



U. S. Department of Justice

*United States Attorney
Central District of California*

*Evan J. Davis
Assistant United States Attorney
Criminal Division/Major Frauds Section
(213) 894-4850; fax 894-6269
Evan.Davis@usdoj.gov*

*1100 US Courthouse
312 North Spring Street
Los Angeles, California 90012*

April 27, 2012

Via electronic mail to duanelyons@quinnemanuel.com
Duane Lyons, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
Attorneys for Pacific Health Corporation

Re: Deferred Prosecution Agreement for Pacific Health Corporation

Dear Mr. Lyons:

1. On the understandings and agreements specified below, the United States Attorney's Office for the Central District of California ("USAO") will defer the criminal prosecution of your client, Pacific Health Corporation ("PHC"), and its associated entities and subsidiaries, Los Angeles Doctors Corporation, doing business as Los Angeles Metropolitan Medical Center ("LAMMC"), Tustin Hospital and Medical Center, a California corporation, doing business as Newport Specialty Hospital (formerly doing business as Tustin Hospital and Medical Center) (collectively "THMC"), and Aesculap Hospital Corporation, AMISUB Inc., Anaheim General Hospital Corporation and Anaheim General Hospital, Ltd, a California limited partnership, doing business as Anaheim General Hospital ("Anaheim"), and all of their subsidiaries (collectively "PHC Entities"), for all federal crimes (except for criminal tax violations, as to which the USAO cannot and does not make any agreement) arising from conduct described in the Factual Basis contained in the Plea Agreement ("Factual Basis") for the Los Angeles Doctors Hospital, Inc., ("LADH"), as described in greater detail below.
2. The USAO enters into this Deferred Prosecution Agreement based, in part, on the following factors: (a) the guilty plea of co-conspirator and PHC subsidiary, LADH; (b) the replacement of management employees of PHC Entities who participated in the conduct described in the Factual Basis; (c) the PHC Entities' acceptance of responsibility for their criminal conduct; (d) the PHC Entities' willingness to compensate their victims; (e) the PHC Entities' willingness to cooperate in the investigation and prosecution of others, including former management employees; and (f) the PHC Entities' willingness to implement a corporate compliance program on the terms set forth in paragraph 8 below.
3. The PHC Entities admit the facts as set forth in the Factual Basis contained in the Plea

Agreement for LADH attached as **Exhibit 1**, accept and acknowledge responsibility for their conduct as set forth in Exhibit 1, and agree not to make any public statement contradicting the facts contained therein.

4. An Information against PHC based on the Factual Basis is attached hereto as **Exhibit 2**. By signing this agreement, PHC agrees to waive the right to indictment by grand jury and agrees that the USAO may file the Information and this Deferred Prosecution Agreement. Pursuant to this Agreement, the parties agree to jointly recommend that the prosecution of PHC on the Information be deferred for a period of six years from the filing date of the Information. If the Court declines to defer prosecution for any reason, this Agreement shall be null and void, and the parties will revert to their pre-Agreement position, subject to the tolling provisions herein.

5. The USAO agrees that, if the PHC Entities are in compliance with all of their obligations under this Agreement, the USAO will, at the expiration of the period of deferral seek dismissal with prejudice of the Information filed against PHC. The USAO further agrees that except in the event of a violation by the PHC Entities of any term of this Agreement, the USAO will bring no additional charges against PHC for any federal crimes (except for criminal tax violations, as to which the USAO cannot and does not make any agreement) arising from conduct described in the Factual Basis contained in the Plea Agreement ("Factual Basis") for the Los Angeles Doctors Hospital, Inc. ("LADH").

6. This Agreement does not provide any protection against prosecution for any crimes except as set forth above, and applies only to the PHC Entities and not to any other entities or individuals except as set forth in this Agreement.

7. For six years following execution of this Agreement, the PHC Entities shall commit no state or federal crimes.

8. Further, for the same term, the PHC Entities shall implement a corporate compliance program on the terms set forth in the attached draft Corporate Integrity Agreement, **Exhibit 3**. However, if any PHC Entity executes a Corporate Integrity Agreement with the United States Department of Health and Human Services during the term of this agreement, that agreement shall serve as the corporate compliance program required by this agreement in lieu of Exhibit 3.

9. As a condition of this Agreement, the PHC Entities agree that they are and shall be jointly and severally liable with LADH to make restitution in this matter as stated in LADH's plea agreement, totaling \$15,947,785 for Medicare and Medi-Cal combined, which reflects the amount of Medicare and Medi-Cal payments made to the PHC Entities as a result of the patients referred to the PHC entities through the illegal consulting services agreements identified in the attached Factual Basis. The parties also agree that payments made to the government in satisfaction of any civil resolution of claims under the False Claims Act, 31 U.S.C. § 3729, based upon the conduct set forth in the Factual Basis, shall be deemed payments toward restitution. The USAO will recommend to the Court that LADH's obligation to make restitution shall be subject to the same payment schedule set forth in any settlement of claims brought under the False Claims Act. The parties further agree that if the Court does not follow the government's

recommendation that, the PHC Entities (other than LADH) shall nevertheless only be obligated to make restitutionary payments pursuant to the schedule set forth in any settlement of claims brought under the False Claims Act and that no breach of this deferred prosecution agreement shall occur as a result of the PHC Entities' failure to pay restitution provided that the PHC Entities have made restitutionary payments pursuant to the terms set forth in any settlement of claims under the Civil False Claims Act.

