No. 20-0401

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

At Charleston

PRESTON MEMORIAL HOMECARE, LLC AND TENDER LOVING CARE HEALTH CARE SERVICES OF WEST VIRGINIA, LLC D/B/A AMEDISYS HOME HEALTH OF WEST VIRGINIA, Petitioners Below,

Petitioners,

v.

UNITED HOSPITAL CENTER, INC. AND
THE WEST VIRGINIA HEALTH CARE AUTHORITY, Respondents Below,

Respondents.

From the Circuit Court of Kanawha County, West Virginia
Civil Action No. 18-AA-228

PETITIONERS' REPLY BRIEF

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REPLY

Petitioners, Preston Memorial Homecare, LLC and Tender Loving Care Health Care Services of West Virginia, LLC d/b/a Amedisys Home Health of West Virginia, hereby submit this reply to the ***Response Brief on Behalf of West Virginia Health Care Authority*** and the ***Brief of Respondent United Hospital Center, Inc.*** filed by the respective Respondents on November 5, 2020. Those two filings and the ***Petitioner Brief*** filed by Petitioners on September 21, 2020, as well as the filings made in the corresponding case before this Court, *Amedisys West Virginia, L.L.C. et al. v. Personal Touch Home Care of W.Va., Inc.*, Case No. 20-0308,[1] make obvious the fundamental disagreement between the parties about the purpose of the "Conclusion" in the Certificate of Need Standards for Home Health Services adopted by the Governor on November 13, 1996 (the "Home Health Standards"). The conclusion appears at the end of the four-step unmet need calculation used by the West Virginia Health Care Authority (the "WVHCA") to determine whether an unmet need for home health services exists in a proposed new county, and states as follows: "Conclusion: If the threshold is at least 229 projected home health recipients, an unmet need exists." *See* J.A. at 520-533.

The parties' disagreement about the purpose of the conclusion is manifested in the inconsistency between the decision by the Circuit Court of Kanawha County (J.A. at 897-907) in this matter and the earlier decision on this same question authored by the Circuit Court of Mason County (J.A. at 581-590) in 2007.[2] And, as a practical matter, the WVHCA's interpretation of the Home Health Standards has allowed a proliferation of home health services to occur

[1] This matter and *Amedisys West Virginia, L.L.C. et al. v. Personal Touch Home Care of W.Va., Inc.*, Case No. 20-0308 were consolidated by Order of the Supreme Court of Appeals of West Virginia dated November 16, 2020.

[2] Honorable David Nibert, Circuit Judge of the 5th Judicial Circuit, including the Circuit Court of Mason County, reversed the WVHCA and explicitly rejected the WVHCA's interpretation of the Home Health Standards as incorrect, arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. J.A. at 581-590.

throughout West Virginia from which Respondent United Hospital Center, Inc. ("UHC") has unquestionably benefited. This proliferation of counties served, not agencies, is plainly evident from the Legal Notices published by the WVHCA, and from the WVHCA's publicly available database, of which this Court is permitted to take judicial notice. *See e.g. Arnold Agency v. West Virginia Lottery Com'n*, 526 S.E.2d 814 (1999). The avoidance of proliferation is ***among*** the goals of the Home Health Standards and was among the reasons that the WVHCA was overturned by the Circuit Court of Mason County (J.A. at 581-590) in 2007. In fact, the only way for this Court to reconcile the public policy underlying the Home Health Standards with the question presented by this appeal is to resolve the current split between circuits by rejecting the decision by the Circuit Court of Kanawha County (J.A. at 897-907) in favor of the decision by the Circuit Court of Mason County (J.A. at 581-590). The Mason County decision is the only decision compatible with the "Conclusion" requirement in the Home Health Standards and gives proper weight to the distinction between an "adjustment" and a "threshold" as those two terms are used throughout the Home Health Standards. This result is compelled by the plain meaning of the current Home Health Standards, unaltered by UHC's dubious allegations of corporate protectionism, righteous indignation, selfishness and other nefarious purposes. Moreover, the WVHCA's primary criticism of the Mason County decision is found in its condemnation of an example used by Judge Nibert that is actually in complete accord with the WVHCA's own precedent and only serves to further illustrate the arbitrary and capricious nature of the WVHCA's position on the applicability of the "Conclusion". For these reasons, as explained herein, the decision by the Circuit Court of Kanawha County (J.A. at 897-907) must be reversed.

