

BEFORE THE DEPARTMENT OF JUSTICE  
FOR THE STATE OF MONTANA

In the Matter of the Certificate ) PRELIMINARY  
of Public Advantage Issued to ) FINDINGS CONCERNING  
Benefis Healthcare, Great Falls, ) COMPLIANCE WITH TERMS  
Montana. ) AND CONDITIONS

This matter is before the Department on review of the 1998 annual progress report submitted by Benefis Healthcare under Mont. Code Ann. § 50-4-622 and Mont. Admin. R. 23.18.106. The progress report enables the Department to evaluate the impact of the hospital consolidation on the availability, cost effectiveness, quality, and delivery of health care services and to determine whether the hospital has complied with the terms and conditions of the Department's order approving the consolidation.

## I. BACKGROUND

This is the second comprehensive review of Benefis Healthcare's compliance with the Certificate of Public Advantage (COPA) issued by the Department in July 1996. Complete information regarding the particulars of the COPA is available in the COPA itself and in the Department's findings following the first progress report, which were issued December 31, 1998. Both documents are available from the Department on request by interested parties or on the Department of Justice Internet site, at <http://www.doj.state.mt.us/>.

The Department of Justice received the hospital's 1998 annual report on April 19, 1999. Thereafter, the Department of Public Health and Human Services (PHHS) reviewed the hospital's report and submitted its final report for 1998 on July 8, 1999. On November 10, 1999, the Department received the Independent Accountant's Report for 1998 from Myers and Stauffer LC.

The Department also has received comments on the PHHS report from the Regional Community Health Council and has received several letters from residents of the Great Falls service area regarding various aspects of the hospital's performance under the Certificate of Public Advantage.

Having reviewed and carefully considered all information provided to date by the hospital, PHHS, the independent accountant, and the public, the Department is prepared to enter preliminary findings regarding the state of Benefis's compliance with the COPA. However, pursuant to its authority under Mont. Admin. R. 23.18.106(3), the Department also finds it appropriate to solicit and consider public comment on Benefis's compliance with the COPA and will accept written comment for a period of 30 days following the issuance of these preliminary findings.

## II. COMPLIANCE WITH TERMS AND CONDITIONS

### A. Savings and Price Reductions

The Department adopts the thorough report of the independent accountant, Myers and Stauffer LC, and finds that for the period ending December 31, 1998, the hospital has complied with the terms of the cost regulation imposed by the COPA. The Myers and Stauffer report is attached to this document and incorporated by reference.

Significant findings of the independent accountant include the finding that, under the COPA revisions approved by the Department in March 1999, the hospital did not exceed the revenue cap for 1998. (Myers and Stauffer Report at 10.) Although hospital prices rose in both the inpatient and outpatient service areas by about 4% and 3%, respectively, over 1997 levels, prices remain below pre-consolidation levels. Relative to pre-consolidation levels, average inpatient prices are down about 6% and average outpatient prices are down about 15%. (Report at 5.) In fact, prices for outpatient operating room and related procedures, though up 6.8% from 1997, are still 30% under 1995 pricing levels. (Report at 11.) The facility's expenses for 1998 were lower than 1996 levels by approximately \$3 million. (Report at 11.)

## B. Quality of Health Care Services

### 1. PHHS Monitoring

Pursuant to section 2 of the terms and conditions of the COPA, the Department of Public Health and Human Services (PHHS) has overseen the monitoring of quality of care at the hospital since the consolidation occurred. Staff of PHHS held meetings throughout 1998 with hospital management and quality assurance staff to discuss reporting requirements, infection control, staffing, patient satisfaction surveys, and complaints. In addition, PHHS conducted unannounced observation tours and required quarterly quality indicator reports that have been reviewed with appropriate hospital staff. Reports cover maternity services; orthopedic services; emergency room waiting times; surgical capacity and utilization of operating rooms; rehabilitation services; and medical and surgical inpatient nosocomial infection rates. These are the same quality indicators measured during the 1997 reporting period, allowing the data to be more easily compared.

