

MINUTES OF
THE REGULAR MEETING OF THE
CITRUS COUNTY HOSPITAL BOARD

January 18, 2010

(1) CALL TO ORDER

The regular monthly meeting of the Citrus County Hospital Board of Trustees [CCHB or Hospital Board] was held Monday, **January 18, 2010** Citrus Memorial Hospital Administration Building, 502 W. Highland Blvd., Inverness, Florida. The Chairman, Dr. Rao called the meeting to order at 12:30 P.M.

(2) PLEDGE OF ALLEGIANCE

(3) ATTENDANCE

Board Members: (Chairperson) V. Upender Rao, MD; (Vice Chairperson) Deborah Ressler; (Secretary) Deborah Osmond Frankel, Esquire; (Member) Michael Smallridge and (Member) James Wood.

Also in attendance:

William J. Grant, Esquire, CCHB General Counsel
Carla Dozier (CCHB), Robin Gelinis (CCHB)
Vicki LaMarche (CCHB)

Jerry DeLoach, COO Citrus Memorial Health Foundation, Inc.
Emery Hensley, CFO, Citrus Memorial Health Foundation, Inc.

Members of the Public

Chris Van Ormer, Chronicle, Sandra Chadwick (Foundation), David Langer (Foundation), Pareshkumar G. Desai, MD – Florida WellCare Alliance, Mark Fallows, DO – Florida Wellcare Alliance, Joe Chrietzberg, Darrell Oster, Kenneth Tucker, Joe Chrietzberg, Vikas Kamat, MD and additional members of the public.

Liberty Court Reporter Services (CCHB)

(4) APPROVAL OF MINUTES

December 14, 2009

Noting the need to clarify the page 7 omission regarding identification of the Motion and Second, Mr. Wood moved to table approval of the December 14, 2009 Minutes & Exhibits until the next meeting; second by Mrs. Ressler. The Motion to table the December 14, 2009 Minutes & Exhibits, passed unanimously 5 - 0.

January 08, 2010

Motion by Mr. Wood, seconded by Mr. Smallridge, to approve the January 08, 2010 Minutes & Exhibits. The Motion to Approve the January 08, 2010 Minutes and Exhibits, passed unanimously 5 - 0.

(5) PUBLIC COMMENT

A. Dr. Vikas Kamat: Dr. Kamat presented HB 81 (*Copy on File*) concerning the use, prevention and reduction of seclusion and restraint on students with disabilities in public schools. Dr. Kamat noted the Bill is being presented in the 2010 Florida legislative session (Representative Hukill and Senator Gardiner) and requested the CCHB write a group letter on behalf of the Board as well as individual letters addressed to the sponsoring legislative members.

Motion by Mr. Smallridge, second by Mr. Wood to write letters both as a public Board and as individuals, to the sponsoring legislators regarding support of HB 81 and the Senate companion Bill. Upon being called, the Motion passed unanimously. Mr. Wood requested Mr. Grant or Mrs. LaMarche draft the letters as appropriate.

(11) Auditor General Report and Approval of Response

*** considered out of Agenda order***

Mr. Grant reviewed the CCHB Response to the December 18, 2009 Florida Auditor General's Preliminary and Tentative Findings (P&TF) resulting from the operational audit of the Citrus County Hospital Board and the Citrus Memorial Health Foundation, Incorporated. (*CCHB Audit Response, Attachment 1; Complete Copy on File*) Mr. Grant reviewed in detail each proposed response to the eleven findings. Mr. Wood expressed concern regarding the inclusion of CCHB position statements that the present governance structure does not support the Foundation assertion of sovereign immunity. Mrs. Osmond Frankel expressed concern regarding the predication of funding upon Foundation compliance with the Auditor General's recommendations. Board members felt it was important to clearly identify the need for compliance. Public comment was taken.

Mr. Chrietzberg: Mr. Chrietzberg commented that the response will be well read and positions regarding the lease validity or sovereign immunity may become controversial.

Mark Fallows, DO, Florida Wellcare Alliance: Dr. Fallows commented it was important to address the controversies and problems to assist the public in becoming knowledgeable in the issues and to move towards resolution.

Paresh Desai, MD: Dr. Desai commented that he believed the proposed Mediation agreement providing for a 5 CCHB member, 5 private at-large directors and 1 Medical Director was insufficient to provide enough oversight of the Foundation; Dr. Desai proposed that the Foundation membership include the 5 CCHB members, a maximum of 3 private At-Large Directors and the Medical Director and that both Boards be elected within a reasonable time.

Dr. Desai additionally submitted a request for disclosure of the strategic plan for the *Life Cycle Assessment* of capital equipment replacement and whether there is a reserve for capital equipment replacement.
(*Copy on File*)

Darrell Oster: Mr. Oster stated he approved of the CCHB Audit Response and commended the parts referencing the tax appropriations as no – one is looking out for the Citrus taxpayer. Mr. Oster expressed concern that although he had received some information from the Foundation regarding the Strategic Plan, most information had *not* be disclosed. Mr. Oster commented the CCHB should know the strategic plan contemplation - particularly the plan for the use of public moneys and assets. Mr. Oster requested the CCHB set a tentative FYE 2011 millage rate at zero to send a clear message to the Foundation that complete transparency is necessitated.

Kenneth Tucker: Mr. Tucker commented that just receiving or being provided new policies is not enough – there must be some controls or oversight to ensure policies are followed.

Motion by Mrs. Ressler, Second by Mr. Wood to approve the CCHB Response to the Auditor General's Preliminary and Tentative Findings and to attach the proposed Mediation Team agreement reached January 11, 2010.

Motion by Mr. Wood to Amend the Motion to remove the lines on pages 5 & 6 regarding the Board's position concerning the appropriateness of Foundation assertion of sovereign immunity. No Second was made and the Motion to Amend the original Motion failed for lack of a Second.

Upon being called, the original Motion to approve the CCHB Response to the Auditor General's Preliminary and Tentative Findings and to attach the proposed Mediation Team agreement reached January 11, 2010 passed unanimously, 5 – 0.

[Via consensus, it was agreed that the draft response be reformatted to recite the specific Audit Finding prior to the CCHB response.]

(6) CORRESPONDENCE

The following correspondence items were received:

- A. 10.20.09 Email Regarding Foundation letter writing campaign regarding CCHB Trustees.
- B. 12.23.09 Notice to Owner [ER] Goldman Oxygen Valve/Construction.
- C. 12.29.09 Notice To Owner [ER] West Tampa Glass/Construction. |
- D. 01.12.10 Notice To Owner [ER] South Seminole Sheet Metal High Reach Company.
- E. 12.24.09 Grant/Beaty: request for Capital Steel payment verification and confirmation.
- F. 12.23.09 Grant/Beaty: Public Record Request/ Sugarmill Radiology Consultant / Herron.
- G. 12.21.09 Grant/Beaty: Foundation omission of P/L exclusive of tax support @ Medical Staff Meeting

The Board noted the July 2009 CCHB Resolution requiring the Foundation present all financial information inclusive of tax revenue and also exclusive of tax revenue. The Board noted that Mr. Hensley omitted to present the Foundation FYE 2009 Profit/Loss exclusive of tax support at the October/December 2009 quarterly Medical Staff meeting. Mr. Hensley's omission of Foundation profit/loss exclusive of tax support was in direct contravention of the July CCHB resolution regarding the matter. The Board noted that during the 01.08.10 meeting the instant issue was addressed and Mr. Beaty indicated he would present the Foundation FYE 2009 profitability (losses) exclusive of tax support to the medical staff, however, apparently there has been a delay. The Board again presented the appropriate format for Mr. Beaty to provide to the Medical Staff that transparently discloses the Foundation FYE operative loss of (\$8.43) million dollars exclusive of tax support and a \$5.22 million dollar profit including tax support. (FYE 2009 CCHB Approved Financial Formats, Attachment 2)

Motion by Mrs. Osmond-Frankel, Second by Mrs. Ressler for Mr. Grant to forward the FYE 2009 Statements of Operations Inclusive and Exclusive of Tax Support in the approved format as attached, to Mr. Beaty for immediate distribution to the full Medical Staff. Upon being called the Motion passed unanimously, 5 – 0.

- H. 12.16.09 Beaty/Grant: CCHB meetings should be noticed for the Gulf Room.
- I. 12.23.09 Rao/Beaty: Confirming 12:30 PM CCHB meetings in Board Room.
- J. 12.21.09 Grant/City of Inverness.
- K. 01.07.10 Grant/Beaty: Public Records Request Foundation 2009 legal expense itemized service detail.
- L. 12.22.09 Grant/Beaty: Public Records Request (1st Request) Foundation 2009 legal expenses detail.
- M. 01.07.10 Grant/Beaty: Public Records Request (2nd Request) Foundation 2009 legal expense detail.
- N. 01.05.10 Grant/Fallows, Desai, Fonseca: public record request for information regarding joint ventures; requested information not in CCHB possession; request to be forwarded to Foundation/Beaty/Stillwell.

Dr. Desai public record request for joint venture information hand delivered by Mr. Grant to Mr. DeLoach, Foundation COO.

