# BEFORE THE INSURANCE DEPARTMENT OF THE COMMONWEALTH OF PENNSYLVANIA

Statement Regarding the Acquisition of Control of or Merger with Domestic Insurers:

Highmark Inc.; First Priority Life Insurance Company, Inc.;
Gateway Health Plan, Inc.; Highmark Casualty Insurance Company;
Highmark Senior Resources Inc.; HM Casualty Insurance Company;
HM Health Insurance Company, d/b/a Highmark Health Insurance Company;
HM Life Insurance Company; HMO of Northern Pennsylvania, Inc.,
d/b/a First Priority Health; Inter-County Health Plan, Inc.;
Inter-County Hospitalization Plan, Inc.; Keystone Health Plan West, Inc.;
United Concordia Companies, Inc.; United Concordia Dental Plans of Pennsylvania, Inc.;
United Concordia Life and Health Insurance Company

By UPE, a Pennsylvania nonprofit corporation

# RESPONSE TO SUPPLEMENTAL REQUESTS 3.2 AND 3.3 FROM THE PENNSYLVANIA INSURANCE DEPARTMENT

**SUPPLEMENTAL REQUEST 3.2 (via letter from the PID dated September 26, 2012):** 

- 3.2 Please respond to each of the items in this Section 3.2 for each response to Supplemental Filing Request 3.1.1. For each governmental, regulatory, corporate and/or contractual notices, filings, consents and/or approvals that are or reasonably may be required for or in connection with the Transaction provide:
  - 3.2.1 The name, address of the entity that must give the consent or approval.
  - 3.2.2 The specific notices, filings, consents or approval(s) that will be required.
- 3.2.3 The timing of the notices, filings, consents or approvals, together with citation to the statutory, regulatory or contractual provision requiring such notice, consent or approval.
- 3.2.4 Whether contact has been made with the entity regarding the Transaction and, if so, provide the name, address, telephone number and e-mail address of the individual(s) at the entity who was contacted.

3.2.5 Provide a complete copy of any written material that has been submitted to any Person (other than Highmark and WPAHS Entities and their directors, officers, employees and agents) regarding the Transaction and any response to such written material.

SUPPLEMENTAL REQUEST 3.3 (via letter from the PID dated September 26, 2012):

3.3 Please respond to each of the items in this Section 3.2 [3.3] for each response to Supplemental Amendment [Filing] Request 3.1.1. Explain the process for obtaining each consent and approval set forth this Section 3 and the expected timeline or schedule for each.

#### **JRMC RESPONSE:**

Attached please find a chart (Attachment A) setting forth governmental, regulatory, corporate and/or contractual notices, filings, consents and/or approvals that are or reasonably may be required for or in connection with the Jefferson transaction, including identification of the entity that must give the consent or approval, the timing of the consent or approval, and a brief description thereof.

Regarding contact made with any of the entities listed on Attachment A, the following contact has been made by JRMC:

Sandra Mackey Renwand
Senior Deputy Attorney General
Charitable Trusts and Organizations Section
564 Forbes Avenue, 6<sup>th</sup> Floor Manor Complex
Pittsburgh, PA 15219
(412) 880-0466
<a href="mailto:srenwand@attorneygeneral.gov">srenwand@attorneygeneral.gov</a>

No additional contacts have been made. It is JRMC's understanding that copies of written materials have been submitted by UPE in response to Supplemental Filing Request 3.5.1.

Jefferson Regional Medical Center 565 Coal Valley Road P.O. Box 18119 Jefferson Hills, PA 15025



### Attachment A

## Regulatory and Contractual Notices or Approvals

Agency	What is Required?	Filing Timeline
Office of the Attorney General Charitable Trusts and Organizations Section 564 Forbes Avenue, 6 <sup>th</sup> Floor Manor Complex Pittsburgh, PA 15219  Gene J. Herne Senior Deputy Attorney General-in-Charge (412) 565-3581 eherne@attorneygeneral.gov  Sandra Mackey Renwand Senior Deputy Attorney General (412) 880-0466 srenwand@attorneygeneral.gov	Whenever a nonprofit, charitable health care entity enters into a transaction effecting a fundamental corporate change which involves a transfer of ownership or control of charitable assets, regardless of the form of the transaction contemplated (i.e., sale, merger, consolidation, lease, option, conveyance, exchange, transfer, joint venture, affiliation, management agreement or collaboration arrangement, or other method of disposition); unless the transaction is in the usual and regular course of the nonprofit's activities; and regardless of whether the other party or parties to the transaction are a nonprofit, mutual benefit or for-profit organization; the Office of Attorney General, as parens patriae, must review each transaction to ensure that the public interest in the charitable assets of the nonprofit organization is fully protected.	The parties to the transaction shall provide written notice of same to the Attorney General at least 90 days prior to the contemplated date of its consummation.
Court of Common Pleas of Allegheny County, Orphans' Court Division 1700 Frick Building 437 Grant Street Pittsburgh, PA 15219	Order of the Court of Common Pleas of Allegheny County, Orphans' Court Division, approving the transaction and finding that the transaction does not result in a diversion of charitable assets. The Orphans' Court has jurisdiction over the Supplemental Transaction under Rule No. 2156 of the Pennsylvania Rules of Judicial Administration and under Section 711(3) of the Probate, Estates and Fiduciaries Code, 20 Pa. C.S.A. § 711(3).	Pre-closing.
Pennsylvania Department of Health Health and Welfare Building 8th Floor West 625 Forster Street Harrisburg, PA 17120 PH: (717) 783-8980 FAX: (717) 705-6663	A health care facility shall notify the Department in writing at least 30 days prior to a change in ownership or a change in the form of ownership or name of the facility. A change in ownership shall mean any transfer of the controlling interest in a health care facility. 28 Pa. Code § 51.4.	30 days pre-Closing notice of transaction.