The data gathered through the PHHS monitoring devices show the following:

**Maternity Services:** During the reporting year, Benefis accomplished facility improvements in its obstetrics unit, which should benefit patients. PHHS has no recommendations at this time.

**Orthopedic Services:** The hospital identified a higher rate of surgical infections for total hip surgeries than reported last year (four infections out of 89 total hip arthroplasties). The hospital had a 1.9% infection rate for total knee surgeries (one infection out of 53 total knee arthroplasty surgeries identified as risk level 1). However, the hospital had no infections in the performance of 93 zero-risk level knee surgeries and four surgeries at a risk level of 2 and 3. After a comprehensive investigation, the hospital has increased its efforts to maintain a sterile surgical environment. PHHS will continue to monitor closely infection rates for postoperative hips and knees. In addition, the hospital should have completed its upgrade of the operating room area so there is better control of traffic in the operating suites.

**Emergency Room:** Waiting times for emergency room services remained consistent on average with 1997 data. Although there are no established benchmarks in this area, the average waiting time is under seven minutes.

PHHS found that average waiting times were approximately 2 to 2½ minutes longer after consolidation of the emergency rooms in July 1998. The Department will continue to monitor emergency room waiting times to determine whether that trend continues.

**Surgical Capacity and Utilization:** PHHS concluded that the hospital continues to underutilize its operating rooms, with an average utilization rate of 49%. However, the scheduling of outpatient surgeries at the East Campus apparently has resulted in a shortage of pre- and post-operative bed capacity. The recent construction of additional outpatient facilities in Great Falls should resolve this problem. In addition, the hospital has hired an in-house operating room manager to schedule surgeries, so scheduling is no longer conducted by the anesthesiologists. PHHS will continue to watch operating room utilization to determine whether these changes result in improvements.

**Rehabilitation Services:** Based on studies of patient improvement levels, PHHS concluded that the hospital's rehabilitation unit is meeting or exceeding regional and national averages. Length of stay and waiting times are also within acceptable parameters.

**Medical/Surgical Inpatients:** PHHS compared infection rates with data from the first reporting year and with pre-consolidation data of the two campuses. While the data did not show any trends or cluster of infections, there was an increase in nosocomial infection rates (infections contracted while a patient is in the hospital) and the hospital also had an outbreak of scabies. Nonetheless, the hospital remained within national norms for infection rates. As the Department noted in its 1997 report, infection rates are a key component of quality monitoring, as they reflect the quality of patient care being delivered by direct care staff. It appears that the hospital has increased its infection control staff and is working closely with PHHS to keep infection rates under control. PHHS will continue to closely monitor this area.

## 2. JCAHO Evaluation

The JCAHO survey was completed the week of October 19, 1999. The results of the survey will be reported in the 2000 annual report. The hospital was granted re-accreditation for three years.

### 3. Patient Satisfaction Surveys

The hospital continues to conduct patient satisfaction surveys in the areas of outpatient surgery, inpatient hospitalization, emergency room, and convenience care physician offices. Surveys were discontinued in the areas of substance abuse, outpatient therapy and testing, inpatient psychiatry, and home care due to continued low response rates. The four core areas remaining are considered high patient-care areas that are susceptible to more problems and more patient complaints. The hospital continues to receive a somewhat lower than average number of responses, particularly in the convenience care area. Survey data showed inpatient satisfaction slightly below the benchmark mean, with the third quarter reflecting the lowest scores, attributable in part to disruption caused by clinical services consolidations. Fourth-quarter data showed some improvement as the units settled into their new quarters.

In outpatient surgery scores, the fourth quarter showed a decline in several areas of patient satisfaction, whereas therapy and testing services rose slightly after being below average through most of the year. In the emergency department, scores were above average in the first and fourth quarters of the year, but fell during the second and third quarters, coinciding with facility renovation activities.