- O. 12.23.09 Grant/Beaty: Dr. Rao request that Foundation Board meetings and Committee meeting agenda packets be provided to the CCHB upon production.
- P. 01.05.10 Grant/Stillwell: Understanding of resolution proposal discussed 12.30.09.
- Q. 12.23.09 Grant/Stillwell: Confirmation of 12.30.09 attorney mediation w/ Upchurch.
- R. 12.29.09 Grant/Stillwell: Cancellation confirmation of 12.30.09 attorney mediation w/ Upchurch.

- S. 01.13.10 Grant/Harrer: Request for meeting of CMH Medical Executive Committee to review 01.11.10 proposed resolution reached between CCHB & Foundation Mediation teams.
- T. 01.12.10 Grant/Stillwell: Codification of proposed resolution reached between the CCHB & Foundation mediation teams 01.11.10.
- U. 01.11.10 Beaty/CCHB: Confirmation of AHCA investigation into Foundation home health referral patterns & findings of deficiencies.

(7) REPORT OF COMMITTEES

- A. Finance Committee: No Committee report (no meeting subsequent to December 14, 2009, previously reported)
- B. Communications: No Committee report (no meeting subsequent to November 09, 2009, previously reported)

(8) CCHB STAFF REPORT

CCHB Financial Report: The January 18, 2010 CCHB Financial documents included the December 2009 CCHB Governmental Fund Balance Sheet, the Statements of Activities, Statement of Cash Flows, October, and November Invoices and List of Payees Invoices received to date. [The December Total Liabilities and Fund Balance amount: \$6,159,605 The December 31, 2009 Cash & Cash Equivalents \$6,159,605. The December 31, 2009 Fund Balance – Net Assets (exclusive of liabilities): \$4,959,605.] (*Financial Report & List of Payees Attachment # 3*)

Mr. Smallridge requested line item detail reflecting the accounting of the \$75,000.00 Tax Collector refund due to FYE 2009 uncollected tax revenues. Mr. Hensley indicated he would itemize the amount as requested.

Motion by Mrs. Osmond Frankel, seconded by Mr. Wood to approve the Financial Report and List of Payees/Invoices. Following the opportunity for public comment the Motion passed unanimously, 5 - 0.

CEO Report: None

UNFINISHED BUSSINESS

(9) APPROVAL OF MEDIATION TEAM PROPOSED AGREEMENT

Mr. Grant advised that the second Mediation had taken place January 11, 2010. Mrs. Osmond - Frankel and Mrs. Ressler participated on behalf of the CCHB; Mr. Brannen and Mr. Henigar participated on behalf of the Foundation. The respective Mediators had reached a tentative proposal in resolution of the governance concerns, subject to approval by the full Board of each entity. Mr. Grant codified the proposed mediated resolution points in a letter to Mr. Stillwell. Mr. Grant presented the mediation proposal to the Board for discussion and review. (*Resolution & Mediation Proposal Attachment #4*) Board members discussed the proposal of Foundation Board structure of 5 CCHB, 5 private at-large and 1 Chief of Staff Medical Director and that the structure continued the Hospital Board in a minority position. Mr. Grant noted the proposal included the Hospital Board approval of the annual budget, as well as non-budgeted major expenses. The Mediated proposal addresses transitioning to an elected Hospital Board and an elected Foundation Board with half of each Board being elected in 2012 and the remaining half being elected in 2014. The mediators believed the proposal, although a significant compromise by the Hospital Board, would best serve the interests of the community due to the avoidance of lengthy litigation, sovereign immunity concerns and enabling both Boards and the hospital to move forward in the best interest of community health care. Clarification noted that language addressing debt reduction did not commit the Board to use tax revenues to reduce outstanding Foundation debt. Mrs. Frankel submitted her notes of the mediation session and it was agreed to include Mrs. Frankel's language regarding annual budget specificity. (*Mediation Notes Attachment #5*).

Mr. Grant additionally presented the CCHB Resolution approving the January 11, 2010 Mediation proposal and noted the time parameters relative to governance reform compliance.

Public Comment:

Dr. Fallows: Dr. Fallows, on behalf of the FWA, commented that the proposal does not give the CCHB sufficient oversight and his organization supported a structure consisting of 5 CCHB, 3 private At Large Directors and a Medical Staff Director with the CCHB and At Large members transitioning to public elections. Dr. Fallows indicated the agreement should address Director's term limits.

Mr. Oster. Mr. Oster commented that although the proposal provides the Hospital Board limited oversight as the continued minority, the mediation is better than litigation costs. Mr. Oster suggested 5 CCHB Directors and 5 At-Large Directors, including the Medical Director with a "tie-breaker" publicly elected. Additionally, the debt provision should provide that debt incurred by the Foundation that exceeds \$1.25 million dollars in "per annum aggregate" requires Hospital Board approval.

Mr. Oster advised the Board that in spite of repeated public record requests to the Foundation regarding executive compensation for the previous five years, he has only been provided one year of information.

Mr. Tucker. Mr. Tucker expressed concern that conflicts of interest were not addressed in the proposals and the perception was that many inappropriate conflicts existed within the Foundation. Mr. Tucker was advised that although the AG indicated there were business relationships, actual inappropriate conflicts or actions had not been established; the AG determined only one instance of potential improper voting (Sugarmill) had occurred. Mr. Tucker felt a grand jury investigation into the conflict of interest matters should remain an option.

Mrs. Chadwick, Citrus Memorial Health Foundation: Mrs. Chadwick inquired regarding the timeline considered for elections. Mrs. OsmondFrankel noted the Hospital Board supported transitioning both the Foundation Board and the Hospital Board to publicly elected Boards, however the Foundation had recently expressed reservations about public elections. The mediation proposed both Boards together exercise due diligence to determine the long - term appropriateness of elected Boards, perhaps incorporating experts in governance. The suggested time lime provides for half the Foundation Board and half of the Hospital Board to be elected 2012 and the remaining halves to be elected in 2014.

Mrs. Chadwick also inquired regarding the mediated proposal's affect on the potential legislation. Mr. Grant advised that the legislative delegation sought the best resolution for the community and would, in his opinion, be supportive of the mediated agreement.

Motion by Mr. Wood, Second by Dr. Rao to approve the Resolution and to attach the Resolution and Mediated Agreement to the CCHB Auditor General Response. Upon being called, the Motion passed unanimously, 5 – 0.

(10) FOUNDATION GOVERNANCE STATUS OF LITIGATION & LEGISLATION

Litigation and Legislative Initiative: Mr. Grant advised the litigation or Attorney General review is not currently being actively pursued as mediation is continuing and the legislative initiative is ongoing.

(11) AUDITOR GENERAL REPORT AND APPROVAL OF RESPONSE

Discussed previously. See above Minutes, page 2, supra.

NEW BUSINESS

(12) FLORIDA ASSOCIATION OF SPECIAL DISTRICTS, INC.

Motion by Dr. Rao, Second by Mr. Wood for the CCCHB to become a member of the Florida Association of Special Districts with anticipated annual Board dues of \$1500.00. Upon being called, the Motion passed unanimously, 5 – 0.

(13) REVIEW OF CMHF, INC. PROCEDURAL MANUAL 10.01.09 POLICY REGARDING INDIGENT CARE

The Board was provided the Foundation policy for indigent care and uninsured services: "Hospital Sponsorship Program." The policy will be referred to the CCHB Financial Committee for review. (CMHF Hospital Sponsorship Policy, Copy on File)

MISCELLANEOUS

Mr. Wood commented that he would like to explore affiliation with Shands Teaching Hospital in Gainesville. Mr. Wood noted he has previous experience with Shands and believes the affiliation would improve the Citrus Memorial organizations. Board members expressed concern regarding the suggestion, as often affiliations do not

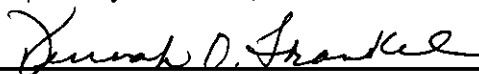
benefit the local community and communities are at risk of losing local health care services to distant centers. Dr. Rao noted that CMH already performs well on quality of care benchmarks as well as the implementation of risk management and evidence based medicine concerns raised by Mr. Wood.

(14) NEXT SCHEDULED MEETING: TUESDAY, FEBRUARY 08, 2010, AT 12:30 PM CMHS BOARD ROOM

(15) ADJOURNMENT

Motion by Dr. Rao, second by Mr. Wood to adjourn meeting. The Motion was approved unanimously and the meeting ADJOURNED at approximately 4:35PM

Respectfully Submitted,



Deborah Osmond Frankel, Esquire
Secretary/Treasurer

dfo

Minute Attachments

Attachment 1: CCHB Auditor General Response (Complete Copy on File)

Attachment 2: CCHB Approved Financial Formats FYE 2009

CMHF FYE 2009 P/L Financial Operations Exclusive of Tax Support [\$8.48] Million Loss
CMHFFYE 2009 P/L Financial Operations Inclusive of Tax Support \$5.22 Million Profit

Attachment 3: CCHB Financial Report ending December 3, 2009 and List of Payees/Invoices

Attachment 4: CCHB Resolution adopting January 11, 2010 Mediation Proposal & Mediated Proposal

Attachment 5: January 11, 2010 Mediation Notes

Copy on File References

Copy on File 1: Dr. Kamat HB 81 regarding improper treatment of disabled students

Copy on File 2: CCHB Auditor General Response (Complete Response including Exhibits)

Copy on File 3: Dr. Desai capital equipment analysis request and request for identification of capital reserves

Copy on File 4: CMHF Indigent and Uninsured Patients Hospital Sponsored Care Policy

CITRUS COUNTY HOSPITAL BOARD

P.O. BOX 1030
INVERNESS, FL 34450

January 18, 2010

Mr. David Martin
Auditor General
401 Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

Via Email, FedEx Tracking Number
854421281732 and Fax 850-487-4403

RE: Citrus County Hospital Board
Response to the Auditor General's Preliminary and Tentative Findings

Dear Mr. Martin,

Please find below the response of the Citrus County Hospital Board to the Preliminary and Tentative Findings provided to the Citrus County Hospital Board dated December 18, 2009 by your office. The response of the Citrus County Hospital Board is a collective effort by all of the Citrus County Hospital Board Trustees, whereby all Citrus County Hospital Board Trustees participated in the drafting of this response at a regularly scheduled meeting open to the public.