1. The Home Health Standards Include a Conclusion for Use in All Circumstances.

The "Conclusion" at the end of the Home Health Standards should be applied to the entirety of the need methodology calculation and explicitly establishes a "threshold" number of projected home health recipients required in all circumstances. J.A. at 520-533. In the Home Health Standards, the "Conclusion" is shifted to the far left and not included as a subpart of step four. J.A. at 527. Respondent WVHCA continues to rely on the proximity of the "Conclusion" language to the fourth step to reach its determination that the "Conclusion" must apply to step four only, which contemplates circumstances in which a new provider has been approved in the previous 12 months. *See* WVHCA Resp. Br., 12. This emphasis is misplaced and ignores the entire text of the Standards. J.A. at 523, § V(C). The placement of the "Conclusion" language is clearly meant to apply to the entire calculation, not just a subpart. As explained in the ***Petitioner Brief***, "[m]aterial within an indented subpart relates only to that subpart; material contained in un-indented text relates to all the following or preceding indented subparts." *Scherer v. Volusia Cnty. Dep't of Corr.*, 171 So. 3d 135, 138 (Fla. 1st Dist. Ct. App. 2015) (citing Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 156 (2012)). If the "Conclusion" only applied to step four, it would be aligned and directly below all the other information pertaining only to step four, but it plainly is not, and instead is indented with the entirety of the unmet need calculation. *See* Home Health Standards, J.A. at 520-533. Moreover, common sense would seem to dictate that a conclusive statement applies to the entire calculation instead of just the fourth step, particularly where none of the previous three steps have independent conclusions. The conclusion in the Home Health Standards plainly applies to the entire unmet need calculation, not just the final step, and the Circuit Court of Kanawha County was incorrect when it affirmed the WVHCA's impermissible determination otherwise.

In the Mason County decision in 2007, Judge Nibert addressed this point and reasoned that "the purpose of the fourth part of the methodology is to provide a patient base of 229 new patients so that a recently approved provider of home health can establish a business without being adversely impacted by a newer provider coming into the market." J.A. at 588. However, he determined that "it was not reasonable to assume that the WVHCA would set aside the average patient base of 229 new patients for a recently approved provider [in the fourth step] and yet allow another new provider to enter the market and offer duplicative services with a lesser projected patient base, even a base consisting of one patient" if the threshold was applied in some circumstances, when another provider has been approved, but not in all circumstances. J.A. at 588. "Such a result offers more protection to a recently approved provider than it does to an existing one." *Id.* Based in part on this nonsensical scenario, Judge Nibert reiterated that the "Supreme Court has long noted that it is a Court's duty to avoid wherever possible a construction of a statute which leads to an absurd, inconsistent, unjust or unreasonable result." *See* J.A. at 588 (citing *Expedited Transp. Systems, Inc. v. Vieweg*, 207 W.Va. 90, 529 S.E.2d 110, 118 (2000)). Such a result can be avoided here by simply employing the threshold in the "Conclusion" in all circumstances and requiring that a minimum unmet need be demonstrated. For this reason, the Circuit Court of Mason County was correct when it overturned the WVHCA on this question, and the Circuit Court of Kanawha County's decision in this matter should be reversed.

2. The Home Health Standards Include a Threshold and an Adjustment that Are Not Interchangeable.

Respondent WVHCA argues in its response brief that the recurrence of the word "threshold" in both the fourth step and the "Conclusion" indicates that the Authority intended the "Conclusion" to apply to only to the fourth step, and that these two words are therefore interchangeable. WVHCA Resp. Br., 12. However, the "Adjustment Factor" to the threshold in

the fourth step is literally meant to adjust the threshold by factoring in and subtracting any agencies approved and granted a certificate of need in the previous 12-month period. J.A. at 527. The plain text of the Home Health Standards reveals a threshold contained in the "Conclusion", as well as the potential for an ***adjustment to that threshold*** in the fourth step. *See* Home Health Standards, J.A. at 525, § V(C). In other words, the fourth step is employed whenever an ***adjustment*** is required to the ***threshold*** (i.e. when another agency has been approved in the previous twelve months). It would be unnecessarily duplicative and redundant for the Home Health Standards to include an "Adjustment Factor" if the threshold in the Conclusion only applies in those limited circumstances when another provider has not been approved in the previous twelve-month period.

