

Initial Analysis Of Academic Affiliation Agreement Between The Commonwealth Of Kentucky, The University Of Louisville, University Medical Center Inc., And KentuckyOne Health Inc.;

November 2012

Draft Note:

The following 13 pages represent transcribed comments as I read through this Academic Affiliation Agreement for the first time. I spoke into a voice recognition program. You will forgive me if this document is not highly polished or contains typographical errors. I prepared it to assist me in understanding the structure of the new partnership, and to allow me to compare this iteration with the merger documents prepared in 2011. I reserve the right to add to it and otherwise polish it up. For each section of the document referenced, I offer commentary either in brackets, or in the following "Comment." I hope that will allow you to follow my thinking or identify my concern.

I present this document on the KHPI website in the event it may help others to navigate some of these confusing issues, and in the hopes that someone else will help me understand them better. I have not yet read the Lease Agreements that were also provided by the University. Perhaps they will also help clarify the meaning and significance of the documents. Let me know what you think too.

Because these documents were incomplete I cannot claim to have interpreted them perfectly. I would be happy to receive the complete legal documents. What I have written in these initial working analyses is purely my opinion based on my best efforts to understand a process that has been conducted in virtual total darkness. No one would like to have the correct facts in the open than I. Please help me clarify things for a public who I think deserves transparency and accountability.

Peter Hasselbacher, MD

Interim thoughts on first reading.

The reader of the following will gather that I was terribly disappointed when I read this Affiliation Agreement and the accompanying Joint Operating Agreement. The documents were presented in an incomplete form without the attachments that are a legal part of these agreements, and which are necessary to understand their significance and impact on the community. It is my opinion that these documents, released with great fanfare by University executives, do not allow the independent observer to verify the claims made in the glowing promotional material released at Wednesday's press conference and touted across multiple media venues. The amounts of money promised are only potential amounts. The amount of funding guaranteed is indeterminable and is under the control of KentuckyOne, yet much has been given up by the University in exchange.

The academic affiliation agreement is virtually silent on the extent to which medical practice at the former University Hospital, the offices of its faculty, and its private and teaching clinics will be affected by religious restrictions on healthcare. I can understand why the parties might wish to keep these issues under a rock. Yet this is the environment in which our medical students, residents, clinical faculty, and yes, our patients will interact in a time-honored trusting relationship that is more sacred to me than whether or not contraception is available or whether I place someone else's church in a position of scandal.

The University of Louisville and its School of Medicine have turned over the heart of their academic enterprise to an outside commercial non-academic corporation. In my opinion it has traded away its academic, clinical, financial, administrative, and even some of its research independence for a bag of coins. The reader may conclude I am being overdramatic. I am willing to concede that. This old academic dinosaur's heart is broken.

Line by line analysis.

Unlike the Joint Operating Agreement which was between UMC and KentuckyOne only, the affiliation agreement adds two additional parties: the University of Louisville (URL) and the Commonwealth of Kentucky.

The document replaces an "Original Affiliation Agreement" between the Commonwealth, the University, and UMC dated February 6, 1996. This new document amends and restates the Original Agreement in its entirety.

It is once again made clear that KentuckyOne will operate the University of Louisville Hospital and Cancer Center in all respects other than the neonatal intensive care unit (and ICU) obstetrics service, male or female reproductive services, and any other unspecified services that KentuckyOne, UMC, and the University feel should be excluded as "Maintained Procedures." [Maintained Procedures is a new euphemism for the former Prohibited Procedures.] Those portions of UofL hospital and its cancer center that are not in the "separate and distinct" unit set aside for Maintained Procedures will be referred to as "University Facilities." The remainder of the document is an agreement in connection with operation and management of University Facilities by KentuckyOne.

Page 2, Item 1.3. Scope and Purposes.

One of the purposes is to create an environment in which a full-time faculty will work collaboratively with community physicians who are not full-time faculty.