The Citrus County Hospital Board intends to implement the recommendations of the Auditor General and appreciates the efforts and energy of the Office of the Auditor General.

RESPONSE TO AUDITOR GENERAL'S PRELIMINARY AND TENTATIVE FINDINGS AND RECOMMENDATIONS

Response as to Finding #1:

The Citrus County Hospital Board agrees with the recommendations of the Auditor General and is dedicated to working with the Foundation to achieve appropriate governance reforms to ensure public accountability and public oversight of the public hospital.

PURSUANT TO THE LEASE AND HOSPITAL CARE AGREEMENT, THE CITRUS COUNTY HOSPITAL BOARD HAS NO OVERSIGHT OR CONTROL OF THE CITRUS MEMORIAL HEALTH FOUNDATION, INC.; EXPANSION OF CITRUS MEMORIAL HEALTH FOUNDATION, INC. PRIVATE DIRECTOR MEMBERSHIP WITHOUT CITRUS COUNTY HOSPITAL BOARD APPROVAL VIOLATES SECTION 155.40 2(A) OF THE FLORIDA STATUTES

Expansion of Private Director Control

Subsequent to the enactment of Section 155.40 of the Florida Statutes, the 1990 Citrus County Hospital Board leased – for an effective period of eighty (80) years -- all public hospital assets and operations to their previously incorporated Not-For-Profit private corporation, the Citrus Memorial Health Foundation, Inc. Citrus Memorial Health Foundation, Inc. was originally governed by a nine member Board of Directors: the five public Citrus County Hospital Board members, two private citizens selected by the Citrus County Hospital Board, the Hospital CEO and the Chief of the Medical Staff. Through term limit expansions, term limit eliminations, and reinstated term provisions, the Citrus Memorial Health Foundation, Inc. Board of Directors expanded from two private members elected by the Citrus County Hospital Board to seven private members elected by the not-for-profit (Citrus Memorial Health Foundation, Inc.). The Citrus Memorial Health Foundation, Inc. current structure is five public Citrus County Hospital Board members and seven private members, self - elected by the not-for-profit and a Medical Director elected by the hospital Medical Staff.

Citrus Memorial Health Foundation, Inc.'s unilateral expansion and term limit changes effectively reduced the public Citrus County Hospital Board to a minority position and enabled many Citrus Memorial Health Foundation, Inc. private Directors to maintain continuous memberships in excess of twenty years. Pursuant to the current Citrus Memorial Health Foundation, Inc. Articles, private Directors are eligible to be self-elected until approximately 2018 - potentially extending many private Director's membership beyond thirty years. The Citrus Memorial Health Foundation, Inc. retains absolute authority to again expand term limits past 2018. The public Citrus County Hospital Board has no recourse regarding the private majority nor do the citizens have representation or input regarding the private Directors that, by the 1990 contract, potentially will have unfettered control of the public Hospital and all its assets for over eighty (80) years.

Florida Statute 155.40(2)a requires that the public Citrus County Hospital Board must approve the not-for-profit company's corporate Articles of Incorporation. Although the Citrus County Hospital Board approved the original 1987 Citrus Memorial Health Foundation, Inc. Articles of Incorporation, there have been many amendments or restatements that were not independently approved by the Citrus County Hospital Board. The unilateral expansion of the Citrus Memorial Health Foundation, Inc. private membership without Citrus County Hospital Board approval violates Section 155.40(2)a.

Hospital Board Lacks Meaningful Oversight

Under the Lease & Hospital Care contractual provisions Citrus Memorial Health Foundation, Inc. has few obligations: the not-for-profit corporation must make bond debt payments and meet minimal bond financial covenants sufficient to avoid receivership, maintain appropriate licenses, participate in Medicare and Medicaid and accept indigent patients; there is no requirement that Citrus Memorial Health Foundation, Inc. operate the organization in a reasonably responsible manner or in a manner generally consistent with industry standards. The Lease extends for a period of forty years until 2030 with a forty-five year renewal option available to the corporate not-for-profit - effectively constituting an eighty-five year Lease. The

current Citrus County Hospital Board, as bound by the 1990 contract, has essentially no right of oversight: the corporate not-for-profit need only provide/furnish public financial reports and unspecified other documents from time to time. Should the provided financial reports indicate performance inconsistent with industry benchmarks, the Citrus County Hospital Board has no right to require improvement measures. Even with consistent, significant underperformance, the Citrus County Hospital Board has no right to review or approve the actions or decisions of the corporate not-for-profit. Absent non-compliance with the most minimal of requirements, the Citrus County Hospital Board can only independently intervene if the corporate not-for-profit becomes insolvent or plans to sell or merge the public hospital organization.

Although Section 155.40, Florida Statutes recognizes, in some circumstances, the ability of public hospital districts to lease the public hospital to a management corporation, the statute "does not authorize relinquishing to an independent private Board effective unfettered control over public property, powers, taxing authority, and money, including expenditure of ad valorem taxes without public oversight or accountability." Palm Beach County Health Care District v. Everglades Memorial Hospital, 658 So. 2d 577 (Fla. 4th DCA 1995). The Everglades court found the Lease to be an unconstitutional application of Section 155.40 by effectively placing the hospital beyond public accountability. The Everglades court noted the private board was "self-perpetuating" and exercised "substantial autonomy" while the public hospital board was powerless to remove the private Directors of the corporation and had virtually no meaningful control or oversight. The Citrus County Lease and Hospital Care Funding agreements are remarkably and significantly similar to the Everglades lease.

Citrus Memorial Health Foundation, Inc. erroneously relies upon Indian River County Hospital District vs. Indian River Memorial Hospital, 766 So. 2d 233 (Fla. 4th DCA 2000) to support the onerous Citrus County lease. Although the Indian River lease was upheld, the Indian River Hospital Board, also minority members of the corporation, had the right to remove the private Directors, had the right to affirmatively approve or disapprove the annual corporate budget and had independent approval of significant capital expenditures. The Citrus County Hospital Board has none of these protections for the public.

THE CONTROLLING LEASE VIOLATES SECTION 155.40(5) AND FLORIDA MILLAGE LAWS

The Citrus County Lease and Hospital Care contracts may violate Florida millage laws by mandating that the Citrus County Hospital Board "shall provide" the tax revenue requested by the corporate not-for-profit. The controlling contractual documents provide that should the Citrus County Hospital Board fail to assess the requested tax appropriation, Citrus Memorial Health Foundation, Inc. has the right to seek legal enforcement via injunctive relief or a writ of mandamus. It is noted that although the corporate non-for-profit's annual budget letter politely states that the Citrus County Hospital Board has 'taxation discretion', the controlling contractual documents provide otherwise. The Citrus County Hospital Board views the Lease millage mandate to be invalid and accordingly does exercise independent judgment in tax appropriations.

Statute 155.40(5) requires annual public tax appropriations consistent with millage laws or the public must be able to modify the lease & contract upon 12 months notice. The Citrus Memorial Health Foundation, Inc. lease, which essentially extends for 80 years violates this

statutory provision by the onerous contractual lease terms requiring the Citrus County Hospital Board to assess taxes as requested by the Citrus Memorial Health Foundation, Inc. This mandatory requirement - if the Citrus County Hospital Board fails to comply, the lease allows for enforcement procedures against the public board- violates Florida's Millage laws as well as Florida Statute 155.40(5).

SOVEREIGN IMMUNITY

In 2006 and 2008 Citrus Memorial Health Foundation, Inc. sought to limit a patient's right to recover damages for any negligence or wrong committed by Citrus Memorial Health Foundation, Inc., CMH, or CMH physicians. Citrus Memorial Health Foundation, Inc. asserted the right to governmental immunity arguing that as the Lessee of the public hospital, it is entitled - pursuant to the controlling contracts - to sovereign immunity as an instrumentality of the Citrus County Hospital Board. Under the doctrine of sovereign immunity, a patient's claim for wrongdoing is generally limited to \$100,000 and the hospital or its physicians must only be shown to have acted in bad faith or wanton or willful disregard of the patient's safety. See Sections 766.28(5) and 766.28(9)(a), Florida Statutes. In 2006, Citrus Memorial Health Foundation, Inc. and an attorney retained and directed by Citrus Memorial Health Foundation, Inc. to apparently represent the Citrus County Hospital Board (without Citrus County Hospital Board authority), presented the argument to the Florida Attorney General's Office. The position that the Citrus County Hospital Board has no meaningful operational oversight and no right to structural control over Citrus Memorial Health Foundation, Inc. was never fully presented to the Attorney General. Based upon the presentation, the Citrus Memorial Health Foundation, Inc. received a favorable opinion.