In fact, any argument that the terms 'threshold' and 'adjustment' mean the same thing is completely contradictory to the Home Health Standards, the definitions of those two terms, and at least one of the WVHCA's past decisions. The Standards provide "[a]n '***adjustment***' of 229 home health recipients has been added to the formula to allow for the development of agencies approved for CON in the previous 12 months." *See* Home Health Standards, J.A. at 525, § V(A)(emphasis added). The Standards then go on to explain that "[a]n unmet need will exist if the need methodology yields a '***threshold***' of at least 229 projected home health recipients" following the adjustment *Id.* The Home Health Standards are clear in this distinction, and so is the Merriam-Webster dictionary.[3] Again, the Standards refer to a modification in step four when

[3] Compare "adjustment", Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/adjustment (last visited June 26, 2020) (defined, in part, as "a correction or modification to reflect actual conditions"); with "threshold", Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/threshold (last visited June 26, 2020) (defined, in part, as "a level, point, or value above which something is true or will take place and below which it is not or will not").

a home health agency has received certificate of need approval in the previous twelve months. *See* Home Health Standards, J.A. at 525, § V(C). The Standards then separately refer to a minimum or threshold when applying the 229-patient requirement in the "Conclusion" which must be met before a certificate of need can be issued to a new health service provider. *Id.*

There is no better example of these two terms in use than the matter *In re: Critical Care Nursing Agency, Inc.*, CON File No. 96-2/3-5790-X/Z (decided Mar. 20, 2007). In the *Critical Care* matter, the number of projected recipients below the state rate in Wayne County based on the WVHCA's 1995 unmet need calculation was 453. However, a new provider had been approved in Wayne County in the previous 12 months, so the ***adjustment*** was applied and subtracted 229 projected home health recipients, leaving a balance of 224 home health recipients as follows:

> **4. CALCULATION OF THE THRESHOLD (ADJUSTMENT FACTOR)**
> **(This calculation is done only if there are agencies in the proposed county which received CON approval in the previous 12 months.)**
>
> **Formula a - b = c**
>
> | | | |
> |---|---|---|
> | **a.** | **List the current county home health recipients below state rate (3.c)** | **453** |
> | **b.** | **Subtract adjustment factor for agencies receiving CON approval in previous 12 months.** | **229** |
> | **c.** | **Number above threshold adjustment.** | **224** |
>
> **Conclusion:**
>
> **If the threshold is at least 229 projected home health recipients, an unmet need exists.**

See In re: Critical Care Nursing Agency, Inc., CON File No. 96-2/3-5790-X/Z, 7. Based on the unmet need calculation excerpt above and because 224 patients were projected – five patients below the ***threshold*** of "at least 229 projected home health recipients" – the WVHCA determined that another provider was not needed in Wayne County and denied the application.

Id. at 9. The *Critical Care* matter unmistakably demonstrates that the separate terms ***adjustment*** and ***threshold*** are not meant to be interchangeable, but also illustrates the irrationality of the WVHCA's position that the conclusion applies in some circumstances, but not all circumstances. How were 224 home health recipients in Wayne County an insufficient projection in *Critical Care*, resulting in the WVHCA's denial of the application, and yet 44 recipients (the number projected by UHC in Preston County) is a sufficient projection to allow approval by the WVHCA in this matter? Why were both the ***adjustment*** and the ***threshold*** applied in *Critical Care*, but neither was applied in this matter?

Further confusing the issue, the WVHCA has argued in this matter that the Mason County Circuit Court used an example "that is simply false" as follows:

> The court then gave an example that is simply false. It stated that if Calculation 4 is not necessary and there is an unmet need of 1 recipient, the Authority would grant a CON application. It then said if Calculation 4 is necessary and there is a finding of 230 new patients the application would be denied. This is false. Once the adjustment threshold is applied there would still be un unmet need of one recipient and the application would be granted.

See WVHCA Resp. Br., 16. However, this is directly contrary to the *Critical Care* decision above in which 224 recipients was determined to be an insufficient projection of unmet need following the application of Calculation 4 and the application was denied. The WVHCA is simply incorrect to state that it would grant a hypothetical application with only 1 recipient projected, when it previously ***denied*** a non-hypothetical application with 224 recipients projected. In fact, the WVHCA's botched effort to condemn an example refuted by its own past precedent is further evidence of the illogical nature of the WVHCA's interpretation.