Comment. It has always been possible for part-time, or "gratis" faculty to have staff privileges at University Hospital. Very few have ever used the privilege. It would be a very good thing if part-time faculty began to use University Hospital. In fact, it would be a good thing if full-time faculty used University Hospital for their patients! What is

important here is that the parties have addressed the issue of what it means to be a faculty member in a teaching hospital. Agencies that accredit schools of medicine and training programs within those schools and teaching hospitals have rather rigorous definitions and roles assigned to these terms. The parties will need to work carefully to implement this apparent shift in emphasis.

Later in the documents, "faculty" is defined as all part-time and full-time clinical physicians who hold an academic appointment in the school of medicine, other than gratis faculty. This latter category of faculty is defined as individuals who hold non-tenured uncompensated appointments in the School of Medicine. We will see that there is going to be a fundamental change in the nature of the medical staffs of University and Jewish Hospitals

Three pages of Definitions.

Page 2. Academic Support Agreement.

These agreements, and the support payments that go with them are very broad and include any professional service or academic support agreement with any institution, clinical faculty, clinical practice plans, anywhere in the state including without limitation "any clinical service agreement, employment agreement, medical director agreement, resident and fellow training agreement, or department support agreement," and so forth. I find myself asking if this includes money given to the school by drug companies or medical device manufacturers. This question cannot be answered because the critical defining list, Exhibit A, is not provided in this short version of the affiliation agreement.

Comment. It appears that this definition includes virtually any outside agreement that brings money into the University or its faculty practices! I am eager to see what is to be made of this definition. We are talking mega millions here. This is important, because this money may now flow to KentuckyOne, and remains a source of money for the University to transfer to its own coffers outside the Partnership.

Page 3 and 6. "University Facilities."

I found myself confused by this definition. It refers specifically to those portions of the former University Hospital and Cancer Center other than those distinct units set aside for "Maintained (prohibited) Procedures". KentuckyOne facilities includes all healthcare facilities owned or controlled by KentuckyOne except University Facilities. Jewish Hospital" refers to the former or ?existing Jewish Hospital and St. Mary's Healthcare, a Kentucky not-for-profit corporation. [I am confused because a constellation of some but not all clinical activities will be placed on top of this still apparently disparate collection of related and unrelated corporations.

On the other hand, KentuckyOne medical staff "shall mean individually and collectively the medical staffs at each of the KentuckyOne facilities." [An effort is being made to merge the medical staffs.]

Page 5. "Principal Adult Teaching Hospital."

This is defined as the hospital most commonly used by the University's School of Medicine for all approved residency and fellowship programs other than pediatric programs. [I was very interested to see how this definition would be used in the affiliation agreement. Will the former University Hospital remain the principal adult teaching hospital, or will that title be shared with the former Jewish Hospital? In fact, on page 6 we are told that the traditional University Facilities will serve as the University's principal adult teaching hospital. Those units that are doing the prohibited procedures are left out of this definition, including obstetrics and the NICU.]

Comment. This gaping hole created by arbitrary definitions forced by adherence to the Ethical and Religious Directives of the Catholic Church confirms the fallacy of thinking that medical care can be divided neatly into discrete compartments or special rooms. It cannot. When you assume responsibility for an individual's care, you take them as they are. You serve their needs in the best way your resources allow. You do not limit their care according to the principles of somebody else's religion. Is it really that complicated?

Page 5. "Proprietary And Confidential Information."

In this definition, all operating manuals, policies, procedures, administrative, advertising and marketing material are considered to be proprietary and confidential and therefore not available to the public.

Comment. It appears to me the hospitals are preemptively seeking to keep secret the details of how they plan to implement their vaguely described agreements. For example, if I wish to see the guidelines for how ectopic pregnancies were to be managed in the emergency room, would the hospital provide it, or claim that it is proprietary? Frankly, a claim that any exposition of best medical practice is secret would be outrageous and a violation of academic and clinical trust on the part of the officers of the School of Medicine. A doctor never keeps secret what he does to a patient. Never! Ever! A patient going into a medical facility has a right to know what may happen to them or not happen to them beforehand. And yet in the previous iteration of this partnership agreement, those specific documents were not made public. I would hope for better this time.

Page 6. "Research."

