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September 4, 2013

VIA ELECTRONIC MAIL AND U.S. MAIL

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Dear Mr. Collier:

Please be advised that together with counsel at Middleton Reutlinger and Tachau Meek PLC, we represent Norton Healthcare, Inc. ("Norton") in connection with matters raised in your August 27, 2013 letter to Norton. This letter responds to your letter of August 27, 2013, which purports to constitute a notice of default and demand for cure of certain agreements. This letter also responds to Mr. Dunn's September 2, 2013 letter to Stephen Williams, which based on its legal tone, appears to have been written by counsel.

Your letter threatens that unless certain alleged defaults under the December 8, 1981 Lease between the Commonwealth of Kentucky and NKC, Inc., a predecessor to Norton Healthcare ("Norton") are cured within 30 days, the Lease may "be forthwith terminated" and Norton required to "surrender" to University of Louisville ("U of L") "ownership and possession" of Kosair Children's Hospital, including all improvements. Your threatened action, which has no legal basis, would have catastrophic consequences to the health and care of thousands of children at Kosair Children's Hospital.

Your purported notice is fatally defective for many reasons, including that the U of L is not a party to the Lease, and has no legal standing to enforce the Lease, and there is no default under the Lease in any event. Significantly, the Lessor under this Lease, the Commonwealth of Kentucky, has not claimed any defaults under the Lease, nor has it threatened to terminate the Lease. The Commonwealth should not take such action, both because there is no valid basis for it and because it would jeopardize the health and safety of thousands of children.

Although your letter claims three defaults under the Lease, it identifies no Lease provisions that have been violated. First, your letter complains of a breach of a "covenant to operate Kosair Children's Hospital for the programs and use of U of L's School of Medicine by unilaterally restricting U of L from providing pediatric care, teaching and research at the hospital by physicians in the pediatric specialties of anesthesiology, radiology and neurosurgery." There is no covenant in the Lease that imposes such an obligation and your letter identifies none. Instead, a recital in the Lease provides that the hospital will "serve the interests of and will be to the benefit of the Lessor" – that is, the Commonwealth of Kentucky – "by the availability of said new pediatric facility for the programs and use of the University of Louisville's School of Medicine." The hospital is plainly "available" for the programs and use of U of L, as evidenced by the scores of U of L doctors who practice at the hospital regularly. There is no provision in

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the Lease or any other agreement that gives U of L a monopoly over the provision of services at Norton's facility and U of L has acknowledged that fact.

Nonetheless, although it has no legal obligation to do so, Norton is agreeable to U of L School of Medicine adding additional physicians to offer qualified pediatric care, teaching and/or research at Kosair Children's Hospital in these three specialties, as more fully described later in this letter.

Second, your letter claims that Norton has refused to meet certain funding obligations. Again, the Lease provides for no funding obligations and your letter identifies none. In fact, there are no amounts due under any of the parties' written agreements. Norton has paid over \$135 million to U of L for pediatrics over the last decade and has always met its funding obligations. It will continue to do so. If you have documentation demonstrating that Norton is not current in all of its obligations, Norton will promptly remedy that situation. Otherwise, your suggestion that any disagreement about additional funding obligations can constitute a default under the Lease is without any textual, legal or factual support.

Third, your letter suggests that Norton's intention to enter into an agreement with University of Kentucky ("UK") to improve the scope and quality of care for children throughout the Commonwealth somehow constitutes a breach of the Lease. You contend that this agreement would delegate certain authority to UK and thereby injure U of L's activities at Kosair Children's Hospital ("KCH"). There is no provision in the Lease that precludes Norton from providing support for the care of children at hospitals other than at Kosair Children's Hospital, and nothing in the Lease that precludes other qualified physicians from caring for children at KCH. Indeed, that has been the practice of the parties for many years.

The proposed affiliation with UK benefits both the children of the Commonwealth and U of L. As but one example, UK recently underwent changes in their pediatric cardiovascular surgery program. Some of those patients are currently being sent to KCH to be treated by U of L faculty. With the potential relationship in place, UK has expressed interest in a collaborative programs with some surgeries likely performed by U of L doctors in Louisville. These types of collaborative programs may very well be repeated across other disciplines over time. Instead of the partnership lessening U of L's involvement in KCH, the opposite may in fact be the case. The resulting increased patient flow in turn will enhance recruiting of leading specialists, provide more teaching opportunities and potential patient services for U of L – and most importantly, better care for the children of the Commonwealth.

Even though the proposed partnership benefits all concerned and does not in any way implicate the Lease, Norton is willing to enter into contractual commitments, as part of a global resolution of issues, to reassure U of L that Norton has no intention of delegating control of KCH to UK, as suggested in your letter. That delegation is neither contemplated by the current letter of intent nor by the parties to it.

