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A Voice for Nurses. A Vision for Healthcare.

May 6, 2014

Via Electronic Mail (supervisormitchoff@bos.cccounty.us) and Hand Delivery

Karen Mitchoff, Chair
Contra Costa County Board of Supervisors
615 Pine Street
Martinez, CA 94553

RE: West Contra Costa Healthcare District – Doctors Medical Center
Public Health Emergency

Dear Chairwoman Mitchoff:

On behalf of the California Nurses Association (“CNA”), its approximately 300 members employed as Registered Nurses by the West Contra Costa Healthcare District (“WCCHD”), and the 250,000 citizens of West Contra Costa County, we are writing to demand that the Board of Supervisors take immediate action to preserve public health and safety in light of the healthcare crisis brought on by the fiscal insolvency of the WCCHD. As the representative of the thousands of Registered Nurses who have served the healthcare needs of the residents of West County at Doctors Medical Center (DMC) over more than 60 years, we ask that you exercise your authority as Chair of the Board to add the issue of the continued operation of DMC to the agenda of the Board’s May 6, 2014 meeting, and to allow CNA to make a presentation on this issue of critical importance. The fate of DMC will impact not only the residents of West County, but the surrounding communities in your jurisdiction to the East, as well as nearby communities in Alameda County will be impacted if services at DMC are reduced or eliminated.

With results of the parcel tax initiative due today, the timeliness of adding this issue to the agenda cannot be seriously questioned. By virtue of our work, we are intimately familiar with the very substantial need for a fully operational acute care hospital to which non-Kaiser members have ready access in the Western region of Contra Costa County. The threat of closure of the Emergency Department and other critical services provided by DMC in San Pablo and the spiraling decline of healthcare services resulting from the ongoing financial troubles within the WCCHD requires immediate response in order to ensure continuing community access to hospital and healthcare services.

As you know, California Welfare & Institutions Code § 17000 provides that:

Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such

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persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.

That statute accurately describes the overwhelming majority of patients served by DMC. Our research, based on data reported by the WCCHD to the California Office of Statewide Health Planning and Development (OSHPD), indicates that Medicare and Medi-Cal constitute a very significant percent of the payer mix for patients treated at DMC in each of the years 2008-2012, and that the portion of private health payers has declined, but the data shows that the uninsured, working poor are among the number of indigent and self-pay patients, which has soared as a percentage of discharges. Given the high unemployment rate and the rate of uninsured working poor in the Western region of the County, the impact of the Affordable Care Act on providing a more favorable payer mix and reducing the number of “medically indigent adults” has been minimal.

It is well established that Welfare & Institutions Code § 17000 imposes a mandatory duty on each county to relieve and support all indigent persons lawfully residing in its jurisdiction and not supported and relieved by their relatives or by other means. *County of Los Angeles v. Frisbie* (1942) 19 Cal 2d 634. It is also well established that County residents have standing under California Code of Civil Procedure § 1086 to seek a writ of mandate under CCP §§ 1085, subd. (a), 1094.5, subd. (a), if they are eligible for County assistance to pay their medical bills as persons described in § 17000 to whom the County owes a duty under the Welfare & Institutions Code to provide residual coverage. *Brown v. Crandall* (2011, 1st Dist) 2011 Cal App LEXIS 1032.

The storied history of the difficult issues associated with maintaining operation of DMC is long and need not be recounted here, but suffice it to say that, absent success with the latest parcel tax initiative, the attempted solutions for continued operation as a District Hospital have failed. The likelihood of staving off another bankruptcy appears remote and the pending loss of critical patient services constitutes a health emergency requiring immediate intervention by the County as the most cost effective means of meeting the County’s obligations under § 17000.

Regarding the loss of emergency services, you will recall that the threatened closure of the DMC Emergency Department in 2004 was thwarted after an impact study commissioned by the Contra Costa Emergency Medical Services Agency and conducted by the Abaris Group warned, among other things, that in the event of downsizing or closure of the ED, “[i]t is unlikely that all ambulances could be safely diverted to other regional EDs without some risk to patient care,” “[w]aiting times at Kaiser Medical Center Richmond will likely reach 10-12 hours for walk-in patients,” and

“there would be a significant drop in emergency resources available in the event of a major emergency.”¹

An audit focused on the financial viability of DMC released in 2011 prompted further study by the Abaris Group, resulting in the widely circulated “Study of West County Emergency Medical Services, Emergency Department, and Critical Care Access – Final Report” dated July 2011. After reading that report, one can only conclude that the closure of Doctors Medical Center would, quite literally, be a matter of life and death. After close to 10 years of study on hospital services and changing demographics of Contra Costa County, the experts who authored that report summarized their key conclusions on the potential impact of a change of services or closure of DMC as follows:

- 1) The loss of DSP would be catastrophic to West Contra Costa County; it is one of only two hospitals in the region.
- 2) DSP represents 79 percent of the inpatient capacity in the region.
- 3) DSP provides 59 percent of the ED care in the region.
- 4) DSP receives 62 percent of the regional ambulance traffic.
- 5) The remaining West County hospital would be inundated by this patient volume shift as DSP patients would need to go somewhere.
- 6) The remaining hospital is part of Kaiser and the general public typically perceives it as unavailable to non-Kaiser members.
- 7) The region already does not have enough needed ED treatment stations or ICU beds even with DSP.
- 8) West County ED waiting times will likely reach 10-12 hours.
- 9) Additional ambulance hours needed to maintain current EMS performance would cost \$2.5M annually.
- 10) Critical infrastructure would be eliminated to support a disaster.

¹ Contra Costa County Emergency Medical Services Agency, Study of West County ED & Critical Care Access/Capacity Issues – Final Report prepared by the Abaris Group, dated March 31, 2004, at p. 6.

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(See Contra Costa County – West County EMS, ED, & Critical Care Access Study released July 2011, Executive Summary at p. 4, copy available at http://cchealth.org/ems/pdf/west_county_emergency_report_july_2011_2011.pdf.)

As Registered Nurses, our members observe that West Contra Costa County is one of the most illness-prone regions in Northern California. The residential neighborhoods bordering the refineries and other local heavy industries know all too well the need for close, competent emergency services following the periodic chemical spills, spewing of toxic gasses and roadway accidents on the congested traffic corridors of Interstates 80 and 580. Less than two years ago, a disastrous explosion and fire at the Chevron refinery in Richmond forced more than 15,000 residents of surrounding communities to seek hospital treatment after breathing emissions from the fire. Being one of only two hospitals in the area, Doctors Medical Center saw a bulk of those patients. The incident was not the first of its kind nor will it likely be the last. CNA urges the County to take seriously its obligation to protect the public health and safety by taking measures to prevent the closure of the DMC facility.

When we reviewed issues brought about by the financial stress that prompted the WCCHD to file a Chapter 9 bankruptcy petition in 2006, there was vociferous public concern over the risk of patient deaths resulting from WCCHD's decision that year to divert ambulances. That concern was well founded given the County's data on emergency ambulance transports in West Contra Costa County. Out of a total of 14,384 transports in calendar year 2005, 56.9% - - more that all other emergency services facilities combined - - were directed to the DMC ED. According to the 2011 Abaris Report, that number increased to 62% of the regional ambulance traffic and OSHPD data reveals that Emergency Department visits to DMC totaled 35,462 in 2013. Obviously, the demand for emergency services remains undeniably high for the community served by DMC.

Other publically available data on the need for ready hospital access for the residents of West County is equally compelling. For example, a recent report on homicides in Contra Costa communities and related statistics on non-fatal assault hospitalizations showed that Richmond had by far the highest number of non-fatal assault hospitalizations at 291 per 100,000 residents, with San Pablo also near the top at 97.4 per 100,000. (Report available at <http://cchealth.org/search/results...non-fatal+assaults+hospitalizations>.) Similarly, a study on asthma rates for children in Contra Costa County reveals that the highest instances of asthma hospitalizations are clustered among residents in zip codes 94572, 94547, 94806 and 94804 – Hercules, Pinole, San Pablo and El Cerrito – all far West County communities served by the DMC Emergency Department.

Given the certainty of the dire outcome of a potential closure of DMC and the critical state of under-funding of the WCCHD, responsible action must be undertaken immediately. Contra Costa County has a demonstrated record of providing quality health care services to underinsured patients through its own Health Services

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Department. Its efforts to assist the WCCHD in the past with continuing operation of DMC have been admirable, but the County's own direct provider public health model is the obvious solution at this point.

We believe the only responsible action to be taken at this point is for the County Board of Supervisors to take the steps necessary to assume full authority over management and operations at DMC to ensure continuing operation of the facility as an acute care hospital with a fully staffed Emergency Department.

We realize that the County is not responsible for the current situation, but on behalf of the residents of West Contra Costa, we urge you to adopt a finding that "the continued operation of Doctors San Pablo Medical Center necessary to protect the public and meet the obligations of Welfare & Institutions Code § 17000."

As a critical matter of public health, we ask that you exercise your authority to act quickly and effectively on behalf of the citizens of West Contra Costa County and to add this matter as an agenda item to today's Board of Supervisors meeting so that the nurses and other members of the public may be heard.

Very truly yours,



Michael Lighty
Director of Public Policy

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