10. Attached hereto as **Exhibits 4 and 5** are a stipulation for entry of judgment and a judgment against the PHC Entities, executed by the PHC Entities and the USAO. Pursuant to this agreement, the PHC Entities agree that the USAO may file this stipulation and judgment if LADH fails to comply with any of its restitution obligations imposed as a result of its guilty plea. This includes LADH failing to timely pay any restitution as ordered by the Court or the Probation Office pursuant to authority as stated in the Judgment and Commitment Order against LADH, provided however that pursuant to paragraph 9 of this agreement, the USAO will not file the stipulation for entry of judgment if the PHC entities have made restitutionary payments pursuant to the schedule set forth in a Civil False Claims Act settlement. If the USAO, in its sole discretion and based on good faith, files the stipulation and lodges the judgment, then the PHC Entities shall owe immediately the full amount of outstanding restitution and the United States.

11. The PHC Entities agree to comply fully with the attorney-client privilege order entered by the Honorable George H. King in Case No. CR Misc. 12-84-GHK on March 7, 2012, and to forthwith take all reasonable steps to make all former counsel available for interviewing concerning the matters covered by the order.

12.. Regarding cooperation, the parties agree as follows:

a. The PHC Entities agree to cooperate fully with the USAO, the Department of Health and Human Services Office of Inspector General, the Federal Bureau of Investigation, the Internal Revenue Service, and, as directed by the USAO, any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authority. This cooperation requires the PHC Entities to:

i) Provide complete and truthful disclosure of all non-privileged information as may be requested by the USAO or its designee with respect to the activities of the PHC Entities, their subsidiaries, and their present and former officers, employees, and agents;

ii) Assemble, organize, and produce voluntarily all documents, records, or other tangible evidence relating to matters about which the USAO or its designee inquires, including documents in the possession, custody, or control of their subsidiaries;

iii) Use their best efforts to facilitate the availability of their present and former officers, employees, and agents to provide information and/or testimony as requested by the USAO or its designee, including attendance at all witness interviews, grand jury sessions,

trials, and other proceedings; and

iv) Provide testimony and other information deemed necessary by the USAO or a court to identify or establish the original location, authenticity, or other evidentiary foundation necessary to admit into evidence documents in any proceeding as requested by the USAO.

b. Nothing in this agreement shall require the PHC Entities to waive any protections of the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege. Nor shall anything in this agreement preclude the government from seeking an order authorizing the disclosure of communications over which the PHC Entities may claim a privilege, including in the event that an individual defendant asserts that he or she relied in good faith on advice of counsel provided to the PHC Entities or one of their subsidiaries.

c. For purposes of this agreement: (1) "Cooperation Information" shall mean any statements made, or documents, records, tangible evidence, or other information provided, by the PHC Entities pursuant to their cooperation under this agreement; and (2) "Plea Information" shall mean any statements made by the PHC Entities, under oath, at any guilty plea hearing and the agreed to factual basis statement attached to this agreement.

d. The USAO agrees to:

i) Not contest facts agreed to in this agreement.

ii) Not to offer as evidence in its case-in-chief in any criminal prosecution that may be brought against any of the PHC Entities by the USAO, or in connection with any sentencing proceeding in any criminal case that may be brought against any PHC Entity by the USAO, any Cooperation Information. The PHC Entities agree, however, that the USAO may use both Cooperation Information and Plea Information: (1) to obtain and pursue leads to other evidence, which evidence may be used for any purpose, including any criminal prosecution of any person or entity; (2) to cross-examine a PHC Entity witness, or to rebut any evidence offered, or argument or representation made, by a PHC Entity, a PHC Entity's counsel, or a witness called by a PHC entity in any trial, sentencing hearing, or other court proceeding; and (3) in any criminal prosecution of a PHC Entity for false statement, obstruction of justice, or perjury.

iii) Not to use Cooperation Information against any PHC Entity at sentencing for the purpose of determining the applicable guideline range, including the appropriateness of an upward departure, or the sentence to be imposed, and to recommend to the Court that Cooperation Information not be used in determining the applicable guideline range or the sentence to be imposed. The PHC Entities understand, however, that Cooperation Information will be disclosed to the probation office and the Court, and that the Court may use Cooperation Information for the purposes set forth in U.S.S.G. § 1B1.8(b) and for determining the sentence to be imposed.

13. It is understood and agreed that, if the USAO in its sole discretion and in good faith determines that any of the PHC Entities has committed any federal felony offense after signing this Agreement, or has otherwise violated any provision of this Agreement, that PHC entity shall be subject to prosecution for any violation of federal law of which the USAO has knowledge, including obstruction of justice. Additionally, if the USAO in its sole discretion and in good faith determines that the PHC Entities breached this agreement, then the USAO may bring to the Court's attention the breach and seek to terminate the deferral of the prosecution of PHC and to pursue the deferred charge contained in Exhibit 2.