Finally, we also note that your letter raises concerns about U of L's ability to participate in board meetings. Since U of L raised this issue several years ago, U of L has consistently been invited to participate in meetings. Norton has continued to provide this access, consistent with

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legal restrictions regarding unfair competition, even though U of L has entered into a Joint Operating Agreement with the statewide affiliate of Catholic Health Initiatives (“CHI”) and receives a portion of the net income from that entity, and is now in a position to share proprietary and confidential information with that entity.

In fact, Norton expressly invited representatives from U of L to attend meetings in a letter of February 15, 2011. However, I am informed that after attending two initial meetings in 2011, Dean Edward Halperin, MD stopped attending meetings, despite Norton’s repeated invitations, and the U of L Board of Trustees’ appointee, Robert Hughes, MD only attended one board meeting in 2011 and subsequently did not respond to repeated invitations to attend. In U of L’s letter of March 27, 2013, it indicated that it would appoint a new representative to replace Dr. Hughes as a representative, but apparently has not done so. I have also been informed that Dean Toni Ganzel, MD has recently begun attending meetings, following her permanent appointment, and Norton hopes that she will continue to do so. In short, there is no basis for the allegation that U of L’s representatives have not been permitted to attend board meetings, and no basis for any allegations of breach of the Lease.

Please understand that this letter does not attempt to address actionable conduct committed by U of L, which includes but is not limited to breaches of contract, breaches of duties of good faith and fair dealing, disparagement, and tortious interference with business expectations. Among other things, U of L has reneged on its stated intentions in connection with the September 2012 term sheet, in which it agreed to designate Norton as its “exclusive pediatric academic affiliate,” by purporting to give CHI a right to a similar academic affiliation agreement. However, after making its deal with CHI, U of L demanded a “radical change” in the nature of the hospital’s relationship, with U of L taking control of Norton’s assets.

More fundamentally, it is apparent that U of L is attempting to take away ownership of the KCH facility and improvements, which Norton owns and has built at an expense of over \$500 million and which Norton continues to improve at the cost of tens of millions of dollars annually. In doing so, U of L has engaged in a course of conduct that will fundamentally injure the ability to provide the highest quality care for all children in the Commonwealth. KCH’s recognized excellence rests on a long-established partnership between Norton, the region’s strongest, private, non-profit, healthcare system, which owns the hospital, and U of L with whom the hospital has a critical academic affiliation. KCH’s foundation rests on public land on which Norton, which donated the fair market value of the land to U of L Foundation, has invested hundreds of millions of dollars. Norton makes available at KCH thousands of highly-skilled healthcare providers who work in partnership with private physicians, Norton physicians and academic physicians from U of L, as well as in partnership with hundreds of pediatricians all across the state to provide extraordinary care for children. These stakeholders from all across the state – including Kosair Charities, of course – contribute to the success of KCH. U of L’s unjustified attempt to take away Norton’s ownership of this important facility disservices these interests and constitutes actionable misconduct.

We do not address more fully issues related to U of L’s conduct in this letter because it is Norton’s preference to avoid litigation and remain focused on the important mission of providing the very best possible pediatric care to all children in Kentucky, so that they no longer need to

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travel to pediatric medical centers outside of Kentucky for their care. To permit the parties to focus on constructive solutions to the challenges of providing necessary pediatric care, Norton has made certain offers in this letter. Among them are assurances that U of L may provide services in the areas identified in your letter, assurances that authority will not be delegated to UK in the areas you identify, assurances that any monies that are owed (and we know of none) will be paid promptly, and assurances that U of L's representatives have been and will continue to be welcome at board meetings. With respect to the first of these assurances, please note that most of the physicians currently practicing at the hospital in the three specific areas you reference are currently U of L "gratis" faculty members participating in teaching and research activities, and/or are willing to do so. If U of L is interested in these physicians assuming more of an active part-time teaching role, Norton is happy to work with them to accommodate that interest. Moreover, if U of L desires to recruit qualified physicians in these areas to its full time faculty to supplement the physicians currently practicing at Kosair Children's Hospital, Norton will work with the University to that end within reasonable parameters necessary to maintain their viable medical practice and call coverage.

In light of the foregoing, we must insist that you immediately withdraw your purported notice of default and join us in a constructive dialogue to address the mutual concerns of U of L and Norton in a manner that serves the best interests of all children in the Commonwealth. U of L's offer merely to "suspend" that notice is not acceptable. U of L's threat of an attempted eviction of Norton from its hospital and the catastrophic consequences that this attempt at eviction would cause are so grave, that your notice – unless withdrawn – makes it impossible to have a constructive dialogue on a level playing field and requires Norton to focus exclusively on how, in the face of that threat, to best secure needed medical care for the thousands of children who depend upon that care.

We genuinely hope that you will promptly withdraw your pending notice and join us in a constructive dialogue to resolve all open issues.

Sincerely,



David J. Bradford

DJB:fms

cc: Mr. Robert Azar
Mr. Thomas E. Powell
Dennis D. Murrell, Esq.
Thomas W. Ice, Jr., Esq.
David Tachau, Esq.
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