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COALITION TO PROTECT DETROIT  
HEALTH CARE

March 30, 2010

Attorney General Mike Cox  
G Mennen Williams State Office Building  
P.O. Box 30212  
Lansing, MI 48909

Dear Attorney General Cox,

We are writing concerning the recently announced non-binding letter of intent signed by Vanguard Health Systems, a for-profit system, and the Detroit Medical Center (DMC), the highest volume indigent care hospital in Wayne County, a not-for-profit system. The mission of a non-profit is to serve the community. The mission of a for-profit is to serve the stockholders. MCL 450.2301(5) makes it clear that a non-profit corporation shall not "permit [its] assets...to be used, conveyed or distributed for non-charitable purposes." It is our view that this purchase violates Michigan's Non-Profit Corporation Statute. See Bruce v. Henry Ford Hospital, 254 Mich 394, 399-400 (1932) as cited in Kelley vs. Michigan Affiliated Health Systems et. al., Ingham County Cir. Ct. 96-83848 CZ (1997).

The Detroit Medical Center provides hundreds millions of dollars of needed 'charity care' annually. This is a major asset to the citizens of Detroit and Wayne County who depend on the DMC fulfilling its mission. DMC has been the main 'safety net' provider inside Detroit for decades.

The DMC's CEO, Mike Duggan, has reported he wants to break out of the non-profit hospital model. This is precisely what the Non-Profit Corporation Act is designed to govern – "getting out of the nonprofit" mode. We understand that the Attorney General must determine the legality of the sale. It is our opinion that as described by Mr. Duggan, this sale may not be legal as a conversion of assets from a charitable to a non-charitable purpose.

What process is your office going to follow to make the determination of legality? We urge you to make it transparent and that open public hearings be held in Detroit regarding this issue. We ask that the hearing or hearings be announced with adequate public notice and be treated as subject to the Open Meetings Act. Creating a public record of the proceedings would also be advisable.

We are asking the Attorney General these specific questions:

### Health Impact

1. Will there be an independent study of the impact of this sale on the health of Detroiters, especially the uninsured? Who will conduct the study?
2. What are the essential services provided by the DMC presently and will those services be continued?

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3. If essential services presently provided by the DMC will not be continued, how does Vanguard intend to replace those services?

### Community Assets and Conversion Foundation

1. How will the value of DMC net assets be determined?
2. Will the valuation be conducted by an independent third party with no financial stake in the result?
3. What value has been determined, if any, at this point?
4. How will the net asset value continue to be used for charitable purposes by a community non-profit health provider as required by law?
5. Reports say the new VHS Michigan operating the DMC facilities will have only a regional advisory board comprised of 4 members appointed from Tennessee and 3 from the present DMC Board. How can this Advisory Board enforce the agreement between VHS and DMC particularly with regard to charitable work and in keeping the hospitals open?
6. Will there be a feasibility study before the capital improvements are done and what happens if the study finds the improvements are not feasible?
7. How can the community enforce the agreements made in the Letter of Intent between VHS and DMC?
8. We request that all documents, including executive compensation agreements, and any related party agreements be made public and subject to the Freedom of Information Act, or a similar open process.
9. Have financial arrangements been made with DMC Executives and/or Board of Directors as part of the sale that result in personal gain for any individual? We request conflict of interest disclosures, before this sale is approved by you, from all DMC Board Members and Executives.
10. There have been reports that the promises to retain the hospitals can be overridden by the DMC Board during the 10 year period contemplated in the LOI. We request that you investigate whether this is true and if it is, establish a procedure to enforce the LOI's promises other than the DMC Board.
11. Is the amount of charity care guaranteed to remain the same in perpetuity?
12. How is the loss of other community benefits such as education and preventive care going to be valued and replaced?
13. We understand that the \$140 million fund left in the control of the DMC Board is already on hand and was donated for specific and designated charitable purposes. What are those purposes and is any of it for charity care?
  - (a). Is the \$140 million designated for charity care or other community benefits, or is it designated for supporting DMC as a not-for-profit?
  - (b). Will this new organization be structured for independent oversight with a community board of persons unrelated to the present DMC or VHS?
  - (c). What will the mission of this organization be and will it be published openly?
14. We notice that Vanguard's cash flow will be substantially increased with this purchase and that in 2008 they lost \$20 million. We believe they have high debt – approximately \$2 billion on a nearly equivalent annual cash flow. Vanguard was formed in the 1990's. This purchase requires VHS to spend over \$1 billion additional dollars to retire the DMC's debt and engage in the promised capital improvements. We ask you to investigate the long term financial stability of Vanguard to insure that this conversion is in the best interests of the residents of the City of Detroit.
15. What happens if Blackstone sells Vanguard's assets?
16. What protects the community encumbered assets that were built with tax payers dollars (Detroit Receiving Hospital and University Health Center)?
17. Will all the protections be put in writing for community comment?

### Renaissance Zone

1. What is the value of the Renaissance Zone designation to VHS or VHS Michigan?
2. How long does the Renaissance Zone remain in place?
3. We request that you investigate the value of the Renaissance Zone designation to VHS and to the

City of Detroit and determine whether this LOI would be signed by VHS without a Renaissance Zone status.

4. Can VHS use the Renaissance Zone designation for operations other than health care? If so, what are the limits on the use of the tax exempt status that VHS is seeking?
5. We request that you keep in mind that the value of having a not-for-profit health system is that the status as a not-for-profit requires the organization to 'give back' to the community. It appears to us that VHS, a for-profit system, is being given the same benefits as a not-for-profit system and as such we believe they must fulfill the same duties as those of a not-for-profit.

We understand the desire to move swiftly – by June 1, 2010 according to the press. But this sale will have a long term effect on the residents of Detroit and Southeast Michigan. The commitments in the LOI are only for 10 years while a not-for-profit with its mission is forever. Rather than having the cash flow of the DMC remain in Detroit, a portion of the cash will be sent to Tennessee and after 10 years VHS is free to do with our community assets what VHS wants, based solely on their bottom line and not on the needs of Detroiters.

We ask you to take time to thoroughly investigate this matter in a transparent and public manner and make all available information available to all interested parties. This proposed sale and conversion is far too important to the citizens of Michigan to rush to judgment.

We trust that you will proceed with due diligence in investigating this matter. We request a meeting with you and your staff to discuss the process you intend to follow and the criteria that must be met for the sale to be approved. This transaction must be governed by the public good, not by private gain.

Sincerely,

Coalition to Protect Detroit Health Care

Marjorie Mitchell, Executive Director MichUHCAN

Ponsella Hardaway, Executive Director MOSES

Rev. Kevin Turman, President MOSES Board of Directors

Marilyn Mullane, Executive Director Michigan Legal Services

Cc: Mayor David Bing, City of Detroit  
Detroit City Council Members  
Wayne County Commission Members  
Wayne County State Legislators

