September 21, 2017

Honorable Benita Y. Pearson
United States District Court Judge
United States District Court, Northern District of Ohio, Eastern Division
313 Thomas D. Lambros Federal Building and Courthouse
125 Market Street
Youngstown, OH 44503

Re: Binstock v. DHSC, LLC d/b/a Affinity Medical Center, Case No. 5:16-CV-01060

Dear Judge Pearson:

I am writing on behalf of Respondent DHSC, LLC ("Affinity" or "Hospital") in response to Petitioner's letter dated September 20, 2017 alleging inadequate compliance with Section (g) of your September 5th Order in this matter.

Although we disagree strongly with Petitioner's accusation of inadequate compliance, we do not want to waste the Court's time in requiring adjudication of this dispute. Therefore, we tell Your Honor at the outset that the Hospital will agree to schedule the two additional readings of the Order requested by Petitioner and rephrase the notice of such meetings to make clear, as requested by the Petitioner that the "*status quo*" to be maintained is the "*status quo ante*."

However, it is important that Your Honor be aware of some salient facts. Petitioner claims Affinity did not "schedule [the Board Agent's reading of the Order] to ensure the widest possible audience". In fact, the opposite was true. Rather than simply posting a notice that the reading would occur, two days before the reading occurred, Affinity sent an email to each and every registered nurse informing them of the two meetings scheduled — one at 6:30am, so that night shift nurses could attend prior to the critical transition of patient information from one

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nurse to another that occurs between 7 and 7:30am, and one at noon, a time when managerial nurses could cover for staff nurse attendance.

Not a single nurse requested and was denied an opportunity to attend either meeting. Nor did any nurse contact the Human Resource Department or any supervisor after receiving notice of the meetings and say the times were inconvenient for any reason.

In "Attachment A" to his letter, the Petitioner referenced an email from the undersigned establishing 6:30pm and 7:45pm as times for the reading of a 2014 Order at Affinity. However, he neglects to say that there were still a total of two readings in 2014, just as there have been this year in compliance with Your Honor's Order. Contrary to Petitioner's claim, and consistent with his own Attachment A, there were no readings in 2014 at 6:30am and 12:00noon. (See Attachment A to this letter, which is the Hospital's announcement of the 2014 meetings). In both years, the meeting times were designed to enhance opportunities for attendance by both day and night shift nurses. Moreover, there is absolutely no basis for believing that the evening start times were any more likely to ensure a wide audience of nurses working the same two shifts than the morning and noon start times. Parenthetically, Petitioner's claim that 50 nurses attended each of the 2014 readings is wildly exaggerated.

A review of the email communication I have attached hereto as "Attachment B" shows that the undersigned had initially suggested either morning or evening sessions, and as a result of the Hospital's efforts to meet the Board Agent's scheduling needs, the parties settled on 6:30am and 12:00noon on Friday, September 15th. Neither Petitioner's belated desire to revise the schedule the day before the meetings, nor Petitioner's disappointment with the audience size can legitimately be translated into an accusation of insufficient compliance by Respondent.

In addition to the email notifications of the meetings Affinity sent to each nurse, two days prior to the scheduled meetings, the Order was posted at the locations within the Hospital where notices to employees are customarily posted. In addition, there was significant press about the Order, and the Union had

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published notices about it as well. Consequently, there is little doubt that the nurses were aware of the Order, and there is no basis for attributing the attendance numbers at the scheduled meetings to any lack of compliance with the Order by Affinity.

Finally, with regard to Petitioner's claim that Respondent's meeting notice to nurses failed to adequately explain the return to status quo, though the Hospital disputes the claim, as noted above, the Hospital will incorporate the Petitioner's clarification of status quo ante in its notice to nurses of the additional meetings once they have been scheduled.

We appreciate Your Honor taking the time to read this letter, and we are available to address the issue further in the Court's discretion.

Very truly yours,

/s/ Carmen M. DiRienzo
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CERTIFICATE OF SERVICE

I hereby declare that, on September 21, 2017, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

/s/ Carmen M. DiRienzo

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