

Prepared by:  
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In re:

PASCACK VALLEY HOSPITAL  
ASSOCIATION, INC.,

Debtor.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY  
NEWARK VICINAGE**

Chapter 11

Case No. 07-23686 (RG)

Judge: Hon. Rosemary Gambardella, U.S.B.J.

Hearing: October 29, 2007, at 11:00 AM

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**OPPOSITION TO MOTION TO REJECT EXPIRED CONTRACT OR,  
ALTERNATIVELY, COMPEL DEBTOR TO REJECT CONTRACT ON OR BEFORE  
OCTOBER 31, 2007**

**FACTUAL BACKGROUND**

1. I am an associate of the law firm of Giordano Halleran & Ciesla, PC, attorneys for Pascack Emergency Services, P.A. ("*PES*"), creditor in the above-captioned matter and submit this application along with the Certification of Philip LaStella, M.D. (*Dr. LaStella*) in opposition to Debtor's motion to reject the Agreement with PES and in support of PES's request that the Debtor reject the Agreement on or before October 31, 2007.

2. On September 24, 2007, Pascack Valley Hospital Association, Inc. (the "*Debtor*" or the "*Hospital*") filed for Chapter 11 protection under the United States

Bankruptcy Code (the “*Code*”) with the intention of permanently closing down the Hospital.

3. Prior to filing for bankruptcy, the Debtor advised PES and the entire Hospital staff that the Hospital would cease providing clinical services by no later than the end of November, 2007.

4. The Hospital contains an emergency room, which has been exclusively staffed with physicians for over sixteen (16) years by PES pursuant to the terms of a July 1, 1991 Exclusive Agreement (the “*Agreement*”) (See LaStella Cert., Ex A.).

5. Pursuant to the terms of the Agreement, PES provided physician emergency medical services at the Hospital. On January 1, 1998, the Hospital and PES signed an Addendum to the Agreement extending the contract through 2000 (the “*Addendum*”). The Addendum also included an automatic renewal provision which provided that the Agreement would renew itself each year until either party provided the other with 180 days notice of termination (Ibid. at Section 7(a)).

6. Under the Agreement and Addendum, the Hospital does not provide any monetary compensation to PES for its services. Instead, PES receives compensation for its services by billing the patients or their insurance companies for services provided by its physicians in the emergency room. Given this arrangement, PES depends on a steady flow of patients in order to remain viable.

7. Since the beginning of September when rumors began to surface that the Hospital may close, PES has seen a precipitous decline in the number patients treated and, therefore, in its revenues as well. In September alone, revenues for PES decreased by approximately \$70,000.

8. PES estimates that it will cost approximately \$5,000.00 per day to staff the Hospital's emergency room through October 28<sup>th</sup> and \$3,600.00 per day from October 29, throughout November 21<sup>st</sup> (assuming that a second, part-time Emergency Room physician is no longer required after October 28). If the number of patients seen by PES continues to decline, as is expected, PES will incur significant financial loss in staffing the emergency room during October and November.

9. In addition, on October 31, 2007, PES's malpractice coverage will expire. According to the most recent estimates received by PES, the cost of obtaining a 21 day malpractice insurance policy to cover PES from November 1<sup>st</sup> through November 21<sup>st</sup> is \$51,564.

10. If, despite the Hospital's clear breach of the Agreement, PES is required to continue staffing the emergency room at the Hospital in November and is also forced to pay for the 21-day malpractice policy, PES will suffer severe financial loss.

11. Due to the foregoing, PES notified the Debtor and their counsel of PES's intent to cancel services as of October 31, 2007. The Debtor has boldly alleged that PES would breach the Agreement and be in violation of the automatic stay of the Code should PES fail to continue performance under the terms of the Agreement through November 21, 2007.

12. On October 17, 2007, the Debtor filed a motion to reject the Agreement as of November 21, 2007. We submit the following in opposition to Debtor's request and in support of our request to compel the Debtor to reject the Agreement as of October 31, 2007 and not November 21, 2007.

**AUTOMATIC STAY IS NOT APPLICABLE AND THE AGREEMENT HAS  
EXPIRED PRE-PETITION**

13. Debtor's counsel has asserted that the Automatic Stay prevents PES from ceasing operations pursuant to the terms of the parties' Agreement. First, nothing under Section 362 of the Bankruptcy Code prevents PES from ceasing operations. PES is not threatening to institute or assert any claim outside of the bankruptcy court against the Debtor or property of the Estate.

14. Regardless, under the Code, the filing of a petition does not stay PES's decision to cease performance pursuant to the terms of its Agreement with the Debtor, since the Agreement was terminated due to the Debtor's pre-petition breach of the Agreement.