Approximately November 2006 (CMH FYE 2007), subsequent to the Attorney General opinion, in an effort to comply with the sovereign immunity claim, the Citrus Memorial Health Foundation, Inc. began to select certain Citrus Memorial Health Foundation, Inc. actions for Citrus County Hospital Board approval. Such selection was completely at the discretion of the corporation -- no contractual provision, codification or other legality required any Citrus Memorial Health Foundation, Inc. operative action to be approved by the Citrus County Hospital Board.

March 2007, Citrus Memorial Health Foundation, Inc., based upon the favorable Attorney General opinion, asserted the right to limit damages via sovereign immunity in a Citrus County Circuit court case. In sworn affidavits and testimony the Citrus Memorial Health Foundation, Inc. Foundation CEO stated "every material action by the Foundation is ratified by the Hospital Board". The CEO did not disclose that the Citrus Memorial Health Foundation, Inc. voluntarily selected ratification items and had sole discretion to determine what actions it determined to be 'material'; the Citrus Memorial Health Foundation, Inc. alone determined what items, if any, would be presented to the Citrus County Hospital Board for ratification. The Circuit Court allowed the Citrus Memorial Health Foundation, Inc. to assert sovereign immunity as an agency or instrumentality under the control of the Citrus County Hospital Board but restricted the decision to the case before the Court.

Subsequently, with the upcoming appointments of new Citrus County Hospital Board members in July 2009 and the reluctance of the Citrus County Hospital Board to approve certain Citrus Memorial Health Foundation, Inc. decisions Citrus Memorial Health Foundation, Inc. announced it would no longer submit any Citrus Memorial Health Foundation, Inc. decisions for Citrus County Hospital Board approval; the Citrus Memorial Health Foundation, Inc. advised that under the Lease and controlling contracts it is not required to submit any Citrus Memorial Health Foundation, Inc. decision or action of any nature for Citrus County Hospital Board approval. Although the Citrus Memorial Health Foundation, Inc. receded from and is non-compliant with its previous sworn representations made to secure sovereign immunity, the Citrus Memorial Health Foundation, Inc. continues to assert that it is subject to the control of the Citrus County Hospital Board and therefore entitled to governmental immunity.

In September 2009, the Citrus County Hospital Board resigned in protest from the Citrus Memorial Health Foundation, Inc.. The Citrus County Hospital Board resolution noted the complete inability of the public Citrus County Hospital Board to exercise any oversight of the Citrus Memorial Health Foundation, Inc., the perpetual minority position of the Citrus County Hospital Board and the Citrus Memorial Health Foundation, Inc. stated failure to comply with their sworn representations and testimony made to secure sovereign immunity.

The issues of whether a private corporation is a governmental agency or instrumentality centers on the ability of the governmental entity to exercise effective control over the private corporation. Pagan v. Sarasota County Public Hospital, 884 So. 2d 257 (2nd DCA 2004). The Pagan court upheld the corporate sovereign immunity noting the public board had the right to effective structural control over the corporation as the nine private corporate Directors were all elected or appointed by the public board, the public board maintained a majority position on the corporation and the public board had discretionary power to dissolve the corporation. The Florida and Federal courts have consistently recognized that a private corporation will not be entitled to sovereign immunity when the organization is an autonomous and self - perpetuating corporation with no direct operative control exercised by the governmental entity. Shands Teaching Hospital vs. Lee, 478 So. 2d 77 (Fla. 1st DCA 1985) See also Prison Rehabilitation (PRIDE) v. Betterson, 648 So. 2d 778 (Fla 1st DCA 1994) supporting sovereign immunity when the corporation's essential operations were subject to legislative constraints over day to day operations. [The PRIDE/Betterson statute required that all members of the corporation must be appointed by the Governor and confirmed by the Senate].

It is the position of the Hospital Board that the current structure between the Citrus County Hospital Board and the Citrus Memorial Health Foundation, Incorporated does not support the assertion of sovereign immunity by the private not-for-profit. The Citrus County Hospital Board not only does not have "structural control" over the private corporation, the Citrus County Hospital Board has absolutely no ability whatsoever to exercise any meaningful oversight of the not-for-profit private corporation. The situation is so unjust that the Citrus County Hospital Board must make official public record requests, pursuant to Fla. Stat. 119 to receive information from the Citrus Memorial Health Foundation, Inc. Immediate governance reforms are needed to enable the Citrus Memorial Health Foundation, Inc. to in good faith assert and maintain sovereign immunity. Should mediation or governance reform efforts not achieve resolution, the Citrus County Hospital Board will seek an Attorney General's opinion and

declaratory relief to clarify the sovereign immunity concern and to focus and accomplish the need for governance reform.

The Citrus County Hospital Board is working to ensure that the Citrus Memorial Health Foundation, Inc. creates and implements policies and procedures that require accountability of the Citrus Memorial Health Foundation, Inc.

The Citrus County Hospital Board will begin the process to address the lease term, require the Citrus Memorial Health Foundation, Inc. to follow all applicable laws, follow prescribed good business practices and propose those good business practices as policies to the Citrus County Hospital Board for approval. The Citrus County Hospital board will require accountability for public funds provided by the Citrus County Hospital Board. Furthermore, the Citrus County Hospital Board will require greater public input by Citrus Memorial Health Foundation, Inc. and greater transparency.

The Citrus County Hospital Board will require the Citrus Memorial Health Foundation, Inc. to amend all of its governance documents to cease self-perpetuation of the Citrus Memorial Health Foundation, Inc. directors.

It is agreed that the Citrus County Hospital Board has a responsibility to ensure proper accountability measures are in place to carry out its responsibilities. It is furthermore agreed that the Citrus County Hospital Board should require (and will require) that the Citrus Memorial Health Foundation, Inc. is to follow good business practices in the operation of the hospital to maximize efficiency.

Promoting sound business practices by the setting and achieving of appropriate benchmarks is an appropriate business model and activity. Reflected below is an analysis of Citrus Memorial Health Foundation, Inc. business activities and Agency for Health Care Administration benchmarks.

NEGATIVE OPERATIVE PERFORMANCE BY THE CITRUS MEMORIAL HEALTH FOUNDATION, INC. "CMHF, INC." IS UNDERWRITTEN BY LARGE INCREASES IN TAX REVENUE AND DEBT DEPENDENCY:

CITRUS MEMORIAL HEALTH FOUNDATION, INC. ANNUAL LOSSES FROM PATIENT SERVICE OPERATIONS:

2004 -5.34M (Million)

2005 -6.12M

2006 -7.81M

2007 -14.41M

2008 -11.10M

2009 -10.64M budgeted -8.48M projected

Citrus Memorial Health Foundation, Inc., Audited Financial Statements 2004 – 2008 Restated to exclude tax revenue & Florida LIP "Low Income Pool" uninsured matching funds from Operational Revenue: Total Unrestricted Revenues (per AFS) less Citrus County Ad Valorem Tax Revenue and Florida Low Income Pool Funds)

CITRUS COUNTY HOSPITAL BOARD MILLAGE RATE INCREASED FROM 0.2539 MILLS IN 2004 TO 1.1689 MILLS IN 2009:

2004 / 0.2539 (Mills)

2005 / 1.0000

2006 / 0.9500

2007 / 0.9200

2008 / 0.8999

2009 / 1.0000

Annual Citrus County Hospital Board Tax Millage Assessment Certificate of Taxable Value Form DR 420

CITRUS MEMORIAL HEALTH FOUNDATION, INC. AD VALOREM TAX REVENUE / FLORIDA MATCHING FUNDS: LIP PROGRAM / TOTAL CITRUS MEMORIAL HEALTH FOUNDATION, INC. REVENUE GENERATED BY CITRUS TAX APPROPRIATIONS & FLORIDA LOW INCOME UNINSURED PROGRAM:

2004 1.73M / 0000 / 1.73 M (Million)

2005 6.60M / 0000 / 6.60 M

2006 7.58M / 1.14 M / 8.69 M

2007 9.90M / 1.44 M / 11.32 M

2008 10.05M / 1.55 M / 11.59 M

2009 12.10M / 1.41 M / 13.51 M projected

Citrus Memorial Health Foundation, Inc., Audited Financial Statements 2004 – 2008

Citrus County Hospital Board Audited Financial Statements 2004 - 2008

LIP/Citrus County Hospital Board Letter of Agreement 2006 – 2009

CITRUS MEMORIAL HEALTH FOUNDATION, INC. OUTSTANDING LONG TERM DEBT LIABILITY (EXPRESSED IN MILLIONS):

2004 45.3 M 2006: 53.3M 2008 61.3M

Dependency on long term debt has collapsed CITRUS MEMORIAL HEALTH FOUNDATION, INC. debt capacity: 2004 debt capacity was 11M with 2008 capacity projected to be in excess of 24M; by October 2008 under Citrus Memorial Health Foundation, Inc. control, Citrus Memorial Health Foundation, Inc. financial stability to incur additional debt plummeted from a projected 2008 capacity of 24M to an actual 2008 capacity of -22M.