Once again it appears that physician and staff courtesy and communication issues contributed to some of the lower scores for patient satisfaction. Some of the dissatisfaction may be attributable to disruption in the facility caused by renovations and moving of departments. It does appear Benefis is making a concerted effort to address patient concerns, and 1999 surveys should reveal the extent of progress in this area.

### 4. Patient Advocate

In compliance with section 2.17 of the terms and conditions, the hospital's patient advocate continues to receive and review patient complaints about quality of care. The number of complaints to the patient advocate remained relatively constant during 1997 and 1998, with the resolution time averaging 11 days.

PHHS worked with the patient advocate and hospital administration in several instances during 1998, in response to citizen complaints. PHHS

conducted a full fire and life safety survey in July under authority of the Health Care Financing Administration. It was followed by a full health survey in September. The hospital was found to be out of compliance with two federal regulations pertaining to physical environment and pharmaceutical services. It appears both conditions have now been corrected. PHHS staff reviewed other complaints with hospital administrators and requested a corrective action plan, which was submitted in October 1998. PHHS continues to monitor progress.

The patient advocate has implemented a successful system of identifying problems, contacting appropriate hospital staff, and resolving complaints to the satisfaction of patients. The advocate handles the majority of patient complaints without additional intervention from either the Regional Community Health Council or PHHS.

## 5. Staffing Ratios

PHHS reports no significant change in nursing staff numbers. However, in the aggregate, the average number of RN hours per patient day has increased by 10% over 1997 levels (from 6.785 to 7.442 hours per patient day), and the average number of LPN hours increased by 5% (from 1.292 to 1.352 hours per patient day). The hospital experienced a slight increase in staffing during 1998, with a total FTE count of 1700, compared with 1687 the previous year. Staffing levels are, however, below the June 1996 level of 1891 FTE. (Myers and Stauffer Report at 11.) Total employee staffing rates are somewhat higher at Benefis than national averages, increasing in 1998 from 5.98 to 6.23 FTE per adjusted occupied bed.

PHHS reports continued concern over staffing of registered nurses, particularly in the critical care areas. The hospital has been actively pursuing a long-term strategy to enhance its recruitment and retention of qualified nursing staff, including the hiring of a human resources specialist to focus on recruiting efforts and development of a database to track RN turnover rates. The hospital also has implemented a pilot program to provide "service partners" to nursing staff to assist with supportive services to the patient and the care team. The pilot is being evaluated quarterly by the nurse manager.

As noted in the PHHS report, the hospital should take steps to ensure that agency nurses are properly trained in the policies and procedures of the units

to which they are assigned, so additional pressures are not placed on the permanent staff.

## 6. Physician Surveys

Due to the low rate of return for the 1997 physician surveys, members of the medical staff worked with the hospital's contract survey provider to develop a survey instrument that would better meet the needs of both the medical staff and the hospital. The results were not available by the date PHHS's report was submitted. However, in response to concerns raised in the 1997 physician surveys, the hospital formed a task force for each of the top areas of concern and developed a work plan for each area. Most of the recommendations of the task forces were implemented in 1998, with several areas continuing to be addressed in 1999.

## 7. Employee Surveys

With the approval of PHHS, Benefis switched to a new surveying organization, Management Science Associates, Inc., to conduct the 1998 surveys. Of the 2000 eligible participants, 760 employees returned the surveys, representing a return rate of 40%. The hospital continues to rank negatively in administration, job security, personnel policies, job mobility, communications, and participation. The hospital received average marks in the areas of physical work conditions, employee benefits, job demands, and resources utilization. Comparisons were made with 1992 surveys of Columbus Hospital and Deaconess Medical Center conducted by the same firm. Those comparisons showed improvement in attitudes regarding supervision, communications, personnel policies, physical work conditions, peer work relationships, resource utilization, and evaluations. However, the survey firm noted the need for improvement in the areas of leadership, pay, health insurance, job security, participation, and communications.

