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January 13, 2010

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**VIA FIRST-CLASS MAIL AND E-MAIL**

Attorney General John R. Kroger and  
Assistant Attorney General Elizabeth Grant  
Oregon Department of Justice  
1515 SW Fifth Avenue, Suite 410  
Portland, Oregon 97201

**Re: Request for Waiver of Requirements Imposed by ORS 65.803  
Sale of Holy Rosary Medical Center and St. Elizabeth's Health Services**

Dear Mr. Kroger and Ms. Grant:

I respectfully submit this request for a waiver of the notice and approval requirements of ORS 65.803(1) on behalf of my clients, Holy Rosary Medical Center and St. Elizabeth Health Services, Inc. ("Oregon Hospitals").

The Oregon Hospitals are both Oregon nonprofit public benefit corporations owning and operating hospitals in Eastern Oregon. Holy Rosary Medical Center owns and operates a hospital in Ontario, Oregon and St. Elizabeth Health Services, Inc. owns and operates a hospital in Baker City, Oregon. The sole member of both Oregon Hospitals is Catholic Health Initiatives, a Colorado nonprofit corporation ("CHI"). The Boards of Directors of both Oregon Hospitals have recently adopted a resolution to recommend that the CHI Board of Stewardship Trustees approve the sale of substantially all of the assets of each of the Oregon Hospitals in a single transaction (the "Proposed Transaction") to Oregon nonprofit subsidiaries of a regional health care system owned by Trinity Health Corporation, an Indiana nonprofit corporation ("Trinity").

Oregon law requires the Oregon Hospitals to obtain the approval of the Attorney General before closing any transaction to sell or transfer a significant portion of their assets. ORS 65.803(1). However, under ORS 65.803(2)(b), the Attorney General may waive the notice and approval requirement upon request after receiving a detailed written statement describing the transaction. I have enclosed a detailed written statement describing the Proposed Transaction with this request for waiver. I am also enclosing a document discussing why the Oregon Hospitals believe a waiver is appropriate. If additional information is needed, please let me know.



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While this request is submitted by the Oregon Hospitals, CHI and Trinity have indicated that they strongly support the Proposed Transaction and the granting of the waiver request. Together, they respectfully request that you consider and grant this waiver request.

Very truly yours,

Kelly Knivila

cc: Mark Dalley, President and CEO, Holy Rosary Medical Center  
Leanne Irsik, Interim CEO, St. Elizabeth Health Services  
Sally Jeffcoat, President and CEO, St. Alphonsus Regional Medical Center  
Mark Parrington, Catholic Health Initiatives Vice President – Strategic Transactions  
Maria Szymanski, Trinity Senior Vice President and Chief Development Officer  
Ingrid Brydolf, Counsel for Trinity

## **Description of Transaction to Establish a Regional Health Care System Eastern Oregon/Western Idaho**

**The Parties:** Catholic Health Initiatives, a Colorado nonprofit corporation (“CHI”), and Trinity Health Corporation, an Indiana nonprofit corporation (“Trinity”), are national, Catholic, nonprofit health care systems dedicated to excellence in patient care and service. The two nonprofits share very similar missions and core values. Both are dedicated to promoting the health of the communities they serve with an emphasis on compassion, social justice and human dignity. CHI, through its subsidiaries and affiliates, provides health care services to communities in Eastern Oregon and Western Idaho and Trinity, through its subsidiary and its affiliates, provides health care services to the community of Western Idaho. Both CHI and Trinity provide health care services to communities in other regions of the United States through their respective subsidiaries and affiliates, including, in the case of CHI, other Oregon communities.

**Overview of the Transaction:** CHI and Trinity plan to enter into a transaction that will create a Trinity-owned regional health care system to better serve the communities in Eastern Oregon and Western Idaho. The transaction will involve integrating the separate health care operations of CHI and Trinity in that region under one system that will operate consistent with Trinity’s mission, vision, and values. A description of the current health care operations of CHI and Trinity in the Eastern Oregon/Western Idaho region is provided below along with a more detailed description of how the new regional health care system will be formed.