Sources:

Citrus Memorial Health Foundation, Inc. Debt Capacity and Credit Profile, July 2005, Ponder & Co.

Citrus Memorial Health Foundation, Inc. Debt Capacity and Credit Profile, April 2008, August 2009, Ponder & Co.

Citrus Memorial Health Foundation, Inc. September 2008 10M Bond Issue

CITRUS MEMORIAL HEALTH FOUNDATION, INC. "CMHF, INC." FINANCIAL PERFORMANCE DOES NOT MEET AHCA INDUSTRY BENCHMARK STANDARDS:

Citrus Memorial Health Foundation, Inc. consistently underperforms Florida industry benchmarks as reported by Florida's Agency for Health Care Administration (AHCA). Florida, seeking to ensure analytical reliability and statistical accuracy of hospital performance comparisons mandates, pursuant to the Florida Uniform Hospital Reporting Statute (FHURS), that all Florida hospitals report financial and performance data to AHCA in the specific, uniform format detailed in the reporting statute. Citrus Memorial Health Foundation, Inc. performance compared to Florida Not for Profit Hospitals and AHCA assigned Citrus Memorial Health Foundation, Inc. similar hospital group for comparison.

AHCA Operating Margins (patient service operations):

▪ 2004	AHCA CMHF, INC.	-6.2%	AHCA NFP 3.1%	AHCA CMHF, INC.
	Similar Hospital Group	2.3%		
▪ 2005	AHCA CMHF, INC.	-4.8%	AHCA NFP 3.9%	AHCA CMHF, INC.
	Similar Hospital Group	3.3%		
▪ 2006	AHCA CMHF, INC.	-4.8%	AHCA NFP 2.5%	AHCA CMHF, INC.
	Similar Hospital Group	1.5%		
▪ 2007	AHCA CMHF, INC.	-10.8%	AHCA NFP 2.4%	AHCA CMHF, INC.
	Similar Hospital Group	1.9%		
▪ 2008	AHCA CMHF, INC.		AHCA data not yet available	

AHCA Total Margins (patient service operations, external services, tax revenues and support, & investment income):

▪ 2004	AHCA CMHF, INC.	-2.4%	AHCA NFP 5.7%	AHCA CMHF, INC.
	Similar Hospital Group	2.7%		
▪ 2005	AHCA CMHF, INC.	2.1%	AHCA NFP 6.3%	AHCA CMHF, INC.
	Similar Hospital Group	4.6%		
▪ 2006	AHCA CMHF, INC.	2.2%	AHCA NFP 5.4%	AHCA CMHF, INC.
	Similar Hospital Group	3.8%		
▪ 2007	AHCA CMHF, INC.	-1.0%	AHCA NFP 6.3%	AHCA CMHF, INC.
	Similar Hospital Group	4.8%		
▪ 2008	AHCA CMHF, INC.		AHCA data not yet available	

Sources:

AHCA Hospital Financial Data State of Florida Annual Reports 2004 – 2007 Financial Analysis Unit, [850.488.8672]

Appendix D "Hospital Specific Financial Data" (AHCA Citrus Memorial Health Foundation, Inc. Specific Operating & Total Margins)

Appendix D-1 "State Summary By Owner" (AHCA NFP Operating & Total Margins)

Appendix D-2 "State Summary By Type of Group" (AHCA Assigned Similar Hospital Group Operating & Total Margins)

Appendix A "Table G / Operating Margins & Total Margins"

Appendix B "Hospital Groups"

Based on the aforementioned no additional tax revenues shall be used or provided until such time the Citrus Memorial Health Foundation, Inc. has begun the process to conform with better business practices.

Citrus County Hospital Board has been aggressively pursuing Citrus Memorial Health Foundation, Inc. governance reforms. Citrus County Hospital Board has proposed legislative initiatives that have passed the legislative delegation and will be introduced in the Florida House and Senate. Passage of the local laws is anticipated and the Governor's support is expected. All appropriate political and regulatory agencies are aware of the significant Citrus Memorial Health Foundation, Inc. governance issues and we are working diligently to resolve these issues.

On December 16, 2009 and January 11, 2010 the parties mediated. The mediation teams have agreed to a resolution. Both boards are set to ratify and begin implementation of the agreement of the mediation teams.

It is the opinion of the Citrus County Hospital Board that should the mediated agreement come to pass and be implemented then governance issues will be resolved, this includes any dispute regarding sovereign immunity due to the fact that the mediated agreement puts into place sufficient oversight protocols pursuant to law.

In furtherance of the Auditor General's recommendations, the Citrus County Hospital Board has hired an Interim Executive Director and authorized the retaining of an accountant to ensure the Citrus County Hospital Board is at all times functioning to its maximum ability and pursuant to law.

It is the position of the Citrus County Hospital Board that Citrus Memorial Health Foundation, Inc. is in violation of Fla. St. 155.40 and that multiple and significant portions of the lease are invalid. The Citrus County Hospital Board is satisfied that if the mediated agreement is implemented Citrus County Hospital Board's position and opinion in this regard would certainly be different, however, it is anticipated portions of the lease would still remain to be re-negotiated.

It is the position of the Citrus County Hospital Board that no tax revenues shall be provided to the Citrus Memorial Health Foundation, Inc. until such time the aforementioned governance issues are resolved.

Supplemental materials provided for Finding #1 are as follows:

- 1) Citrus County Hospital Board Resolutions dated September 14, 2009- Resolution 2009-0, Resolution 2009-03, Resolution 2009-04, Resolution 2009-06, October 12, 2009, October 26, 2009 and November 9, 2009.
- 2) Summary of the Mediation Teams' Agreement

Response as to Finding #2

The Citrus County Hospital Board agrees with the Auditor General's recommendation. The Citrus Memorial Health Foundation, Inc. has not accounted for the expenditures of ad valorem tax dollars. ✓

The Citrus County Hospital Board shall require that the Citrus Memorial Health Foundation, Inc. create and present a policy to the Citrus County Hospital Board for consideration and approval. The policy shall require the accounting for all ad valorem tax dollars. Furthermore, no ad valorem tax dollars shall be provided to the Citrus Memorial Health Foundation, Inc. by the Citrus County Hospital Board until such time the policy is approved and implemented by the Citrus County Hospital Board.

The Citrus County Hospital Board will work diligently with the Citrus Memorial Health Foundation, Inc. to account for the ad valorem tax dollars. The Citrus County Hospital Board acknowledges representations by the Citrus Memorial Health Foundation, Inc. that Citrus Memorial Health Foundation, Inc. is currently addressing the issue as recommended by the Auditor General.

Response as to Finding #3:

The Citrus County Hospital Board will require that the Citrus Memorial Health Foundation, Inc. follow all applicable State and Federal laws, all regulatory agency mandates and all administrative rules and requirements.

Response as to Finding #4:

The Citrus County Hospital Board agrees with the Recommendation of the Auditor General.

The Citrus County Hospital Board is taking corrective action to formulate and adopt debt management policies and procedures. The Citrus County Hospital Board shall also require that the Citrus Memorial Health Foundation, Inc. likewise create debt management policies and protocols of which the Citrus County Hospital Board shall approve or reject. Additional debt will not be considered until such time both the Citrus County Hospital Board and the Citrus Memorial Health Foundation, Inc. have appropriate and approved (by Citrus County Hospital Board) policies in place.

In addition, the Citrus County Hospital Board has stated publically and has addressed debt reduction in item 3, 4, 5, 7 & 8 of the mediated agreement between the parties that debt reduction should be planned and reduced to comport with industry norms and good business practices.

The Citrus County Hospital Board is committed to working with the Citrus Memorial Health Foundation, Inc. to reduce the current debt load and to acquire no new debt until such

time appropriate policies and protocols are in place to ensure additional debt is both prudent and manageable without the need of ad valorem tax money to pay any such debt.

The Citrus County Hospital Board recognizes that the issuance of debt without the appropriate debt capacity is not an optimal business condition and agrees that debt load should be immediately addressed.

The Citrus County Hospital Board will work to ensure debt capacity can be managed without ad valorem tax money. The Citrus County Hospital Board will retain a consultant (if necessary) to review and develop any and all policies necessary to address this finding and put a policy in place.

Response as to Finding #5:

The Citrus County Hospital Board agrees with the preliminary findings and recommendations of the Auditor General. It is readily apparent, and through examination, that best practices were not followed or adhered to.

The Citrus County Hospital Board will create specific policies and procedures as it relates to projects of this nature. The Citrus County Hospital Board will not authorize additional projects until specific policies and procedures are put into place to assure these types of conflicts and actions do not re-occur.

The Citrus County Hospital Board will require that the Citrus Memorial Health Foundation, Inc. report and advise as to the status of the audit of the Sugarmill property construction and the re-negotiations of the Emergency Room project before any additional ad valorem tax money is provided to the Citrus Memorial Health Foundation, Inc.

The Citrus County Hospital Board will also create a construction committee as needed for future projects.

Response as to Finding #6:

The Citrus County Hospital Board agrees with the Auditor General's findings and will require the Citrus Memorial Health Foundation, Inc. to comply with the Auditor General's recommendation and to create appropriate policies and procedures relating to incentives.