The Department is particularly concerned that in ten survey categories Benefis received a score of -4 or lower, which is considered a "significant variance" from the norm. The score for "administration" was -14.

The 40% return rate is also disconcerting and must be taken into account in weighing the survey results. After consulting with the Department, PHHS has approved a new survey instrument allowing more abbreviated surveys to be conducted every other year, which hopefully will improve the return rate

in all years. This area will continue to be closely monitored by PHHS and the Department.

### C. Charitable Contributions

Benefis again significantly increased the amount of charity care in 1998. Total charity care for 1998 was \$4.8 million, a \$2.8 million increase over 1997 levels. (Myers and Stauffer Report at 8.) The increased charity care occurred as the result of the hospital's mid-year decision to raise the income threshold for uninsured patients to receive charity care services. As noted by the independent accountant, the low-income, uninsured population of the Great Falls service area represents an important segment of the community, and the hospital's increase in charitable services is consistent with the COPA's goal of reducing health care costs. However, should Benefis become over-reliant on charity care write-offs as a mechanism to keep revenues under the revenue cap, this will thwart another stated purpose of the COPA: price reductions to the community at large. (Myers and Stauffer Report at 8.) The Department and its independent auditor will continue to monitor this area closely.

### D. Community Health

In compliance with section 3.3 of the COPA, the Regional Community Health Council continues to operate with volunteer members and undertook a number of activities in 1998. The Council adopted a detailed 12-month work plan, addressing each of the goals set forth in the COPA and projecting activities through June 2000. The independent accountant's report notes that the Council has actively reviewed and commented on the hospital's strategic plan and has issued recommendations to the hospital at times. (Myers and Stauffer Report at 12.) The Council held a community health forum and is planning a project to analyze the health needs of the Great Falls service area. As noted by the independent accountant, increased financial support from Benefis has assisted the Council's efforts. (Myers and Stauffer Report at 13.) The Council also received support from the Cascade County public health department. The Council continues to participate in review of consumer complaints and has effective procedures in place for the review and resolution of such complaints.

### E. Access to Health Care Services

The Department finds that Benefis is in compliance with section 4 of the terms and conditions pertaining to the provision of services.

#### F. Other Conditions

The Department finds that Benefis is complying with other terms and conditions of the COPA not specifically discussed previously in these findings.

### III. CONCLUSION

The Department concludes that Benefis is still making progress toward the objectives of the COPA and has satisfied the revenue cap requirements for calendar year 1998. Notably, prices continue to be significantly lower than pre-merger levels and, on average, lower than those of comparably sized hospitals in Montana.

In addition, the hospital continues to work on community outreach and better internal communication, training, and other human resource improvements. However, the Department remains troubled by the apparent continued problems with employee and patient satisfaction. The consolidation is over three years old now, and these problems should be subsiding. Although the Regional Community Health Council has observed that community angst does appear to be decreasing, both patient and employee surveys indicate considerable room for improvement, particularly given the -14 score in the employee survey for Administration. The apparent contradiction between the finding of staffing ratios that exceed national averages and a perception by Benefis staff and the public that some areas are under-staffed is of some concern to the Department, as is the fact that the hospital has lost a number of upper-management employees.

Given these indications, the Department encourages the Benefis board of directors to seriously consider retaining an operations consultant to provide a thorough review of the hospital's management practices and guidance on how these troubled areas may be addressed.

Comments on these preliminary findings will be accepted until December 30, 1999. Comments should address the extent to which the consolidation has affected hospital-based health care costs, quality of health care services

provided by the hospital, and accessibility of health care services. Comments may be sent to the Department at the following address:

Montana Department of Justice  
Legal Services Division  
P.O. Box 201401  
Helena, MT 59620-1401

DATED this 1st day of December, 1999.