In adopting the WVHCA's interpretation, the Circuit Court of Kanawha County erred when it determined that the simple recurrence of the term "threshold" in multiple locations is dispositive of the question presented here. *See e.g. South Dearborn Environmental Improvement*

Association, Inc. v. Department of Environmental Quality, 502 Mich. 349, 917 N.W.2d 603 (Mich. 2018) ("Reviewing the entire text requires consideration of the relationship of text within a single statutory provision as well as its relationship to the text of other provisions within the same act."). For the reasons above, the two words "adjustment" and "threshold" are not interchangeable, and the threshold applies in all circumstances, not just when a new provider has been approved in the prior twelve-months and an adjustment is required. Any other interpretation allows the WVHCA to set aside a patient base of 229 patients for a recently approved provider and yet allows another provider to enter the market and offer duplicative services with a lesser projected patient base, even a base consisting of one patient. This distinction was among the problems identified by Judge Nibert in his 2007 decision (J.A. at 581-590) and, along with the *Critical Care* decision referenced above, demonstrate that the Kanawha County decision must be overturned in this matter.

3. The WVHCA is Not Entitled to Deference.

The WVHCA is only entitled to deference when it permissibly interprets its Home Health Standards. *See W. Va. Consol. Pub. Ret. Bd. v. Wood*, 233 W.Va. 222, 228, 757 S.E.2d 752, 758 (2014) ("While this Court agrees with the proposition that the Board's interpretation is entitled to deference, it is imperative that a reviewing court also consider the possibility, as the circuit court did in the present case, that the Board's interpretation is erroneous."); *accord Lincoln County Board of Education v. Adkins*, 188 W.Va. 430, 424 S.E.2d 775 (1992) ("Interpretations of statutes by bodies charged with their administration are given great weight unless clearly erroneous."). A reviewing court may not substitute its own judgment for the agency's factual findings, regardless of whether the court would have reached a different conclusion on the same set of facts. *Franks Shoe Store v. W.Va. Human Rights Comm'n.*, 179 W.Va. 53, 365 S.E.2d 164,

171 (1985). Deference does not permit full authority and free rein for an agency to act without judicial oversight.

It is accurate, as argued by Respondents, that the WVHCA has categorically rejected the "Conclusion" to the Home Health Standards in nearly every matter since 2000. Unsurprisingly, the WVHCA's disregard of the threshold requirement in these matters has also coincided with an astounding proliferation of home health agencies caused by the WVHCA's approval of new providers in counties with as few as 6 or 8 projected patients. In fact, it is apparent from the ongoing expansion of home health services throughout West Virginia that the WVHCA's disregard of the "Conclusion" is frustrating the very purpose of the Home Health Standards. As described in the ***Petitioner Brief*** and available from the WVHCA's database, sixteen different applications proposing to provide home health services have been approved by the WVHCA since October 30, 2015, one with as few as 6 projected home health recipients. *See In re: Stonerise Reliable Healthcare LLC,* CON File No. 17-5-11187-Z, Dec. 11, 2017 (approving a certificate of need application by Stonerise Reliable Healthcare LLC to provide services in Tyler County and Pleasants County despite a projected unmet need of 6 patients and 8 patients, respectively, in those two counties). These new applications evidence a proliferation of services being added by existing providers such as UHC in this application and Personal Touch Home Care of W.Va., Inc in the corresponding matter before this Court. The "Conclusion" and 229-recipient threshold in the Home Health Standards are designed to prevent this precise harm by ensuring that new providers have adequate projected patient populations in order to enter the proposed service area without disrupting and jeopardizing existing providers, such as the five currently approved providers in Preston County.