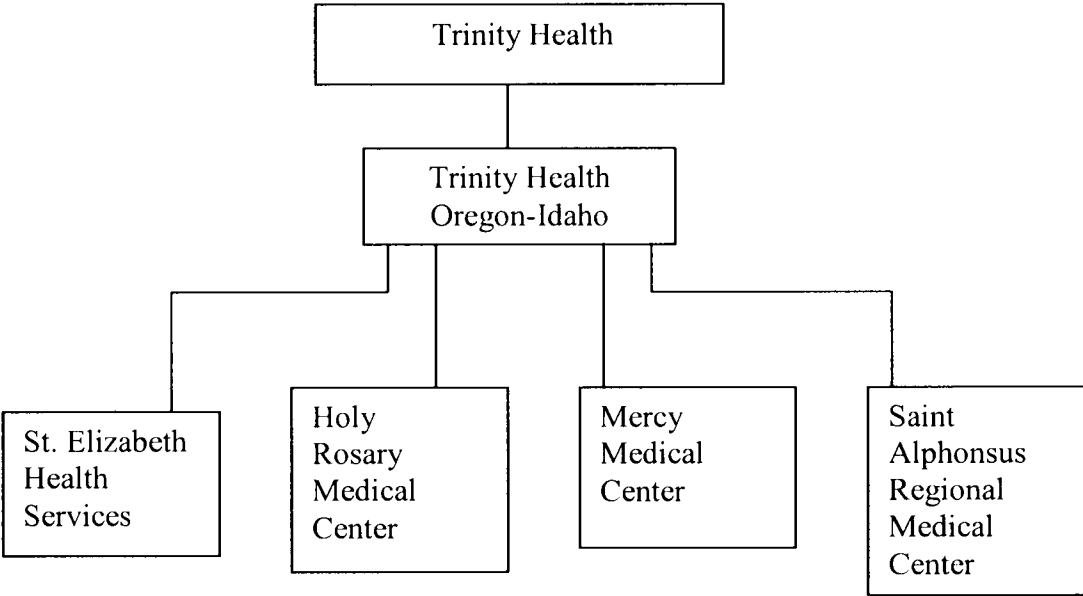
**Current Operations:** Currently, CHI owns three subsidiary, nonprofit corporations through which health care services are provided to communities in Eastern Oregon/Western Idaho. These include:

1. Holy Rosary Medical Center (“Holy Rosary”), an Oregon nonprofit corporation, which owns and operates a 49-licensed bed general acute care hospital located in Ontario, Oregon, known as Holy Rosary Medical Center (the “Ontario Facility”); and
2. St. Elizabeth Health Services, Inc. (“St. Elizabeth”), an Oregon nonprofit corporation, which owns and operates a 36-licensed bed critical access hospital located in Baker City, Oregon, known as St. Elizabeth Hospital which includes the St. Elizabeth Care Center, a 90-bed long-term care nursing facility (the “Baker City Facility”).
3. Mercy Medical Center, Nampa (“Mercy”), an Idaho nonprofit corporation, which owns and operates a 152-licensed bed acute care community hospital located in Nampa, Idaho, known as Mercy Medical Center (the “Nampa Facility”).

Trinity, on the other hand, owns Saint Alphonsus Regional Medical Center, Inc. (“Saint Alphonsus”), an Idaho nonprofit corporation, which owns and operates a 398-licensed bed acute care hospital located in Boise, Idaho (the “Saint Alphonsus Facility”) that provides health care services to the communities in Western Idaho.

Formation of the Regional Health Care System: The new regional health care system will be an Idaho nonprofit corporation owned by Trinity and, initially, will be named, “Trinity Health Oregon-Idaho.” Additionally, to effectuate the transaction, Trinity Health Oregon-Idaho will become the sole owner of Mercy and Saint Alphonsus by acquiring CHI’s ownership interest in Mercy and by acquiring Trinity’s ownership interest in Saint Alphonsus. Trinity Health Oregon-Idaho will also own two new Oregon, nonprofit corporations that will acquire substantially all of the assets of Holy Rosary and St. Elizabeth, respectively.

Upon completion of the transaction, Trinity will operate Trinity Health Oregon-Idaho as a new regional health care system operating in the Eastern Oregon/Western Idaho region. As illustrated below, it will be comprised of the four existing hospital facilities (the Ontario Facility, the Baker City Facility, the Nampa Facility and the Saint Alphonsus Facility) and all of their respective affiliates. The new system will continue to serve communities in Eastern Oregon/Western Idaho and continue to benefit from the affiliation with a national, nonprofit healthcare system committed to the mission of providing health care with compassion, excellence and social justice.



## Statement in Support of Granting Waiver Request

Holy Rosary Medical Center and St. Elizabeth Health Services, Inc. (the “Oregon Hospitals”), with the support of Catholic Health Initiatives (“CHI”) and Trinity Health Corporation (“Trinity”), respectfully submit that the Attorney General should exercise his authority under ORS 65.803(2)(b) to approve the waiver requested by the Oregon Hospitals because the proposed sale of the Oregon Hospital assets by CHI to Trinity furthers the charitable purposes of the Oregon Hospitals and assures a continuation of their charitable missions along with promoting the interests of the local communities. A waiver of the requirement for notice and approval will benefit the local hospital organizations by allowing a timely closing of the Proposed Transaction in support of the communities’ health care. The pendency of a major transaction such as described causes a level of disruption to the work environment of employees and members of the medical staff and may impede strategic and other decisions until the transaction is closed. Waiver will also conserve the financial resources of the charitable organizations that are parties to the Proposed Transaction.

