U. S. Department of Justice

United States Attorney
District of New Jersey

Federal Building - Suite 700
970 Broad Street
Newark, New Jersey 07102-2535

(973) 645-2700
Fax (973) 645-2702

December 13, 2007

Robert Del Tufo, Esq.
Skadden Arps
4 Times Square
New York, NY 10036

Dr. William F. Owen, Jr.
President at UMDNJ
65 Bergen Street
Newark, NJ 07101

Dear Chairman Del Tufo and Dr. Owen:

On December 29, 2005, the University of Medicine and Dentistry of New Jersey (UMDNJ) entered into a Deferred Prosecution Agreement (DPA) with our office. Pursuant to paragraph four of that DPA, the DPA would run for a period of 24 to 36 months, at the sole discretion of the United States Attorney's Office. As we reach the completion of 24 months of this DPA, we wanted to advise you of our position regarding whether there will be an extension of the DPA.

The DPA was designed to accomplish a number of goals. The first goal was to stop UMDNJ from breaking federal law. The second goal was to examine the functioning of UMDNJ and to make recommendations to improve its operation so that law breaking would cease and effective management would be possible. The third goal was to hold UMDNJ responsible for the harm it had caused through its illegal conduct without causing collateral damage to innocent parties or necessitating the closing of the institution. While there has been much else accomplished through the DPA, those were the primary goals of this office at the outset of the DPA.

We are confident that at this time law breaking has ended at UMDNJ. We are convinced that substantial actions have been taken by the monitor, the Honorable Herbert J. Stern, to end the institutional attitude which existed in December 2005 that law breaking was an acceptable way of doing business, and to

require actions that have improved the environment to make effective management of UMDNJ possible by a competent and vigilant management team. We are proud of the fact that UMDNJ has been held responsible for its wrongdoing and been forced to achieve substantial remediation, while at the same time the school and the health care institutions continue to operate and serve the interests of students and those in need of health care throughout New Jersey. No collateral damage was done by bringing prosecutions that, while warranted by the facts, would have been unwise in our view given the consequential certainty of a substantial loss of jobs and educational opportunities, and the elimination of a vital center of health care for some of the neediest citizens in New Jersey.

The question, then, is whether there is a need for an extension of the DPA for an additional twelve months. Our office has concluded, in consultation with Judge Stern, that if UMDNJ had been in the condition in December of 2005 that it is today, that no DPA would have been warranted. That being the case, extension of the DPA and Judge Stern's monitorship would not be appropriate under these circumstances.

The U.S. Attorney's Office is a law enforcement agency, not a management consulting firm. Judge Stern's assignment, first and foremost, was to insure the end to law breaking and the return of UMDNJ to the category of law abiding corporate citizens. While much more than that has been accomplished through the hard work of Judge Stern and his team, he has accomplished what he was primarily sent there to do in December of 2005—the creation of an environment where the law is respected and where a responsible management team has the opportunity to continue the momentum of reform started by this Office and the Monitor.

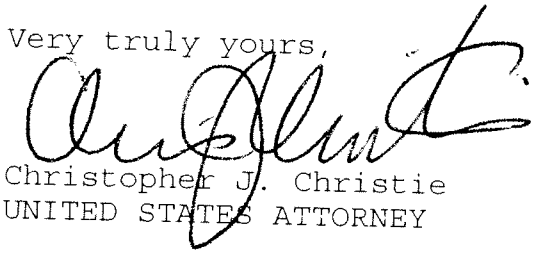
Let there be no doubt that significant work still remains to be done at UMDNJ. The ethics and compliance system still needs substantial improvement. The dispute between University Physicians Associates (UPA) and UMDNJ has moved significantly closer to resolution than it was in December 2005 due to the efforts of Judge Stern, but the matter is still not finally resolved in a way that will enable UMDNJ to effectively avoid the challenges they confronted which helped to cause the Medicare overbilling in the early part of this decade. The matters touching upon the cardiac program are still being reviewed by our Office. There is little doubt that the Monitor and this Office could be of help on these and other issues over the next year.

The letter of the DPA did not, however, contemplate the continuation of the Agreement for those types of reasons. In the spirit of wanting to continue the momentum of the reform at UMDNJ, we did (as you know) offer to extend the DPA if requested to do so by the Board of Trustees at UMDNJ. It is our view that in order to extend this relationship for the reasons stated above, we would need to have UMDNJ as willing partners who affirmatively wanted the continuation of the DPA. At a meeting in early November, we offered Dr. Owen the opportunity to extend the relationship on this basis. Over the last six weeks we have continued conversations with you but the Board has decided not to ask the Office to extend the DPA.

We take this as a very positive sign. It tells the Office and the Monitor that the Board, management, and the State of New Jersey believe that UMDNJ is prepared and committed to finish the needed reforms without the need for federal oversight. It tells us there is confidence that starting on January 1, 2008, the Board, the management team, and the State of New Jersey believe that they can operate UMDNJ within the bounds of the law and with no further waste of taxpayer money without our intervention and oversight. It is further affirmation that the DPA has worked, the primary goals have been achieved, and the responsibility for the lawful and ethical operation and conduct of UMDNJ will rest squarely where it should-- with UMDNJ leadership and the government of the State of New Jersey.

Therefore, we will terminate the DPA on December 31, 2007. Pursuant to paragraph 27 of the DPA, we will seek dismissal with prejudice of the underlying criminal complaint filed against UMDNJ within ten days and no later than January 10, 2008. Judge Stern's responsibilities as Monitor will conclude on December 31st as well. We wish you both the best of luck as you assume full control and responsibility for the operation of UMDNJ and trust that the State of New Jersey will assume this responsibility as well. We believe the last two years have provided you with the foundation necessary to achieve success if there is the appropriate commitment to diligent management, ethical conduct, compliance with the laws and the end to political interference with this vital state institution.

Very truly yours,



Christopher J. Christie
UNITED STATES ATTORNEY

Cc: Honorable Herbert J. Stern