Agency	What is Required?	Filing Timeline
Pennsylvania Department of Public Welfare 625 Forster Street Health & Welfare Bldg. Rm. 602 Bureau of Fee-for-Service Programs Harrisburg, PA 17120-0701 General Phone: (717) 772-6152	A change in ownership or control interest of 5% or more shall be reported by a medical facility to the Department within 30 days of the date the change occurs. 55 Pa. Code § 1101.43(b)(1).  55 Pa. Code § 20.4 defines "change of ownership" as the sale or transfer of a facility or agency from one legal entity to another with the expectation that the facility or agency will continue to operate for the same purpose for which it is licensed or approved at the time of the sale or transfer.  55 Pa. Code § 20.58(a) provides that the legal entity shall notify DPW at least 30 days in advance of the intention to change the legal entity, name, location or profit or nonprofit status of the facility or agency.  55 Pa. Code § 20.58(b) provides that if the facility or agency is to be operated under a new legal entity, new name new location, or different status, the legal entity shall complete and submit a new application for a certificate of compliance at least 30 days in advance of the change.  If a change occurs which is not included in subsection 20.58(a) or 20.58(b)for example, change in responsible personthe legal entity shall notify the Department within 30 days after the change occurs. 55 Pa. Code § 20.58(c).	
DEA United States Department of Justice Drug Enforcement Administration Central Station, P.O. Box 28083 Washington, DC 20038-8083 PH: (202) 307-7255 or (800) 882-9539  Pittsburgh District Office 1781 McKees Rocks Road Pittsburgh, PA 15136	Any registrant may apply to modify his/her registration to change his/her name or address, by submitting a letter of request to the Registration Unit, Drug Enforcement Administration, Department of Justice, Post Office Box 28083, Central Station, Washington, DC 20005. 21 CFR § 1301.51.	No statutory timeline. Pre-Closing notice of transaction.

Agency	What is Required?	Filing Timeline
Bureau of Professional and Occupational Affairs Department of State Commonwealth of Pennsylvania P.O. Box 2649 Harrisburg, PA 17105-2649 PH: (717) 783-7156	A change in name or ownership or controlling interest of a pharmacy shall require a new permit. Applications for new permits shall be filed within 30 days of the change in name, ownership or controlling interest. 49 Pa. Code § 27.11(d). If the pharmacist manager ceases to hold that position, the pharmacy permit holder shall inform the Board in writing of this fact and of the new pharmacist manager not more than 15 days later. 49 Pa. Code § 27.11(g). If the Board does not object within 30 days of notification, the new pharmacist manager may be deemed approved. <i>Id.</i>	
Pennsylvania Dept. of Environmental Protection Bureau of Radiation Protection Radioactive Materials Licensing Section Rachel Carson State Office Building P.O. Box 8469 Harrisburg, PA 17105-8469  Radioactive Material Licensing (717) 787-3720	25 Pa. Code §216.2 (a)(3) states that "a person possessing a radiation-producing machine shall: notify the Department in writing within 30 days of a change of address, owner, or radiation safety officer or number of machines."  25 Pa. Code §216.2 (e) states "a certificate of registration issued under this chapter may not be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, to any person without submitting a written request by the registrant to the department."	
United States Nuclear Regulatory Commission Attn: Licensing Assistance Team Region I - 475 Allendale Road King of Prussia, PA 19406 PH: (610) 337-5100 Fax: (610) 337-5269	No license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall consent in writing. 10 CFR §§ 30.34(b), 40.46, 70.36.	No statutory timeline. Pre-Closing notice of transaction.
CMS, Philadelphia Regional Office Public Ledger Building 150 S. Independence Mall West, Suite 216 Philadelphia, PA 19106-3499	All other providers and suppliers, must report to CMS the following information within the specified timeframes: Within 30 days for a change of ownership or control including changes in authorized official(s) or delegated official(s). 42 CFR 424.516(e).	,