Under ORS 65.811 the Attorney General must approve a proposed transaction unless he finds that one or more of nine specific conditions exist. Where, as here, a party requests a waiver, we believe that these factors, detailed below, while not controlling, are instructive in determining whether a waiver request should be granted.

**1. The terms and conditions of the proposed transaction are not fair and reasonable to the public benefit or religious corporation.**

In selecting a buyer for the Oregon hospitals, CHI issued an Request for Proposals. More than one offer was received and CHI and the local Boards of Directors for the Oregon Hospitals carefully considered both competing offers. The terms of the transaction were established in arm’s length negotiations between two independent, sophisticated, and equally capable national Catholic health systems. Finally, in the exercise of their fiduciary duties, the local Boards of Directors of each Oregon Hospital have reviewed and recommended approval of the Proposed Transaction.

**2. The proposed transaction will result in inurement to any private person or entity.**

All of the entities involved in the Proposed Transaction are nonprofit, tax-exempt organizations. Trinity and CHI share similar charitable missions. No payments or other benefits have been offered to any private person or entity to influence any decision concerning the Proposed Transaction nor will any private person receive payments due to the Proposed Transaction. No employee of Trinity, CHI or the Oregon Hospitals will receive any personal financial benefit related to the Proposed Transaction.

**3. The proposed transaction is not at fair market value.**

As the Attorney General recently recognized in his order approving the affiliation between Willamette Falls Hospital and Providence Health System, this factor is generally more important when a nonprofit hospital merges with a for-profit entity because that type of transfer results in the removal of assets from the charitable sector. In this case, CHI specifically limited its requests for proposals to a limited group of nonprofit health care systems who were likely to have a mission similar to CHI and preserve the missions of the two Oregon Hospitals. Further, the transaction does not contemplate any removal of Oregon Hospital assets from the charitable sector. The assets of the two Oregon Hospitals will be transferred to new Oregon nonprofit corporations to be used for the continuing operation of the Oregon Hospitals.

**4. The proposed use of the proceeds from the transaction is inconsistent with any charitable trust to which the assets are subject.**

The portion of the purchase price allocable to the sale of the Oregon Hospitals' assets will be paid by Trinity directly to CHI in order to satisfy outstanding debt and other obligations of the Oregon Hospitals which Trinity will not assume under the terms of the Proposed Transaction. The payment of proceeds from Trinity to CHI will have no impact on or result in any diminution of the value of the existing assets of the two Oregon Hospitals. Such assets will remain, in their entirety, under non-profit ownership and will continue to be used to advance the same charitable purposes of providing healthcare services to the two communities.

**5. The proposed transaction involves or constitutes a breach of trust.**

Each Oregon Hospital is sole owner of an associated Oregon nonprofit hospital foundation – St. Elizabeth Health Care Foundation and Holy Rosary Medical Center Foundation (the “Oregon Foundations”). The Oregon Foundations raise money to support the hospitals' charitable purposes. As part of the Proposed Transaction, the Hospitals' ownership interests in their affiliated foundations will be transferred to the two new Oregon nonprofits that will own and operate the Oregon Hospitals. As a result, all foundation funds will remain in the control of the Oregon Foundations restricted and dedicated to their original charitable purpose of supporting the Oregon Hospitals.

**6. The Attorney General has not been provided sufficient information to evaluate adequately the proposed transaction and the effects of the proposed transaction on the public.**

With the waiver request, the Oregon Hospitals are providing the Attorney General with a detailed description of the Proposed Transaction as required by ORS 65.803(2)(b). In addition, the Oregon Hospitals are prepared to provide additional information the Attorney General requires to evaluate this waiver request.

**7. The proposed transaction significantly diminishes the availability or accessibility of health care services to the affected community.**

The Proposed Transaction will not significantly diminish the availability or accessibility of health care services to the communities served by the Oregon Hospitals. The regional health care system will continue to provide health care services and access to such services consistent with the charitable mission of serving the health care needs of the community and the values of social justice, human dignity and excellence. The regional health care system plans to develop a multi-dimensional community based strategy for both primary care and specialty physicians, including development of a recruitment plan, and to support the provision of rural health care. Additionally, given that CHI and Trinity are both Catholic health care systems, there will be no diminution in services based on religious principles.