Research is the activity of School Of Medicine faculty and other clinical researchers aligned with KentuckyOne working with University Facilities for those who are otherwise supported by KentuckyOne. [Does this mean KentuckyOne is also entering the research or the commercial research enterprise? I have often expressed my concern about the way commercial research distorts clinical and academic activities. The parties need to tread cautiously here and the public has every right to know what is planned. The conflicts of interests can become immense. Full transparency and accountability is paramount, qualities I would like to see more of.]

Page 6 Item 3. Operation of Facilities.

KentuckyOne will operate and manage the University Facilities. As outlined in the joint operating agreement, this management is absolute. The University or community are not part of the process.

A "Physician Leadership Council" (PLC) will include faculty that have been invited by KentuckyOne's chief executive officer and which will be permitted to have input on policies and strategic direction. [This method of Council formation can permit a very compliant group to be formed.]

Page 7. Clinical Training Programs.

KentuckyOne promises not to interfere with any training programs or rotations located within the University facilities without the prior written consent of the University, however they can move or relocate from the programs within the Louisville Metro area at KentuckyOne's own discretion. Furthermore, the University agrees not to eliminate or relocate any existing training program within its facilities without prior written consent of KentuckyOne.

Comment. This is an outrageous abandonment of the University of Louisville's responsibility to its students and trainees. I also believe it to be a dereliction of its responsibility to its traditional patients. Under these guidelines, moneymaking services could be transferred to the former Jewish Hospital and money-losing ones transferred to the former University Hospital. That would be a recipe for further isolation of University Hospital from the mainstream of medicine, and perpetuate University Hospital's status as a hospital of last resort only for those who have little or no choice. Does this community really want to have one of its hospitals set aside for the disadvantaged or for those they don't want to have in the room next to theirs? If so, say it out loud. If not these documents must tell us why that will not happen. In my opinion, they don't.

Page 7, continued.

Some qualification and dispute resolution processes are referred to in cases in which policies, the existence of, or relocation of programs would jeopardize academic accreditation. [This section as a whole gives every indication that KentuckyOne has plans to shift programs and residency slots around its institutions. Hospitals like residency slots because they bring in lots of government money and because the residents are cheap labor to do much of the work for the doctors. These are, of course not the best reasons for wanting to be a teaching hospital but they are reasons often used to convince hospitals to become teaching hospitals.]

Page 7, item c. Other academic matters.

Notwithstanding the above giving KentuckyOne the ability to relocate clinical programs, it is said that all matters affecting teaching, training, research, and clinical programs are reserved solely to the University. Residents are designated as employees of the University of Louisville. University is allowed to set criteria for awarding all academic appointments including gratis appointments. And in a troubling last sentence, "University shall require its faculty, residents, fellows, and students to abide by all of the University Facilities policies and procedures while conducting activities on the University Facilities premises or otherwise within its programs."

Comment. On the face of it, item C seems to give all important academic prerogatives to the University, but by retaining control of where clinical programs will be located, KentuckyOne retains for itself one of the most important levers of control. I find it very troubling that the University has agreed to require its faculty, residents, fellows and students to abide by KentuckyOne's policies and procedures while within the University facilities or programs. University of Louisville is agreeing to enforce KentuckyOne's medical-religious doctrine within its facilities. I can't believe it. I am ashamed, but no longer surprised at what my former medical school is willing to concede. In my opinion, one can any longer claim that the University's quest for commercial research success has not warped its traditional academic values.

Page 7. Item 5.2. Academic Integration With KentuckyOne Facilities.

The University has agreed to use its best efforts to expand its teaching research and clinical involvement with each of the KentuckyOne facilities. KentuckyOne reserves the right to evaluate where it might expand its direct presence of university teaching programs in Metro area and elsewhere in the state. KentuckyOne promises to meet accreditation requirements.

Comment. The University of Louisville has delegated it's academic future and planning to KentuckyOne. I am concerned that the University's traditional academic activities and responsibilities may be subsumed to the economic requirements of a non-academic commercial hospital chain. The academic dinosaur in me would be uncomfortable seeing medical education and research used as a marketing tool.

