and Psychiatric units which were closed in June, 2002. We do not understand the Preliminary Injunction to require reinstatement of those units. While the Marina Hospital Governing Board will be discussing an analysis of these two units, there are no current plans to reopen them.

The Preliminary Injunction enjoins Tenet DFH and Tenet Healthcare "from closing Daniel Freeman Marina Hospital, closing the Emergency Room at Daniel Freeman Marina Hospital (i.e., 24-hour basic emergency room services), refusing to admit new non-emergency patients at Daniel Freeman Marina Hospital, and continuing the process of closing Daniel Freeman Marina Hospital" until certain conditions are met. One of those conditions is that Tenet DFH and Tenet Healthcare "have consulted the governing board of Daniel Freeman Marina Hospital prior to any further decision by Defendants to close that hospital or to eliminate or transfer any significant medical service, including but not limited to 24-hour basic emergency room services."

On its face, the Preliminary Injunction enjoins (1) closure of the hospital, (2) closure of the Emergency Room at the hospital, (3) refusal to admit new non-emergency patients, (4) continuing the process of closing the hospital, and (5) making any *further decision* (i.e., any decision after August 13, 2002) to close the hospital or to eliminate or transfer any significant medical service. It does not require reinstatement of the Psychiatric and Chemical Dependency units that were closed as of June, 2002.

Wendi Horwitz, Esq.
October 7, 2002
Page 4

To the extent the Preliminary Injunction enjoins Tenet DFH and Tenet Healthcare from refusing to admit new non-emergency patients, it raises the question of the level of staffing that needs to be available to admit non-emergency patients. In response to my questions in that regard, Judge Janavs stated explicitly that Marina Hospital would be required to staff at the minimum levels required by California law, and not beyond:

MS. LEWIS: Your Honor, I still have one question. I want to make sure that I understand with respect to the admission of nonemergency patients. Are you ordering that this hospital restaff to levels prior to the time it announced –

THE COURT: To whatever level is necessary to admit patients.

MS. LEWIS: In compliance with California law?

THE COURT: In compliance with California law. You don't have to comply with anyone else's law, but in compliance with California law. Of course I would not order anything that was not in compliance with the law.

MS. LEWIS: I say that, your honor, because California law prescribes minimum staffing levels and –

THE COURT: I will assume so, I would hope so.

MS. LEWIS: *And the hospital would be expected to be at those minimum levels and not beyond.*

THE COURT: *That's right.*

Reporter's Transcript of Proceedings, Tuesday, August 13, 2002, at 69-70 (emphasis supplied).

Because California law does not require an acute care hospital to operate either a psychiatric or a chemical dependency unit, and because the decision to eliminate and transfer those services was made and implemented months before August 13, 2002, the Preliminary Injunction does not require that those services operate at Marina Hospital. Those services have been transferred to Brotman Hospital and are fully available there.

6. Staff Bulletins

The medical staff and hospital employees were advised of the Preliminary Injunction in writing immediately after its issuance, and have been kept apprised both orally and in writing since that time of the status of the hospital's various services. The hospital administration communicates on a daily basis with medical staff and employees on these issues. They are also addressed at the weekly employee forums.

Wendi Horwitz, Esq.
October 7, 2002
Page 5

Attached hereto as Exhibit A are the memoranda that have been sent to the medical staff and employees.

7. Insurance Contracts

At the time Tenet DFH acquired both Marina Hospital and Memorial Hospital, it did not assume any of its predecessor's payor agreements, instead electing to negotiate new agreements with payors. While some of those contract negotiations have concluded, many are now ongoing between Tenet DFH and the individual payors, including Blue Shield.

8. Medical Staff Meetings

Now that the hospital's staffing levels have been stabilized, formal medical staff meetings have been restarted, and will proceed in accordance with the pre-closure announcement schedule (i.e., monthly). Informal communications between the hospital administration and the medical staff take place on literally a daily basis.

a. Staffing Ratios

Since the May 29, 2002 closure announcement, the Department of Health Services has four times sent investigators to Marina Hospital. On each of those visits, which are unannounced, the hospital's staffing ratios have been at appropriate levels.

9. Capital Improvement Budget

The hospital's Governing Board will be presented with detailed financial information regarding various options for the future of Marina Hospital, including options that involve bringing the facility into compliance with seismic, fire life safety, ADA and other requirements, as well as more significant capital expenditures. If the hospital were to be replaced in its entirety, the cost to do so (based on an OSHPD estimate of \$1 million per bed) would be between \$150 and \$200 million.