It is well established public policy in West Virginia "[t]hat the offering or development of all health services shall be accomplished in a manner which is orderly, economical and consistent with the effective development of necessary and adequate means of providing for the health services of the people of this state and to avoid unnecessary duplication of health services, and to contain or reduce increases in the cost of delivering health services." *See* W.Va. Code § 16-2D-1(1). In this sense, the longtime impermissible interpretation by the WVHCA is not due any deference whatsoever, because it is clearly wrong. The language is clear that the Home Health Standards require the application of an unmet need threshold in keeping with the WVHCA's statutory dictate to regulate the development of new home health services and to avoid the duplication of services. This cannot be accomplished if the unmet need threshold of 229 is ignored, and yet the WVHCA has developed a practice of consistently ignoring the clear language contained in the Standards, as evidenced by several decisions approving home health projects despite an insufficient unmet need.

Judge Nibert also summarized the purpose behind the West Virginia Certificate of Need law and the Standards, stating as follows:

> "[t]he clear intent of the Standards is to regulate the development of new home health care services and to avoid the duplication of services. See Standards, Sections I, IV(A) and V. This cannot be accomplished if the threshold of 229 is ignored. To grant certificates of need when the finding of unmet need is as low as 1 projected home health recipient does not prevent the duplication of home health services, it constitutes the duplication of those services. This contradicts the intent and language of the Standards and is in direct violation of the Authority's legislative charge contained in W.Va. Code § 16-2D-1(l).

J.A. at 254.

He continued, saying that "[b]y approving applications where this is no recently approved provider and where the unmet need is less than 229, the WVHCA is providing less protection for existing providers. If a new provider is granted a CON based upon a projected need of one

patient, the rest of its patient base must come from somewhere. That place would be from existing providers. This duplication of services will result in several underutilized and underfunded agencies. That is the very result the WVHCA is charge[d] with preventing." J.A. at 581-590. Duplication of services and quality of care are absolutely at issue in Preston County, which is already extensively and adequately serviced by other, experienced providers including Petitioners. In fact, there are currently five home health agencies approved to offer home health services in Preston County. J.A. at 49.

With regard to the prior matters cited by Respondents in which the WVHCA incorrectly interpreted the Standards, Judge Nibert determined that "[t]he Authority's decisions ... are not due any deference as the Authority's interpretation of the Standards, particularly Section V, was incorrect and thus, the Standards were misapplied." J.A. at 581-590. That very same error now effects the WVHCA decision in this matter and should lead to the same result, which requires the reversal of the decision by the Circuit Court of Kanawha County. J.A. at 897-907. The WVHCA's incorrect interpretation previously led Judge Nibert to conclude that "[b]ecause the Decisions of the Authority and [Office of Judges] in this matter are arbitrary, capricious, constitute an abuse of discretion, are otherwise not in accordance with law, are manifestly contrary to the [Home Health] Standards and are not in accordance with the [Home Health] Standards, the decisions are due no deference." J.A. at 581-590. Similarly, the WVHCA should be compelled to apply "the entirety of the need methodology, including the stated conclusion that defines an unmet need as proof that there are at least 229 projected home health recipients" as suggested by Judge Nibert (J.A. at 581-590) in 2007, and the decision by the Circuit Court of Kanawha County must be reversed.

4. Health Planning and Public Policy Considerations Support the 229-Recipient Threshold in All Circumstances.

As stated elsewhere herein, and in the ***Petitioner Brief***, the Home Health Standards are intended to regulate the development of new home health services and to avoid the duplication of services, to rationally allocate resources and to avoid excess costs to the health care system. *See* Home Health Standards, J.A. at 194. These are all goals of the WVHCA and the Home Health Standards, although UHC would prefer to unfairly emphasize the Petitioners' interest in "corporate protectionism" at the expense of all other health planning goals. In that respect, when UHC alleges that the Petitioners do "not even consider" other statutory purposes (UHC Br. at 21), UHC is simply wrong. *See* Petitioner Br. at 8, 31-35. UHC makes much ado of the ***projection*** of 44 home health recipients in Preston County, as if each of these ***projected*** recipients are underserved persons in Preston County who cannot access care from the existing five providers due to the selfish corporate protectionism and self-interest of the Petitioners. It should be noted here that UHC's argument is less noble than it would have the Court believe – as the WVHCA's current interpretation of the Home Health Standards has allowed UHC to expand unchecked into multiple counties in recent years, including Preston, Monongalia, and Wirt. In doing so, UHC has positioned itself to secure home health referrals in West Virginia counties from its ever-expanding list of West Virginia University/West Virginia United Health System Hospitals. Self-interest and corporate protectionism are stones that UHC would be wise not to throw from its glass house.