Page 8. Item 5.4.

The parties agree to enhance distinctive programs offered at the University Facilities and KentuckyOne facilities and to market them, but it is not specified were the services will be located.

The parties agree that designation by the National Cancer Institute for one of its programs will be a priority within the university facilities, but also in other KentuckyOne hospitals. [If the University of Louisville has been unable to secure its desired designation, how could these other nonacademic hospitals be eligible? Nevertheless, such designation is an important marketing tool in my opinion and that of others.]

Page 8 item 5.5. Academic support and lease payments.

Item A. KentuckyOne promises to pay, or to cause UMC to pay \$75 million per year for academic support adjusted for changes in the "net Medicare inpatient base rate" whatever that is. What is obvious is that the \$75 million is not carved in stone.

KentuckyOne also agrees to fund the cost of 290 full-time resident positions to be shuffled around the hospital complex in a matter that is thought best depending on clinical volume and other things. [In such apportionments, hospital systems will regularly look at their Medicare and Medicaid volumes, and their resident-to-bed ratios, and make decisions at least in part depending on how Medicare payment bonuses will be affected.] It appears to me that the payments for residents is included in the \$75 million.

The \$75 million also includes all current support agreements in existence with UMC except those related to the prohibited procedures. [Presumably the income from those existing academic support agreements will now flow to and through KentuckyOne. Otherwise the University would be double dipping.] The \$75 million also includes existing KentuckyOne payments to the University for cardiovascular, transplant, and physical medicine which will now be shifted over to this single KentuckyOne academic support agreement. [It is obvious that the \$75 million is not all new money!]

I confess I am still confused about sources and amounts of payments that will continue to be made to UMC separately, or whether they will now flow through KentuckyOne. Of course because there is no exhibit or list of existing academic support agreements, we have no idea how much of this is new money. These are amounts that the University as always refused to make public as it continued to make claims of financial distress. Obviously they have gotten this far, including past the Governor, without having to do so. Too bad for us.

Page 9 item D. No guarantee of full payment by KentuckyOne. Beginning in the fifth year after the Integration date of March 1, 2013, and every five years thereafter, the amount of the Academic Support Payment will be reviewed by KentuckyOne and the University to determine sustainability. Dispute resolution processes are in place. It is said that in "no event during years six through 20 of the term will be academic support payment either exceed \$95 million or be less than \$55 million. [These limitations were not mentioned in the promotional material at the recent press conference.]

Page 9. Item E. Other Pre-Existing Academic Support Agreements.

The University promises that when any other existing academic support agreement comes up for renewal, will be offered to KentuckyOne. The University is promising to offer all such agreements on behalf of itself, it's School of Medicine, it's clinical faculty, and its clinical practice plans.

Comment. The gloves are coming off here, both within the University and in our community. The University faculty has long resisted allowing the University to have control over its private and teaching clinical activities. The new faculty practice organization, University of Louisville Physicians, (ULP) introduces a new dynamic. I would be interested in what my former clinical colleagues think about this new arrangement that appears to place them under the umbrella of control and accountability to KentuckyOne?

A Second Pediatric Hospital in Louisville?

In a stunning revelation of future plans of the partners, the current Pediatric Academic Affiliation between the University and Norton Healthcare will also be offered to KentuckyOne five years from now.

I have seen this coming, but now it's out in the open. University of Louisville and KentuckyOne are obviously contemplating their own new pediatric hospital and services.

This is the last thing Louisville needs and one of the most destructive aspects of this new partnership.

Page 10 item F. Conditions For Academic Support Agreement.

Support money from KentuckyOne is linked to unspecified clinical measures, "standard" and customary non-compete provisions, and restrictive covenants; and requiring all faculty to participate in all of KentuckyOne's payor contracts and payor networks."

Comment. The University of Louisville is turning over control of its faculty practices to KentuckyOne. I bet my colleagues are loving it!

Page 10, Item G. Payment of the Lease.

KentuckyOne will pay or cause UMC to pay necessary lease payments to the University, "6.5 million per year of which amount 5 million is paid by the University to the Commonwealth for QCCT funding.