Entity	What is Required?	Description
Jefferson/UPMC Cancer Associates UPMC Cancer Centers	Notification to joint venture partners recommended.	A "deadlock" under the Bylaws or a breach under the Corporate Membership Agreement triggers a dispute mechanism which can result in the parties receiving the right
200 Lothrop Street		to purchase the other party's interest or in an unwinding.
Pittsburgh, PA 15213		A change of control could indirectly cause a deadlock since most venture decisions require unanimous vote.
Chartwell Pennsylvania, L.P.	Notification to joint venture partners recommended.	Section 11.1(c) Restrictions or Transfer, "Change of Control" gives rise to right of Partnership to purchase JRMC
UPMC Community Provider Services		interest.
200 Lothrop Street		
Pittsburgh, PA 15213		
The Washington Hospital		
155 Wilson Avenue		
Washington, PA 15301		
Great Lakes Home Healthcare Services		
1647 Sassafras Street		
Erie, PA 16502		
UPMC Visiting Nurses Association	Notification to joint venture partners recommended.	Section 4.0 Disputes, If deadlock on issues (1) related to important elements of its mission or threatens viability of
UPMC Community Provider Services		business; or (2) concerning material change in network
200 Lothrop Street		affiliation/ alignment, deemed an Arbitration Issue;
Suite 10005		Also, "change of control" (75% change in voting power,
Pittsburgh, PA 15213		change in entity existence, or greater than ½ Board of
		Directors of entity replaced within one year), becomes an "Arbitration Issue"; if Arbitration Issue unresolved, UPMC can elect to purchase JRMC interest at FMV.

Entity	What is Required?	Description
Life Home Care, L.P.  UPMC Home Care Services, Inc. 200 Lothrop Street Pittsburgh, PA 15213  UPMC Shadyside 5230 Centre Avenue Pittsburgh, PA 15232	Notification to joint venture partners recommended.	"Change of control" may be deemed a "Major Dispute Issue" under 20.1.3, subjecting issue to dispute resolution; if not resolved, allows UPMC to purchase JDHS interest at FMV with 45 days notice. If no notice from UPMC, JDHS shall have 45 days to provide notice of its election to sell, and must sell entire interest (does not indicate to whom) upon exercise of option.
UPMC Health Plan [U.S. Steel Tower] [600 Grant Street] [Pittsburgh, PA 15219]	Notification.	Section 3.2 - notice of a change in "ownership structure" required.
Foundation Radiology Group, P.C. Three Gateway Center 20th Floor Pittsburgh, PA 15222	Notification.	Section 12.5 – notice required upon "change of control".
Steel Valley Orthopaedic and Sports Medicine [1000 Higbee Drive, Ste 106] [Bethel Park, PA 15102]	All medical staff members are to be notified of the transaction upon closing.	Section 17(j) provides that Employee may terminate with 180 days advance written notice within two years of a Change of Control, which is defined as (A) the sale, assignment, lease, exchange, transfer or other disposition of all or substantially all the assets of JRMC, (B) the affiliation with another entity whereby the other entity becomes the sole member of JRMC, or (C) a change in the majority of members of the Board of Directors of JRMC within any twenty-four (24) month period.
Grandis, Rubin, Shanahan and Associates [575 Coal Valley Rd, Ste 574] [Jefferson Hills, PA 15025]	All medical staff members are to be notified of the transaction upon closing.	Exhibit B provides that the Agreement is subject to a Reopener if requested by all Senior Physicians in the event of a Change of Control which is defined as (A) the sale, assignment, lease, exchange, transfer or other disposition of all or substantially all the assets of JRMC, (B) the affiliation with another entity whereby the other entity becomes the sole member of JRMC, or (C) a change in the majority of members of the Board of Directors of JRMC within any twenty-four (24) month period.

Entity	What is Required?	Description
Family Hospice and Palliative Care 50 Moffett Street Pittsburgh, PA 15243	Notification to Family Hospice and Palliative Care recommended.	Article II – upon a "change of ownership or control", either Party may terminate with 90 days written notice, such notice to be given within 60 days following the closing.
Ambaram Chauhan, M.D. and Richard Long, M.D. Primary Care Group 1, Inc. d/b/a Prime Medical Group [1645 Rostraver Rd.] [Belle Vernon, PA 15012]	All medical staff members are to be notified of the transaction upon closing.	Section 14(g) provides that the Agreement may be terminated, at the written election of the majority of the Senior Physicians, in the event of the direct or indirect acquisition of or transfer of control over JRMC or the Corporation to either the University of Pittsburgh Medical Center (UPMC) or West Penn Allegheny Health System (WPAHS) or their successors or affiliates, upon sixty (60) days written notice to JRMC.