14. It is further understood and agreed that all statutes of limitation are tolled for six years from the date of the execution of this agreement, under the following terms:

a. For any and all of the offenses described in subparagraph (b) below, the period of time from the date of execution of this agreement, through and including a date six years after the date of execution, shall be excluded from any calculation of time for the purposes of (a) applying any applicable federal statute(s) of limitations, and (b) any constitutional, statutory, or common law defense, claim, or argument relating to pre-indictment delay.

b. The tolling applies to any federal criminal offense arising from, relating to, or based upon the Factual Basis, including any of the following:

i. Payments pursuant to Consultant Services Agreements entered by any of the PHC Entities, or any other formal or informal agreement, arrangement or understanding with an individual or entity that acted as a marketer or as a source of Medicare or Medi-Cal patient referrals to any hospital operated by one of the PHC Entities.

ii. Claims to Medicare and/or Medi-Cal for in-patient hospital stays and services to patients referred as a result of any such agreement or arrangement.

iii. Obstruction of justice.

Such offenses include, but are not limited to, violations of 18 U.S.C. §§ 371, 1035, 1347, 1349, and 1501-1521, and 42 U.S.C. § 1320a-7b.

15. If the USAO in its sole discretion determines that a PHC Entity has committed any federal felony offense after signing this Agreement; that a PHC Entity has given false, incomplete, or misleading testimony or information at any time; or that a PHC Entity has otherwise violated any provision of this Agreement, then: (a) all statements and admissions made by the PHC Entity to the USAO or other designated law enforcement agents, including the facts as agreed to in this Agreement, and any testimony given by a PHC Entity or its agent before a grand jury or other tribunal, whether prior or subsequent to the signing of this Agreement, and any leads derived from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against the PHC Entity; and (b) the PHC Entity shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom are inadmissible

or should be suppressed. By signing this Agreement, the PHC Entities waive all rights in the foregoing respects.

16. The PHC Entities agree that their obligations in this Agreement shall run to any purchaser of a majority (at least 50% in value) of a PHC Entity's assets, and to any other acquirer including those subject to successorship liability under California law, and that the PHC Entities will include a provision in any sale, transfer, or merger agreement binding the purchaser, successor, or surviving party to the PHC Entity's obligations under this Agreement.

17. This Agreement does not bind any federal, state, local or foreign criminal prosecuting authority other than the USAO.

18. With respect to this criminal investigation and deferred prosecution, from the date of this Agreement forward, this Agreement supersedes all prior understandings, promises, and/or conditions, if any, between the USAO and the PHC Entities. No additional promises, agreements, and condition have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed by all parties.

DATED: April ____, 2012

ANDRÉ BIROTTE JR.
United States Attorney


CONSUELO S. WOODHEAD
Assistant United States Attorney
Deputy Chief, Major Frauds Section
Central District of California

EVAN J. DAVIS
Assistant United States Attorney
Major Frauds Section
Central District of California


I, the undersigned, am an officer as stated below and have authority to sign and bind the PHC Entity identified below and its subsidiaries. On behalf of the PHC Entity on whose behalf I am signing this agreement and its subsidiaries: I have read this Deferred Prosecution Agreement carefully; I have discussed it fully with the attorneys for the PHC Entity, Duane R. Lyons and Mark Hardiman; I understand the terms of this Deferred Prosecution Agreement; I knowingly and voluntarily agree to these terms after thorough discussion with Mr. Lyons and Mr. Hardiman; I do so without force, threats, or coercion; no promises, representations, agreements,

commitments, or inducements have been made except those set forth in this Deferred Prosecution Agreement; and I am satisfied with the PHC Entity's attorney's representation in this matter.


DATED: April 27, 2012


Michael Choo, President and CEO
Authorized Agent
Pacific Health Corporation


DATED: April 27, 2012


Michael Choo, President and CEO
Authorized Agent
Aesculap Hospital Corporation


DATED: April 27, 2012


Michael Choo, President and CEO
Authorized Agent
Anaheim General Hospital Corporation


DATED: April 27, 2012


Michael Choo, President and CEO
Authorized Agent
AMISUB Incorporated

DATED: April 27, 2012


Michael Choo, President and CEO
Authorized Agent :
Anaheim General Partnership Limited

DATED: April 27, 2012


Michael Choo, President and CEO
Authorized Agent
Los Angeles Doctors Corporation

DATED: April 27, 2012



Michael Choo, President and CEO
Authorized Agent
Tustin Hospital and Medical Center :

DATED: April 27, 2012



Michael Choo, President and CEO
Authorized Agent
Tustin Surgicenter Limited

I have carefully reviewed and discussed this Deferred Prosecution Agreement with my clients, the PHC Entities. To the best of my knowledge, they enter into this Deferred Prosecution Agreement knowingly and voluntarily.

DATED: April 27, 2012



DUANE R. LYONS
Quinn Emanuel Urquhart & Sullivan, LLP
Attorney for the PHC Entities