Comment. Despite the University's attempt to conceal its operations from public view, little bits and pieces sneak out in contracts like this. Why in the world would the University pay the Commonwealth \$5 million a year just so the Commonwealth will return a larger amount in its funding for the QCCT indigent care program. What has been happening to the \$1.5 million difference that the University does not pay to the Commonwealth?

We all saw the great fuss some in our state legislature made when Mayor Fisher and the Metro Council eliminated the accounting gimmicks that gave the superficial appearance city government was decreasing its payment this year to the QCCT fund. Now it is very clear that the state was playing its own shell game. The historical explanation for these patently bizarre financial manipulations is that the Commonwealth can accept money from local government units intended for healthcare and submit those funds to the federal government for Medicaid matching. This is the reasoning behind such things as provider taxes. For such a purpose, would not the University and UMC have to be considered a unit of state government? What happened to the appropriateness or legality of this intergovernmental transfer process when UMC declared itself a private entity? Indeed, what assurances has the community been given that the QCCT funds will continue to flow now that University has given away control of its hospital to another private corporation? This is too complicated for me to understand, but it is important for a full explanation to be given of how these public funds are used by these private corporations.

Page 10 item 5.6 and 5.7

KentuckyOne and the University will use their best efforts to develop new academic clinical and research programs at all KentuckyOne facilities. KentuckyOne further promises to support a number of clinical service lines within Jefferson County necessary for the School of Medicine to maintain accreditations. These include gynecology and women's health but not obstetrics. There is no promise these services will be maintained at the former University Hospital. KentuckyOne agrees that if it fails to provide material

financial support for these programs necessary for accreditation, the University can move the programs to other hospitals.

Page 10 and 11. Restrictive covenants.

Item a. The University has the right of first refusal for any academic affiliation agreement entered into by KentuckyOne in the Commonwealth with the exception of three counties. KentuckyOne retains the right to merge with or acquire other entities facilities or businesses with existing academic affiliation agreements.

Item b. KentuckyOne agrees not to become the principal adult teaching hospital for any school of medicine for six months following the expiration of this agreement.

Item c. the University agrees that during the term of the contract and for six months after its expiration not to enter into any other management agreement for the operation of the hospital and cancer center with any competitor of KentuckyOne. Strangely, the University is not permitted to enter any management agreements with a competitor for KentuckyOne even for the prohibited procedures at the hospital! [Have I read this wrong? Does KentuckyOne Health want to have a say in the prohibited procedures even after its partnership agreement with UMC is terminated?]

Item d. During the term and for six months after expiration, the University will not change the designation of principal adult teaching hospital for its university facilities and will not compete with any KentuckyOne facility.

Comment. The consequences of these restrictions on trade are such that should this agreement terminate, it would be a financial disaster for University Hospital, and indeed for the Commonwealth. Do-not-compete clauses are common for doctors who can pick up and practice elsewhere for a year or in some other capacity, but the former University Hospital and the University of Louisville and its faculty are planted in the ground. In the first iteration, there were grave concerns about the cost of unwinding the deal. Seems to me those concerns should be alive and well.

Item 5.9.

The University shall cause all faculty to participate in all of KentuckyOne's payor contracts and peer networks." [I never thought I would see the day when the University of Louisville could command such clinical obedience from its faculty. Why did it not do so for so many years when its own hospital was crying out for faculty support? Does this require that faculty physicians must now "respect" the medical practice guidelines of the Catholic Church? Is there a conscience clause to allow those who are uncomfortable in this situation to opt out without losing their jobs?]

Page 11, item 6. Medical and Dental Staff.

The University will not unreasonably withhold gratis faculty appointments to any member of KentuckyOne medical staff and *will not grant gratis faculty appointments to anyone other than members of KentuckyOne medical staff.* [I can't believe I'm reading this! Did anyone else read it before approving this agreement?]

Item 6.2. Recruitment of Providers.