10. Pro Forma Profit and Loss Statements

As a public company, Tenet reports on a company-wide basis, and does not break out numbers either by Region or by hospital. Nonetheless, the Marina Hospital Governing Board, in its advisory capacity, will be presented with pro forma profit and loss analyses for each of the various options being considered for the future of the hospital. Alternate scenarios will be analyzed and presented to the Board for its input.

GIBSON, DUNN & CRUTCHER LLP

Wendi Horwitz, Esq.

October 7, 2002

Page 6

Please give me a call once you have had a chance to review the foregoing. I look forward to speaking with you at that time.

Very truly yours,



Marjorie Ehrich Lewis

cc (by facsimile):

Lark Galloway Gilliam, Community Health Councils

Leslie Bennett, Consumers Union

Patrick Burns (c/o Carla Zombro), West Los Angeles Metropolitan Alliance

Susan Berke Fogel and Maura Kealey, SEIU

Julie Inouye, Save Our Marina Hospital

Jim Moore, Villa Marina Council

Lourdes Rivera, National Health Law Program


Bethany Leal, California Women's Law Center

John Murdock, Esq.

Exhibit A



MEMORANDUM

Date: August 13, 2002
To: Daniel Freeman Marina Hospital
Medical Staff, Employees, Volunteers
From: Harris F. Koenig 
Subject: Marina Court Decision

Today, the Los Angeles County Superior Court granted the California Attorney General the preliminary injunction to keep Daniel Freeman Marina Hospital and its emergency room open until we have established compliance with the conditions issued by the Attorney General in conjunction with the purchase of the hospital.

While we feel that we have fully and in good faith satisfied all of these conditions, the judge expressed additional concerns that we intend to address as soon as possible.

We understand that this will impose additional demands on you. I want to thank each of you for the ongoing professionalism and commitment to quality care that you have demonstrated. But we will have to ask you for a little more hard work. Your contribution at this time is essential to meet the needs of our patients.

Thank you for your continued support during this transitional period. We will continue to keep you informed as we move forward.

Additional Distribution:
Daniel Freeman Memorial Hospital Medical Staff, Employees and Volunteers

Daniel Freeman

Marina Hospital

Tenet Health System

4650 Lincoln Blvd.
Marina Del Rey, CA 90292
(310) 823-8911

September 12, 2002

Dear Medical Staff Members:

Daniel Freeman Marina Hospital stopped taking elective admissions on July 3, 2002, in keeping with the decision to close the hospital that was announced on May 29, 2002. As you may be aware, the Los Angeles Superior Court has ordered that the hospital remain open, pending further assessment of its operation and the community's health care needs.

Since the court issued its order on August 13, 2002, we have been accepting elective admissions and performing outpatient procedures. I would like to provide you with additional information and further clarification as it relates to service availability at Marina Hospital.

- Elective surgeries will be performed Monday through Friday, 7:30 a.m. to 3:00 p.m. Surgeries may be scheduled through the Surgery Scheduling Office. Emergency surgeries may be performed twenty-four hours, seven days a week.
- G.I. Lab procedures will be performed Monday through Friday, 8:30 a.m. to 4:00 p.m. Patients may be scheduled through the Surgery Scheduling Office.
- Radiology will provide out-patient procedures in the following schedule:

| | |
|-------------------------------|-----------------------------------------------------------|
| Chest X-rays and Ultrasounds: | Monday through Friday, 8:00 a.m. to 3:00 p.m. |
| Mammograms: | Thursdays, 8:00 a.m. to 3:00 p.m. |
| Stereotactic Breast Biopsies: | Wednesdays, 8:00 a.m. to 3:00 p.m. |
| Nuclear Medicine: | Monday through Friday, times scheduled through department |
- Clinical Laboratory will provide outpatient testing Monday through Friday, 8:00 a.m. to 2:00 p.m. **Clinical Lab can only accept specimens that are collected/drawn at Marina Hospital. Pathology specimens will be accepted after prior consultation with Pathologists.**
- Cardiopulmonary Lab will provide outpatient testing Monday through Friday, 8:00 a.m. to 4:00 p.m.

Through this process we have and will continue to keep you informed regarding service availability at Daniel Freeman Marina Hospital. As changes are anticipated we will notify you. If you have any concerns, questions or comments, please contact either Phyllis Bushart or me.

Sincerely,



Harris F. Koenig
Chief Executive Officer

HFK/cl