15. Under the Code, the Debtor can only assume or assign an unexpired contract. 11 U.S.C. §365(a). The Debtor's Agreement with PES expired due to Debtor's material breach of the Agreement.

16. On September 20, 2007, the Hospital notified Dr. LaStella that the Hospital would be closing by no later than December 31, 2007 and would cease providing all clinical services by the end of November, 2007. The time frame for closure was subsequently changed to November 21, 2007, and the date for cessation of admissions changed to November 14, 2007. (See LaStella Cert. at ¶8, Ex. C). The 71 days notice provided by the Hospital on September 20<sup>th</sup> of its intention to close and terminate its Agreement with PES is a violation of Section 7(a) of the Agreement which requires that 180 days notice of termination be provided (Id. at ¶9, Ex A).

17. Since the Debtor terminated the Agreement pre-petition, the Agreement is no longer property of the estate. 11 U.S.C. §541(b)(2). Since the Agreement is not property,

the automatic stay is inapplicable and, therefore, PES is no longer obligated to perform pursuant to the terms of the Agreement. 11 U.S.C. §362(c)(1).

**THE COURT SHOULD COMPEL THE DEBTOR TO REJECT THE AGREEMENT**

**AS OF OCTOBER 31, 2007**

18. The Debtor's insistence to have PES maintain the emergency room until November 21, 2007 is unreasonable and the Debtor should be compelled to reject the Agreement on or before October 31, 2007.

19. A party to an unexpired executory contract may request the Court to order the debtor in possession to assume or reject the contract within a specified period of time. See, 11 U.S.C. §365(d)(2). Though generally a debtor in possession has until the filing of a plan to accept or reject an unexpired contract, it is clear that Congress, through the enactment of section 365(d)(2), intended that "in certain circumstances, the rights of the non-debtor party would outweigh the need of the debtor in possession for unlimited flexibility and breathing space." N.L.R.B. v. Bildisco and Bildisco, 465 U.S. 513, 552, 104 S.Ct. 1188 (1984). What constitutes a reasonable time is left to the bankruptcy court's discretion in light of the circumstances of the case. In re Dunes Casino Hotel, 63 B.R. 939, 949 (D.N.J. 1986).

20. In determining what constitutes a reasonable time within which a debtor should assume or reject a contract, the court should consider a number of factors, including: "The nature of the interests at stake, the balance of the hurt to the litigants, the good to be achieved, the safeguards afforded those litigants, and whether the action to be taken is so in derogation of Congress' scheme that the court may be said to be arbitrary." Id. at 950 quoting In re GHR Energy Corp., 41 B.R. 668, 676 (Bankr. D.Mass. 1984). Above all, the court should interpret reasonable time consistent with the broad purpose of Chapter 11, which is "to permit successful

rehabilitation of debtors.” N.L.R.B. v. Bildisco, supra., 104 S.Ct. at 1194 (1984).

21. In In re G-I Holdings, Inc., 308 B.R. 196 (Bankr. D.N.J. 2004), the Novak Group, a party to an unexpired executory contract with the debtor, G-I Holdings, filed a motion requesting the Court to compel G-I Holdings to assume or reject the contract by a date fixed by the Court. Id. at 212-214. The Novak Group claimed that a prompt deadline for assumption or rejection was appropriate due to the need for immediate environmental clean up of property. Id. at 213. G-I Holdings contested Novak Group’s request, stating that a fixed period of time is unreasonable in light of the complexities of its case, which involves over one hundred and forty two (142) environmental sites in need of remediation. Ibid. The Court would not impose a specific date by which G-I Holdings must assume or reject the agreement with Novak Group since the Court intended to provide G-I Holdings with ample opportunity to promote or advance a successful rehabilitation of G-I Holdings. Ibid.

22. In this matter, there is no intent to rehabilitate. The Debtor will cease operations. The Debtor has no intention of assuming or assigning the Agreement. Even if the Debtor attempted to assume the Agreement, the Debtor would be unable to provide PES with adequate assurance that the Hospital would be capable of future performance since the Hospital will be closing within weeks. The Debtor’s expectation that PES should incur financial hardship pursuant to the terms of an Agreement that the Debtor materially breached, pre-petition, is unreasonable and inequitable.

23. The harm to PES far outweighs the harm to the Debtor. The Debtor, even if required to maintain an emergency room, could staff and insure the department through its current operations with minimal ease. PES estimates that it will cost PES approximately \$5,000.00 per day to staff the Hospital’s emergency room through October 28<sup>th</sup> and

\$3,600.00 per day from October 29, throughout November 21<sup>st</sup> (assuming that a second, part-time emergency room physician is no longer required after October 28). In addition, PES's malpractice coverage will expire on October 31, 2007. According to the most recent estimates received by PES, the cost of obtaining a 21 day malpractice insurance policy to cover PES from November 1<sup>st</sup> through November 21<sup>st</sup> is **\$51,564!** PES should not be expected to incur these expenses after the Debtor has intentionally and materially breached the Agreement.