"University of Louisville Physicians (ULP) an affiliate of the University, will have the right of first refusal to employ any full-time faculty positions whose primary and majority place of clinical practice will be at the University Facilities." If ULP does not hire such a provider, then KentuckyOne or its affiliates will have that right. The parties agree not to actively recruit employees of the other party. An effort will be made to keep physician employees within either KentuckyOne or the University or their affiliates. [A closed shop with no poaching.]

Page 12, Item 6.3. Medical Staff Matters.

Item a.

"All physicians holding privileges at the University Facilities or the KentuckyOne Facilities will have comparable access to all University facilities and KentuckyOne facilities... Regardless of whether they have faculty appointments.

Comment. For all practical purposes, why is this not a unified medical staff?

Item b.

The parties will work so that both academic and nonacademic physicians will be able to practice at University facilities. Nonacademic physicians will have the opportunity to serve as attending engaged in student and residency education through application for membership on the gratis faculty." [Will residents and fellows in training be required to provide medical care to staff members who are not faculty attendings? Is the difference between academic and nonacademic staff members disappearing in the University Facilities?]

Item 6.5

Physicians from the University of Louisville will be the exclusive provider of services for pathology, anesthesiology, radiology, and level I trauma services. [Closed shops and protection for the hospital-based departments. It appears they will not be permitted to practice at Jewish Hospital.]

Page 13 item 7. Patient Policies.

"All patients admitted to the University facility shall be considered medical teaching patients, unless the patient affirmatively states his/her unwillingness to become a teaching patient."

Comment. Here we have it again for all to see. "Teaching patients" are shuttled off to the University Facility. Privileged patients with other choices are not considered to be fair game for medical education activities. I ask here of the parties of this agreement to answer the question, "why are not all patients admitted to the former Jewish Hospital also considered to be teaching patients?" I would love to hear your answer.

Page 13, Item 8. Clinically Integrated Organization.

The University shall cause all faculty to participate in KentuckyOne's Clinically Integrated Organization: "a provider organization with well-defined structures around clinical management based on information sharing, rewards and penalties for jointly developed goals, joint contracting for facilities and physicians, and physician governments to support hospital physician to decision-making.

Comment. This Organization may be well-defined, but it is a mystery to anyone reading this Academic Affiliation Agreement and no additional details are provided. The University is agreeing to cause all faculty to participate. Presumably women's care, obstetrics, reproductive care, and end-of-life care would not be included in these best practices. It also sounds like this arrangement allows physicians to become partners in facilities and programs. The public should be nervous when doctors own their hospitals, laboratories, and facilities. Since this clause is very mysterious, I can't say much about it, but I hope the University faculty is pleased with it.

Page 13 Item 9. Research.

All grants will be submitted through the University of Louisville.

In consultation with the Physicians Leadership Council and with Catholic Health Initiatives Institute for Research and Innovation, KentuckyOne will budget \$3 million annually for research or infrastructure support throughout the University Facilities and KentuckyOne Facilities. KentuckyOne will allocate sufficient space at the University Facilities so that individuals involved in supporting clinical research may effectively carry out the responsibilities. KentuckyOne shall use the University's Internal Review Board and grant contract office and will reimburse University for those expenses.

In a special separate clause, it is made clear that the Universities autologous stem cell research program can continue.

Page 14 Item 10. Program Investments.

KentuckyOne will invest \$95 million in an "Investment Fund" to be planned for in the first three years and used over the first five years. This investment plan is not provided in the document. The University and KentuckyOne must mutually agree with the plan, and it must be consistent with the overall KentuckyOne vision and strategy. If the University disagrees with the priorities, there are dispute resolution processes available. This Fund includes \$15-\$20 million of investment in the areas of future care delivery models with a number of areas specified [accountable care and clinical integration, potential areas of focus including nursing magnet status, hospitalist training, informatics, patient centered medical home, intensivist, electronic intensive care units.]

Comment. It is clear that the University has no direct control, only input into how this money will be spent. The investment is to be made in "key service lines and departments" but these are not disclosed. Presumably this is one of those state secrets that we have no right to know. I personally would like to know how the University is being required to spend its new money. Who will benefit? How much will go to the former University Hospital and how much to other KentuckyOne Facilities? Is there a reason the parties do not want to tell us?