Allowing UHC to expand into Preston County is the WVHCA's latest affront to the Home Health Standards, which provide that "[t]he focus on containing health care costs through efficient utilization of resources while ensuring the availability of adequate and quality health care services must be the underpinning of health planning." *See* Home Health Standards, J.A. at

520-533, § V. The WVHCA is the agency responsible for health planning and development in West Virginia pursuant to W.Va. Code § 16-2D-3(a)(1), and is responsible for the various standards including the Home Health Standards. *See* W.Va. Code § 16-2D-3. As stated in the ***Petitioner Brief***, many other healthcare standards within the purview of the WVHCA include an unmet need threshold. Some, such as the Ambulatory Care SHP Standards cited by UHC, do not. *See* UHC Br. at 32. However, UHC citation to the few standards that do not include a quantitative threshold does not refute the fact that most of the healthcare standards (and all the standards cited by Petitioners) do include such thresholds. Respondent WVHCA seems to concede as much, saying the "[w]hile one can debate the merits of whether the Home Health Standards should have a general recipient threshold with a specific number, the fact of the matter is that the current Home Health Standards do not." WVHCA Resp. Br. 16. Health planning considerations support the use of a ***threshold*** for nearly all new health services, and the use of an ***adjustment*** when a new health service provider could otherwise disrupt existing services. Especially when compared to the other standards for health services, it is irrational to contend that the Home Health Standards are different and only include a threshold when a new provider has been approved in the prior twelve-months. The WVHCA's disregard of the threshold except when a new provider has been approved in the prior twelve-months is not supported by any legitimate health planning consideration and is not a permissible interpretation of the Home Health Standards.

Accordingly, the Application by UHC should have been denied by the WVHCA because UHC failed to satisfy the unmet need threshold – a fundamental requirement in W.Va. Code § 16-2D-12 for the approval of a certificate of need. The number of recipients projected by UHC – 44 in Preston County – clearly falls significantly below the 229-recipient threshold mandated by

the Home Health Standards. The decision by the Circuit Court of Kanawha County must be reversed.

CONCLUSION

The Home Health Standards have been incorrectly and impermissibly interpreted by the WVHCA for decades despite plainly requiring a minimum projection of 229 home health recipients in every county. The irrationality of the WVHCA's disregard of the threshold has resulted in inconsistent decisions between two circuit courts and, even worse, a proliferation of duplicative services throughout West Virginia that can easily be avoided through strict adherence to the plain language and purpose of the Home Health Standards. For these reasons, the decision by the Circuit Court of Kanawha County should be reversed pursuant to W.Va. Code § 29A-5-4 because:

a. The Decision is in violation of constitutional or statutory provisions;

b. The Decision is in excess of the statutory authority or jurisdiction of the agency;

c. The Decision is made upon unlawful procedures;

d. The Decisions is affected by other errors of law;

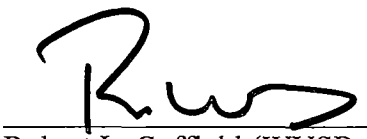
e. The Decision is clearly wrong in view of the reliable, probative and substantial evidence on the whole record; and

f. The Decision was arbitrary, capricious, characterized by abuse of discretion, and clearly was an unwarranted exercise of discretion.

WHEREFORE, on the basis of the foregoing authorities and arguments made thereupon, the Petitioners respectfully request that the decision of the Circuit Court of Kanawha County dated May 20, 2020 be reversed because it is based on an incorrect and impermissible interpretation of the Home Health Standards and that this Court award such other and further relief as it may deem proper.

Respectfully submitted,

PRESTON MEMORIAL HOMECARE, LLC AND TENDER LOVING CARE HEALTH CARE SERVICES OF WEST VIRGINIA D/B/A AMEDISYS HOME HEALTH OF WEST VIRGINIA



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No. 20-0401

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UNITED HOSPITAL CENTER, INC. AND
THE WEST VIRGINIA HEALTH CARE AUTHORITY, Respondents Below,

Respondents.

CERTIFICATE OF SERVICE

I, Robert L. Coffield, counsel for the Petitioners, do hereby certify that I have served the foregoing ***Petitioners' Reply Brief*** upon counsel of record this 25th day of November, 2020, addressed as follows:

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