The Citrus County Hospital Board will require that the Citrus Memorial Health Foundation, Inc. propose their incentive policies for approval to the Citrus County Hospital Board. No additional ad valorem tax money will be provided to the Citrus Memorial Health Foundation, Inc. until such time a policy addressing the aforementioned is proposed by Citrus Memorial Health Foundation, Inc. and approved by the Citrus County Hospital Board.

Response as to Finding #7:

The Citrus County Hospital Board agrees with the Auditor General's findings and will require the Citrus Memorial Health Foundation, Inc. to comply with the Auditor General's recommendation and to create appropriate policies and procedures relating to travel expenses.

The Citrus County Hospital Board will require that the Citrus Memorial Health Foundation, Inc. propose their travel policies for approval to the Citrus County Hospital Board. No additional ad valorem tax money will be provided to the Citrus Memorial Health Foundation, Inc. until such time a policy addressing the aforementioned is proposed by Citrus Memorial Health Foundation, Inc. and approved by the Citrus County Hospital Board.

The Citrus County Hospital Board will require that the proposed travel policy be compliant with Fla. St. 112.06.

Response as to Finding #8:

The Citrus Memorial Health Foundation, Inc. agrees with the Auditor General's findings and recommendations. The Citrus County Hospital Board will require that the Citrus Memorial Health Foundation, Inc. create policies and procedures for the procurement of goods and services.

The Citrus County Hospital Board will require the Citrus Memorial Health Foundation, Inc. to propose a policy to the Citrus County Hospital Board regarding the aforementioned and will not provide any additional ad valorem tax monies until such a policy is presented by Citrus Memorial Health Foundation, Inc. and approved by the Citrus County Hospital Board.

Response as to Finding #9:

The Citrus County Hospital Board agrees with the findings and recommendation of the Auditor General.

The Citrus County Hospital board will require that the Citrus Memorial Health Foundation, Inc. to submit a policy and procedure to ensure compliance with Citrus Memorial Health Foundation, Inc. Bylaws.

Response as to Finding #10:

The Citrus County Hospital Board agrees with the Auditor General and will require that the Citrus Memorial Health Foundation, Inc. enact and follow appropriate conflicts of interest policies.

The Citrus County Hospital Board shall require that the Citrus Memorial Health Foundation, Inc. enter into an agreement with Citrus County Hospital Board to submit all Citrus Memorial Health Foundation, Inc. Conflict Committee minutes and certify compliance with the Citrus Memorial Health Foundation, Inc. conflict by-laws on an annual basis.

The Citrus County Hospital Board shall not provide any additional ad valorem tax money until such time as the aforementioned is complied with.

Response as to Finding #11:

The Citrus County Hospital Board agrees with the findings and recommendations of the Auditor General.

The Citrus County Hospital Board acknowledges that three affirmative votes are required to pass upon any matter. In the one instance where an item was passed 2-1 the matter was again considered in the same month at a different meeting and the item passed as required.

The Citrus County Hospital Board will change its by-laws as well to comport and adhere to the Citrus County Hospital Board enabling statute.

The Citrus County Hospital Board agrees to comport with all applicable Florida laws, including but not limited to: voting requirements and members abstaining from voting.

**END OF RESPONSE TO AUDITOR GENERAL'S PRELIMINARY
AND TENTATIVE FINDINGS AND RECOMMENDATIONS**

The Citrus County Hospital Board thanks the Office of the Auditor General for its careful consideration of these matters and for the insight provided so that the citizens of Citrus County can continue to receive quality healthcare while utilizing its tax money in the most efficient manner. The Citrus County Hospital Board also appreciates the Auditor General's effort in assisting the Citrus County Hospital Board and the Citrus Memorial Health Foundation, Inc. to ensure an effective operation and management of our community hospital.

Sincerely,

V. Upender Rao, MD
Chairman, Citrus County Hospital Board

VUR/rg

XC:

All Trustees: Ressler/Frankel/Smallridge/Wood
William J. Grant, General Counsel, Citrus County Hospital Board
Ryan Beaty, CEO, Citrus County Hospital Board and Citrus Memorial Health Foundation, Inc.
Clark Stillwell, General Counsel, Citrus Memorial Health Foundation, Inc.

Enclosures: Resolutions dated September 14, 2009-Resolution 2009-0, Resolution 2009-03, Resolution 2009-04, Resolution 2009-06, October 12, 2009, October 26, 2009 and November 9, 2009.

CITRUS MEMORIAL HEALTH FOUNDATION, INC.
YEAR-TO-DATE COMPARATIVE STATEMENT OF OPERATIONS
For the 12 months ended September 2009

CMHS FYE 2009 Profitability
Excluding Tax Support

CCHB Approved Financial Statement Formats FYE 2009

	<u>CURRENT YEAR ACTUAL</u>	<u>CURRENT YEAR BUDGET</u>
REVENUES		
NET PATIENT REVENUE	\$ 170,133,533	\$ 165,615,180
OTHER OPERATING REVENUE	<u>570,348</u>	<u>570,302</u>
TOTAL NET OPERATING REVENUE	170,703,881	166,185,482
EXPENSES		
OPERATING EXPENSES	167,230,592	163,993,135
DEPRECIATION AND AMORTIZATION	8,929,782	9,754,041
INTEREST	<u>3,028,718</u>	<u>3,092,484</u>
TOTAL EXPENSES	179,189,092	176,839,660
OPERATING INCOME (LOSS)	(8,485,211)	(10,654,178)
NON-OPERATING INCOME	1,994,097	1,718,988
FUNDS FROM THE HOSPITAL BOARD	12,100,000	10,908,334
LIP PROGRAM	<u>1,607,581</u>	<u>1,292,237</u>
TOTAL NON-OPERATING INCOME	15,701,678	13,919,559
REVENUES OVER EXPENSES	<u>\$ 7,218,466</u>	<u>\$ 3,265,381</u>

Hospital and External Service Combined
Tax and LIP - Reclass to Non-Operating Income

CITRUS MEMORIAL HEALTH FOUNDATION, INC.
YEAR-TO-DATE COMPARATIVE STATEMENT OF OPERATIONS
For the 12 months ended September 2009

CMHS FYE 2009 Profitability
Including Tax Support

	<u>CURRENT YEAR ACTUAL</u>	<u>CURRENT YEAR BUDGET</u>
REVENUES		
NET PATIENT REVENUE	\$ 170,133,533	\$ 165,615,180
FUNDS FROM THE HOSPITAL BOARD	12,100,000	11,900,000
LIP PROGRAM	1,607,581	1,409,714
OTHER OPERATING REVENUE	<u>570,348</u>	<u>570,302</u>
TOTAL NET OPERATING REVENUE	184,411,462	179,495,196
EXPENSES		
OPERATING EXPENSES	167,230,592	163,993,135
DEPRECIATION AND AMORTIZATION	8,929,782	9,754,041
INTEREST	<u>3,028,718</u>	<u>3,092,484</u>
TOTAL EXPENSES	179,189,092	176,839,660
OPERATING INCOME (LOSS)	5,222,370	2,655,536
NON-OPERATING INCOME	<u>1,994,097</u>	<u>1,718,988</u>
REVENUES OVER EXPENSES	<u>\$ 7,216,465</u>	<u>\$ 4,374,524</u>

Hospital and External Service Combined

**Citrus County Hospital Board
Governmental Fund Balance Sheet
December 2009**

Agenda Item #8
Financial Report & List of Payees

	<u>GENERAL FUND</u>
ASSETS	
Cash	\$6,159,605
Pre-paid Tax Revenue to CMHS	
TOTAL ASSETS	<u><u>\$6,159,605</u></u>
 LIABILITIES	
Amount Due to Citrus Memorial Health Foundation, Inc.	\$1,200,000
 FUND BALANCE	
Reserved for Encumbrances	\$4,927,202
Unreserved	<u>\$32,402</u>
Total Fund Balance	<u>\$4,959,605</u>
 TOTAL LIABILITIES AND FUND BALANCE	<u><u>\$6,159,605</u></u>

**Citrus County Hospital Board
Statement of Cash Flows
For Period Ending December 31, 2009**

	<u>Current Month</u>	<u>YTD</u>
Cash Flows from Operating Activities		
Tax Distributions	3,220,415	4,563,644
Ad Valorem Tax Fees	0	0
Miscellaneous Income	53	58
Interest Distributions	0	265
Direct Payment to CMHS	0	0
Property Taxes	0	0
Tax Commissions	(64,402)	(90,413)
Administrative and Other Services	(55,149)	(126,686)
Net Cash Provided by (Used In)		
Operating Activities	3,100,917	4,346,868
Cash Flows from Investing Activities		
Interest Income	10,839	19,610
Net Cash Provided by (Used In)		
Investing Activities	10,839	19,610
Increase (Decrease) In Cash and Cash Equivalents	3,111,756	4,366,478
Cash and Cash Equivalents at Beginning of Period	3,047,849	1,793,127
Cash and Cash Equivalents at December 31, 2009	6,159,605	6,159,605

Citrus County Hospital Board
Statement of Activities and Annual Budget
Revenues, Expenditures and Changes in Fund Balance
For the Period Ending December 31, 2009