As a result of the Proposed Transaction, the Oregon Hospitals will join Mercy Medical Center, Nampa and Saint Alphonsus Regional Medical Center in Boise to become part of a regional health care system serving the health care needs of the citizens of Eastern Oregon and Western Idaho. The regional health care system will be stronger than the sum of its parts; for example, it expects to be able to deliver improved local and regional services through enhanced and integrated information technology, telemedicine, and care delivery models. Additionally, the regional health care system will be best positioned to respond to changing health care needs and a changing health care environment.

Trinity also understands that recruitment and retention of primary care and specialty physicians is important to local communities, including the communities served by the Oregon Hospitals. Trinity believes that the Oregon Hospitals will be better able to recruit and retain physicians due to Trinity sponsorship and the fact that the facilities will be members of a comprehensive, integrated regional health care system. Physicians will benefit from being part of a regional health care system.

Trinity's core values are respect, social justice, compassion, care of the poor and underserved, and excellence. As a nonprofit, federally tax-exempt, Catholic health care charitable organization, Trinity is committed to serving the needs of the poor and disadvantaged. Consistent with its core values, the regional health care system, including the Oregon Hospitals, will continue to serve patients who are insured by Medicare and Medicaid, as well as those who are underinsured or uninsured.

**8. The proposed transaction is not in the public interest.**

The Oregon Hospitals' Boards of Directors approved the Proposed Transaction because they believe that the regional structure contemplated by the Proposed Transaction will enhance the viability of each of the Oregon Hospitals and their continued ability to provide quality healthcare to their local communities. In the absence of the transaction and its contemplated regional health system structure, we believe that competitive and financial pressures on the

Oregon Hospitals would result in a diminution of their financial viability over time, thus limiting the services they could continue providing to their local communities. Moreover, the Boards of both Oregon Hospitals are comprised of a wide range of community members.<sup>1</sup> The fact that both community Boards have approved the Proposed Transaction reflects, we submit, the community support for the Proposed Transaction.

The Proposed Transaction was publicly announced in the Baker City and Ontario communities in September 2009. To ensure that the public interest has been adequately heard and protected the Oregon Hospitals will continue to communicate with relevant stakeholders including local public officials and community organizations in the next few weeks. As part of that outreach, the Oregon Hospitals will publish notice in the local newspapers in Baker City and Ontario asking the public to provide input concerning the Proposed Transaction. The Oregon Hospitals are confident that the response will be uniformly positive.

**9. The proposed transaction does not comply with all other legal requirements.**

There is no legal impediment to the Proposed Transaction that the Attorney General would need to consider in a formal approval process. Trinity and CHI made the appropriate Hart-Scott-Rodino antitrust filings with the Federal Trade Commission and the waiting period for federal review has expired. The Oregon Hospitals have provided the required legal notice to all unions representing employees at the Oregon Hospitals. Closure of the transaction is contingent on each party obtaining any other necessary legal approvals. No legal impediments to the Proposed Transaction exist.

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<sup>1</sup> A list of local Board members and their role in the community is included as an attachment to this filing.

### Holy Rosary Medical Center

<b>Board Member</b>	<b>Profession</b>
Joe Plaza	Materials Manager, Heinz Frozen Foods
Pat Caldwell	Editor, The Argus
Maureen McDonough	Director, Nursing Program, Treasure Valley Community College
Jed Myers	Commercial Loan Officer
John Kirby	Business owner – Hardware
Sr. Kay Marie Duncan	Sister
Tim J. Lopez	Executive Director Malheur County Housing Authority
Frank Spokas, MD	Physician
Kenneth Hart, Chair	CFO Gentry Automobile
Andrew Bentz, Vice Chair	Sheriff
Paul Gering, MD	Physician
Shawna Peterson	Attorney
Don Roumagoux	Financial Advisor
Tony Tesnohlidek, MD*	Physician
Mark Dalley*	HRMC CEO
Dave Goode*	Sr. VP Operations, CHI
* indicates <i>ex-officio</i> member	

### St. Elizabeth Health Services, Inc.

<b>Board Member</b>	<b>Profession</b>
J. Robert Moon, Chair	Attorney
Steve Brocato	City Administrator
Beverly Duby	Rural Community Member
Ed Huggins	Finance Director, Cattle Company
Martin Leuenberger	Attorney
Laurence Lvinger MD	Physician
Sharon Rudi	Real Estate Broker
Matt Shirteliff	District Attorney
Daniel Smithson	Physician
Sony Vela	Banking
Jim Watt, Vice Chair	Accountant