Page 15. Item 10.2 \$40 Million Investment In Jewish Hospital Facilities.

KentuckyOne will invest \$40 million in the Jewish Hospital facilities to support cardiovascular, oncology, women's services, orthopedics, and neurosciences. None of this money is subject to review by University leadership. Some of the services will compete with existing services at the University Facilities including oncology, women's services, and orthopedics. Cardiovascular services and neurosciences were given away long ago. [Someone please explain to me why this is not gutting the former University Hospital?]

Item 10.3. Technology Investments.

KentuckyOne promises \$7.5 million annually for the initial term of the agreement. The investments must be agreed upon by KentuckyOne's CEO and be consistent with the KentuckyOne's strategic plan. [The chokehold persists. KentuckyOne holds the strings to a great portion of its promised payments to the University.]

Item 10.4. Discretionary Funds.

KentuckyOne health will provide \$15 million per year for three years to the University of Louisville's Health Sciences Center (i.e. the University) but this amount will only be made available if KentuckyOne has met statewide performance metrics in areas of growth, quality, teaching, and research. There is an opportunity for this contribution to be renewed. The targets which must be achieved are attached to the affiliation agreement as Exhibit C. This has not been made available to the public. [It is clear that this \$15 million discretionary payment is not guaranteed. It seems to me this billion-dollar partnership agreement is getting smaller and smaller with every paragraph I read.]

Page 15 item 11. State Teaching Hospital.

Here the Commonwealth promises it will not change the designation of the former University Hospital as a "State University Teaching Hospital" and a "University Hospital" as defined by KRS 205.639. [These phrases are keys for KentuckyOne Health to be able to capture Medicaid disproportionate share money and other state monies given to teaching hospitals. It may wish to find ways to share this treasure among its other hospitals in the state. These funds are targeted for clinical care of the disadvantaged. It appears to me this Agreement serves as an additional link in the chain that binds the disadvantaged to University Hospital. My hope that we could do better as a community is dissipating as I sit here today.]

Page 16 and following.

What follows is a bunch of legal language promising that the parties will follow the law, retain their licensing and accreditations, maintain the level I Hospital Trauma Center, cooperate with their physicians, pay their taxes, sponsor educational activities and patient outreach, and so forth. The term of the agreement is for an initial period of 20 years with automatic renewals for successive five-year terms.

KentuckyOne is permitted the privilege of immediate termination upon the occurrence of a material breach in sections 5.1, 5.2, 5.5, 5.9, section 6.1, and section 10. Section 5 contains all the "academic and other programs. Section 6.1 relates to the University not

unreasonably withholding gratis faculty appointments to KentuckyOne's medical staff. Section 10 concerns program investments. The University may terminate if KentuckyOne becomes insolvent, if it breaches some of the same section 5 items above, or fails to comply with any arbitrated awards.

The rest of the 30 page document is legalese that looks pretty boilerplate. My attention was drawn however to the following two items.

Page 20, Item g. Governor's Right to Terminate.

In the event of a breach of the agreement, the failure of any applicable dispute resolution, or the university's failure or refusal to exercise its rights, the Commonwealth will have the right, independent of the of University, to terminate or enforce the agreement in accordance with the terms herein.

Comment. While this gives the appearance of control by the Commonwealth, there is no mention of the expenses of dissolving the agreement. It appears to me like these would be catastrophic and that the Governor's right to terminate is for all practical purposes limited and provides little protection for the Commonwealth. The University is still struggling under its burden of debt from the last failed partnership.

Page 23. Item 19. Insurance.

KentuckyOne will insure the combined enterprise. [It would be nice to see some specific statement about who insures the students and residents. They can get dragged into lawsuits, and those cases can drag on past their time at the medical center.]

Finally!

I will appreciate the help of anyone who is able to help me interpret and correct what I have written above. It is all my personal opinion based on the incomplete materials I have been able to evaluate. I wish to be fair to everyone concerned, but most of all to the patients and trainees who must now have their needs met within this very new system.

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