	<u>DECEMBER 2009</u>	<u>YEAR TO DATE</u>	<u>ANNUAL BUDGET</u>
GENERAL REVENUE			
Property Taxes - Net	\$3,220,415	\$4,563,909	\$10,074,922
Misc Income (copies)	\$53	\$58	\$0
Investment Income	\$10,839	\$19,610	\$71,500
TOTAL GENERAL REVENUE	<u>\$3,231,307</u>	<u>\$4,583,577</u>	<u>\$10,146,422</u>
EXPENDITURES - EXPENSES			
Citrus Memorial Health System		\$0	\$5,250,000
Property Appraiser Fees		\$0	\$262,718
Tax Collector Fees	\$64,402	\$90,413	\$201,498
Administrative and Other Services	\$55,149	\$126,686	\$333,699
TOTAL EXPENSES	<u>\$119,551</u>	<u>\$217,099</u>	<u>\$6,047,915</u>
EXCESS OF REVENUES OVER EXPENDITURES	<u>\$3,111,756</u>	<u>\$4,366,478</u>	<u>\$4,098,507</u>
FUND BALANCE - NET ASSETS, BEGINNING OF PERIOD	<u>\$1,847,849</u>	<u>\$593,127</u>	<u>\$593,127</u>
FUND BALANCE - NET ASSETS, END OF PERIOD	<u>\$4,959,605</u>	<u>\$4,959,605</u>	<u>\$4,691,634</u>

11.18.2010
List of Payees/Invoices

CITRUS COUNTY HOSPITAL BOARD

INVOICES

ITEM	DATE	INVOICE #	NAME	AMOUNT
1	12/16/09	392804	OfficeMax Incorporated	\$ 370.26
2	12/16/09	450986	OfficeMax Incorporated	\$ 22.58
3	12/16/09	460712	OfficeMax Incorporated	\$ 142.42
4	12/16/09	541804	OfficeMax Incorporated	\$ 59.85
5	12/16/09	566884	OfficeMax Incorporated	\$ 40.50
6	12/16/09		David Wright	\$ 175.00
7	12/16/09		Citrus Memorial Health Foundation, Inc.	\$ 79.80
8	12/16/09	2219	Liberty Court Reporting (CMHF Meeting 12/14/09)	\$ 1,047.00
9	12/18/09	2226	Liberty Court Reporting	\$ 487.50
10	12/22/09	2227	Liberty Court Reporting (CMHF Meeting 12/01/09)	\$ 600.00
11	12/24/09		Citrus County Chronicle (Legislation)	\$ 713.50
12	12/24/09		Citrus County Chronicle (01/08/10 & 01/18/10)	\$ 38.67
13	12/28/09	788584	OfficeMax Incorporated	\$ 1.47
14	12/31/09	773172	OfficeMax Incorporated	\$ 31.85
15	01/04/10	687012	OfficeMax Incorporated	\$ 9.66
16	01/04/10	8450676	Akerman Senterfitt (October 2009)	\$ 15,000.00
17	01/05/10	2253	Liberty Court Reporting (CCHB 12/14/09)	\$ 297.50
18	01/08/10		Citrus Memorial Health Foundation, Inc.	\$ 171.75
19	01/14/10	09JJU-163	Upchurch Watson White & Max	\$ 989.75
20	01/15/10	598	Spectrum Computers	\$ 100.00
21	01/15/10	616	Spectrum Computers	\$ 187.50
22	01/18/10	11970	Grant & Samargya, LLC	\$ 28,925.00
			TOTAL	\$ 49,491.56

CCHB Resolution Adopting 01.11.2010 Mediation Proposed Agreement

A RESOLUTION OF THE CITRUS COUNTY HOSPITAL BOARD OF CITRUS COUNTY, FLORIDA.

WHEREAS, the Citrus County Hospital Board of Citrus County, Florida, appointed a mediation team to mediate with the Citrus Memorial Health Foundation, Inc. to resolve governance issues and concerns; and

WHEREAS, the Citrus County Hospital Board and Citrus Memorial Health Foundation, Inc., mediated on December 16, 2009 and January 11, 2010; and

WHEREAS, the Citrus County Hospital Board and the Citrus Memorial Health Foundation, Inc. mediation teams were successful and produced an agreement memorialized by letter from Citrus County Hospital Board General Counsel Grant to Citrus Memorial Health Foundation, Inc. General Counsel Stillwell, attached hereto as Exhibit A; and

WHEREAS, The Citrus County Hospital Board and Citrus Memorial Health Foundation, Inc. have resolved governance and sovereign immunity issues if such mediation team agreements are approval independently by the Citrus County Hospital Board and Citrus Memorial Health Foundation, Inc. Boards; and

WHEREAS, the Citrus County Hospital Board ratifies and accepts the mediated agreement of its team as in the best interest of the citizens of Citrus County, Florida; and

WHEREAS, Citrus County Hospital Board shall abate all actions taken by the Citrus County Hospital Board to effect governance reform of the Citrus Memorial Health Foundation, Inc. upon permanent amendment of all governance documents consistent with the mediation teams' agreement; and

WHEREAS, Citrus County Hospital Board has implemented a specific time table for

events meant to achieve governance reform such that the Citrus County Hospital Board declares that time is of the essence and amendment of governance documents shall occur with all due speed, but with diligence; and

WHEREAS, Citrus County Hospital Board shall require acceptance by the Citrus Memorial Health Foundation, Inc. of the mediated team agreement and that same shall appear in its minutes; and

WHEREAS, Citrus County Hospital Board seeks to amicably work with the Citrus Memorial Health Foundation, Inc. to permanently end all disputes and provide quality health care to the people of Citrus County, Florida; and

WHEREAS, Citrus County Hospital Board seeks to maintain the public hospital under public oversight but managed by the Citrus Memorial Health Foundation, Inc.; and

NOW, THEREFORE, BE IT RESOLVED by the CITRUS COUNTY HOSPITAL BOARD of Citrus County, Florida, that:

1. The Citrus County Hospital Board accepts, endorses and approves the Citrus County Hospital Board Mediation Team agreement reached with the Citrus Memorial Health Foundation, Inc mediation team.
2. The mediated agreement must be approved by the Citrus Memorial Health Foundation, Inc., in principal, without any substantive change of the mediation teams' agreement at its January 25, 2010 meeting.
3. The Citrus County Hospital Board directs and instructs its attorneys, by and through the direction of its General Counsel, to work diligently with Citrus Memorial Health Foundation, Inc. counsel to amend all appropriate governance documents to reflect the mediated agreement between the parties.
4. All proposed amended governance documents must be submitted to the Citrus County Hospital Board for review and

approval on or before Friday, March 19, 2010 for approval at the Citrus County Hospital Board meeting on March 29, 2010.

5. All proposed amended governance documents must be submitted and approved and made permanent by the Citrus Memorial Health Foundation, Inc. on or before April 1, 2010.
6. Upon Citrus Memorial Health Foundation, Inc. making permanent the mediated teams' agreement, approved by the Citrus County Hospital Board, the Citrus County Hospital Board shall immediately cease ALL initiatives taken to bring about governance reform that was previously authorized.
7. The resolution shall take effect immediately upon its adoption.

DULY ADOPTED at a public meeting on the 18th day of January, 2010.

Time Adopted: _____ P.M.

By: _____
CITRUS COUNTY HOSPITAL BOARD
CHAIRPERSON

ATTEST:

By: _____
CITRUS COUNTY HOSPITAL BOARD
SECRETARY



GRANT & SAMARGYA, LLC
ATTORNEYS AND COUNSELORS AT LAW

WILLIAM JOHN GRANT
MILAN "BO" SAMARGYA
JAMES R. DOZIER

123 NORTH APOPKA AVENUE
INVERNESS, FLORIDA 34450
(352) 726-5111
(352) 726-7244 FACSIMILE

January 12, 2010

Clark Stillwell, Esquire
320 S. US Hwy 41
Inverness, FL 34450

VIA FAX ONLY 352-726-8283

RE: Citrus County Hospital Board/Citrus Memorial Health Foundation, Inc.
Summary of Mediation Team's Agreement

Dear Clark,

The purpose of this letter is to memorialize the agreement between the Citrus County Hospital Board of Trustees and the Citrus Memorial Health Foundation, Inc. mediation teams. It is understood by each of the parties that ratification and approval by each parties' full board is required for implementation of the agreement by the mediation teams.

The agreement of the mediation teams is as follows:

- 1) The composition of the Citrus Memorial Health Foundation, Inc. board of directors shall be five private members, five Citrus County Hospital Board of Trustees members and the Chief of the Medical Staff who cannot be an employee of or in contract with or have a pecuniary interest in or with the Citrus Memorial Health Foundation, Inc.
- 2) Citrus Memorial Health Foundation, Inc. selection of the CEO, including initial contract and all renewal contracts, shall be submitted to and conditional upon Citrus County Hospital Board approval and affirmation.
- 3) The Citrus County Hospital Board shall consider separately the Citrus Memorial Health Foundation, Inc.'s annual operating and capital budget. To reject either budget shall require a Citrus County Hospital Board super-majority of four Citrus County Hospital Board members voting to reject said budget.
- 4) All Citrus Memorial Health Foundation, Inc. non-budgeted expenditures of any nature, capital, personnel contractual, professional services or otherwise, which exceeds \$250,000.00 in the per annum aggregate shall be submitted to and conditional upon Citrus County Hospital Board approval.

EXHIBIT A
PAGE 1 OF 3

amend to all physician

- 5) The Citrus Memorial Health Foundation, Inc. shall include in the annual operating budget all proposed physician/new hires and all proposed contract offers to medical professionals, including physicians.
- 6) All Citrus Memorial Health Foundation, Inc. committees shall consist of 2 Citrus County Hospital Board members and 2 Citrus Memorial Health Foundation, Inc. members. The Citrus County Hospital Board shall choose its members of all of the Citrus Memorial Health Foundation, Inc. committees. All acts of any Citrus Memorial Health Foundation, Inc. committee shall be approved by Citrus Memorial Health Foundation, Inc. Board of Directors. The only exception to this agreement shall be that the Citrus Memorial Health Foundation, Inc.'s Executive Committee may authorize settlement of medical liability case(s) but may only bind the Citrus Memorial Health Foundation, Inc. in doing so.
- 7) The Citrus Memorial Health Foundation, Inc. with the assistance of the Citrus County Hospital Board shall plan and prepare to reduce and eliminate all bond and bank indebtedness.
- 8) No additional debt may be incurred without the approval of the Citrus County Hospital Board that exceeds 1.25M per debt instrument.
- 9) Citrus Memorial Health Foundation, Inc. shall comply with all state statutes regarding not for profit corporations. Citrus Memorial Health Foundation, Inc. shall create policies to substantially comply with and address Florida Statutes 112 and 287. The proposed policies shall be presented to the Citrus County Hospital Board for approval within 180 days of the implementation of this mediated agreement.
- 10) Citrus County Hospital Board shall affirm by resolution that the Citrus Memorial Health Foundation, Inc. is acting as the agent and instrumentality of the Citrus County Hospital Board. Citrus County Hospital Board shall take NO action to impair the agency and instrumentality of the Citrus Memorial Health Foundation, Inc. if proposals one through eleven herein are permanently enacted, thus being that proposals one through eleven provide sufficient governmental oversight by the Citrus County Hospital Board of the Citrus Memorial Health Foundation, Inc. to allow Citrus Memorial Health Foundation, Inc. to be the undisputed agent and instrument of the Citrus County Hospital Board of Trustees.
- 11) Failure of the Citrus County Hospital Board to affirm any act of the Citrus Memorial Health Foundation, Inc. as required herein within 45 days of presentment to the Citrus County Hospital Board at its first regularly scheduled meeting shall cause the issue so proposed to be considered affirmed by the Citrus County Hospital Board.

EXHIBIT <u>A</u>
PAGE <u>2</u> OF <u>3</u>

Both parties shall review the permanent conditions herein adopted and implemented and shall determine on or before April 2011 if the parties shall draft and propose legislative initiatives to cause all parties to be elected in the year 2012 and 2014, respectively, such that

all of the members of the Citrus County Hospital Board and Citrus Memorial Health Foundation, Inc. are one in the same.

I am encouraged by the actions of the parties. Both organizations have made great strides and efforts to address issues and concerns that each of the respective parties have of the other. Implementation of the agreement by the mediation teams will stand as a testament of the continued commitments that each party has for continued quality healthcare at Citrus Memorial Hospital.

On January 18, 2010, the Citrus County Hospital Board will consider approval of the aforementioned by resolution. Please likewise calendar approval (albeit in principal) at the Citrus Memorial Health Foundation, Inc. meeting on January 25, 2010.

After consideration and approval by both boards, we can work diligently to draft appropriate amendments to the Citrus Memorial Health Foundation, Inc. Articles of Incorporation and Bylaws. I propose that once the governance documents are completed that we have one meeting to review and seek public comments and a second meeting to approve and implement.

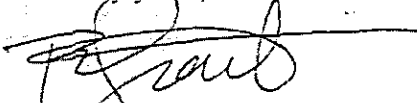
As you are aware time is of the essence. All matters must be implemented on or before April 1, 2010 so that Citrus County Hospital Board has sufficient time to act appropriately and can cause the cessation of actions no longer required.

Again, thank you for your commitment to the process and I look forward to working with you to final resolution.

If you have any concerns, please do not hesitate to call.

Thank you.

Sincerely yours,



William J. Grant

EXHIBIT A
PAGE 3 OF 3

WG/rg

- XC: V. Upender Rao, Chairperson of Citrus County Hospital Board of Trustees
Citrus County Hospital Board of Trustees (Ressler, Frankel, Smallridge, Wood)
Richard Jones, Esq., Via Fax Only, 813-223-2837
James Kennedy, Esq. Via Fax Only, 813-222-8189
John Upchurch, Esq. and Mediator Via Fax Only, 386-255-7722
Ryan Betty, CEO, Citrus County Hospital Board and Citrus Memorial Hospital Foundation, Inc., Via Fax ONLY 352-344-6565
David Langer, Chairman, Citrus Memorial Hospital Foundation, Inc., Via Fax Only, 352-344-6565

01.11.2010 Tentative Mediation Agreement:1. Foundation Directors:

- 5 CCHB - 5 Private At-Large - 1 Medical Staff Director (Chief of the CMH Medical Staff)
- Eligibility for the Medical Staff Directorship shall be restricted to independent physicians who have no financial relationship of any nature - contractual, employment, joint venture, real estate venture or otherwise - with CMHS.

2. CEO:

- Foundation selection of the CEO [initial contract and all renewal contracts] shall be submitted to and conditional upon independent CCHB ratification and approval.

3. Foundation Annual Operating and Capital Budgets:

- Foundation annual operating and capital budgets shall be submitted to and conditional upon independent CCHB ratification and approval.
- Foundation annual operating budget shall specifically include line item expenditures for all physician services including contractual expenses, subsidy expenses, employment expenses or other expenses of any nature.
- The Foundation budgets may only be rejected by a super majority of the CCHB.

4. Foundation Expenditures:

- All Foundation *non-budgeted* expenditures of any nature, capital, personnel contractual, professional services or otherwise, which exceeds \$250,000.00 in the per annum aggregate shall be submitted to and conditional upon independent CCHB ratification and approval.
- ~~All Foundation budgeted or non-budgeted expenditures of any nature - capital, personnel, contractual, professional services or otherwise, which exceed \$125,000.00 in the aggregate per annum shall be approved by the Foundation Board of Directors.~~

5. Debt Reduction:

- CMHF, together with the CCHB, shall address the feasibility and appropriateness of reducing the outstanding organizational debt.

6. CMHF Committees:

- All Foundation committees shall consist of 2 CCHB members to be appointed by the CCHB and 2 Foundation members to be appointed as provided in the Foundation By-Laws.
- No Foundation committee, with the exception of the Foundation Executive Committee when convening for the sole purpose of considering the settlement of medical liability cases, shall have authority to act on behalf of the corporation; all decisions of Foundation committees are recommendations only and must be affirmatively voted upon by the full Foundation Board.

7. Debt Issues:

- All additional organizational debt of any nature, exceeding \$1,250,000.00 per debt instrument shall be independently approved by the CCHB.

8. Compliance with Florida law:

- CMHF shall comply with all state statutes regarding NFP corporations.
- CMHF shall create policies to substantially comply with and address Florida Statutes 112 and 287. The proposed policies shall be presented to the Citrus County Hospital Board for approval within 180 days of the implementation of this mediated agreement.

9. CMHF agent/instrumentality of CCHB:

- Upon appropriate governing document restatement and amendments consistent with the above, the CCHB will affirm by resolution that the CMHF is acting as an agent and instrumentality of the CCHB; no action in contravention will be taken either by the CCHB or individual members thereof.

10. CCHB Ratification Time Parameters:

- CCHB 45 days to affirm or reject approval items above; CCHB failure to affirm within 45 days constitutes affirmation.

Both parties shall review the permanent conditions herein adopted and implemented and shall determine on or before April 2011 if the parties shall draft and propose legislative initiatives to cause all members of both the Foundation Board and the Hospital Board to be elected in the year 2012 and 2014, respectively, such that all of the members of the Citrus County Hospital Board and Citrus Memorial Health Foundation, Inc. are one in the same.

I am encouraged by the actions of the parties. Both organizations have made great strides and efforts to address issues and concerns that each of the respective parties have of the other. Implementation of the agreement by the mediation teams will stand as a testament of the continued commitments that each party has for continued quality healthcare at Citrus Memorial Hospital.

On January 18, 2010, the Citrus County Hospital Board will consider approval of the aforementioned by resolution. Please likewise calendar approval (albeit in principal) at the Citrus Memorial Health Foundation, Inc. meeting on January 25, 2010.

After consideration and approval by both boards, we can work diligently to draft appropriate amendments to the Citrus Memorial Health Foundation, Inc. Articles of Incorporation, Bylaws and contractual documents. I propose that once the governance documents are completed that we have one meeting to review and seek public comments and a second meeting to approve and implement.

As you are aware time is of the essence. All matters must be implemented on or before April 1, 2010 so that Citrus County Hospital Board has sufficient time to act appropriately and can cause the cessation of actions no longer required.

Again, thank you for your commitment to the process and I look forward to working with you to final resolution.

If you have any concerns, please do not hesitate to call.

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