24. Furthermore, the surrounding community has already begun to adjust to the inevitable closure of the facility. Since the beginning of September, when rumors began to surface that the Hospital may close, the emergency room has seen a precipitous decline in the number patients treated. In fact, the Hospital proposes to have PES maintain the emergency room for a full week after the Hospital has stopped admitting patients. PES should not be compelled to continue to provide emergency room services past October 31<sup>st</sup> under these conditions and incur a significant financial loss as a result. Such a decision would be wasteful and inequitable.

#### **RELIEF REQUESTED**

25. Based upon the foregoing, PES requests the Court declare the Agreement terminated pre-petition and therefore not property of the estate and that the Debtor is not entitled to stay any actions by PES pursuant to its rights under the Agreement including the right to declare the Debtor in breach and the Agreement terminated. Alternatively, PES requests the Court compel the Debtor to reject the Agreement as of October 31, 2007.

GIORDANO, HALLERAN & CIESLA,

DATED: October 19, 2007

By: /s/ Donald F. Campbell, Jr.  
DONALD F. CAMPBELL, JR.

Prepared by:  
Donald F. Campbell, Jr., Esq. (DC8924)

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**CERTIFICATION IN OPPOSITION TO MOTION TO REJECT CONTRACT**

1. I, PHILLIP J. LASTELLA, M.D., am the President of Pascack Emergency Services, P.A. (“PES”) and submit this certification in support of Pascack Emergency’s opposition to debtor’s motion to reject PES’s contract.

2. Pascack Emergency has been the exclusive provider of physician emergency medical services at Pascack Valley Hospital Association (the “Hospital”) for over sixteen (16) years.

3. On July 1, 1991, Pascack Emergency entered into an exclusive agreement (“Agreement”) with the Hospital. A copy of the Agreement is attached as “**Exhibit A.**”

4. Pursuant to the terms of the Agreement, Pascack Emergency was to provide physician emergency medical services at the Hospital.

5. An Addendum to the Agreement was signed on January 1, 1998 extending the contract through 2000 (the “Addendum”). The Addendum also included an automatic renewal provision which provided that the contract would renew itself each year until either party provided the other with 180 days notice of termination. A copy of the Addendum is attached as “**Exhibit B.**”

6. Under the Agreement and Addendum, the Hospital does not provide any monetary compensation to Pascack Emergency for its services. Instead, Pascack Emergency receives compensation for its services by billing the patients or their insurance companies for services provided by its physicians in the emergency room.

7. Given this arrangement, Pascack Emergency depends on a steady flow of patients in order to remain viable.

8. On September 20, 2007, I was notified via a written memorandum and “Questions and Answers” from Jane Connorton, President & CEO of the Hospital sent to all Hospital staff, that the Hospital would be closing no later than December 31, 2007 and that all clinical services would cease by the end of November. A copy of the memorandum and Questions and Answers is attached as “**Exhibit C.**”

9. The emergency room services provided by Pascack Emergency are clinical services.

10. I was subsequently informed that the Hospital would be closing on November 21, 2007 and would likely cease admitting new patients on November 14, 2007.

11. The 71 days notice provided by the Hospital of its intention to close and terminate its Agreement with Pascack Emergency is a violation of Section 7(a) of the Agreement which requires that 180 days notice of termination be provided.

12. Four days after notice was provided by the Hospital to Pascack Emergency of its intention to close and terminate the Agreement, the Hospital filed for bankruptcy.

13. Since the beginning of September when rumors began to surface that the Hospital may close, Pascack Emergency has seen a precipitous decline in the number patients treated and, therefore, in its revenues as well.

14. In September alone, revenues for Pascack Emergency decreased by approximately \$70,000.

15. It is estimated that the number of patients treated by Pascack Emergency has decreased by nearly 50% in October from the volume of patients treated prior to September, and that any even greater decline can be expected as the Hospital's closure nears. During the last week when the Hospital will not be admitting patients, it is expected that only a couple of patients a day will come to the emergency room.

16. Pascack Emergency estimates that it will cost PES approximately \$5000 per day to staff the Hospital's Emergency room through October 28<sup>th</sup> and \$3600 per day from October 29, throughout November 21<sup>st</sup> (assuming that a second, part-time emergency room physician is no longer required after October 28).

17. If the number of patients seen by Pascack Emergency continues to decline, as is expected, Pascack Emergency is likely to incur significant financial loss in staffing the emergency room during October and November.

18. In addition, on October 31, 2007, Pascack Emergency's malpractice coverage will expire. According to the most recent estimates received by Pascack Emergency, the cost of obtaining a 21 day malpractice insurance policy to cover Pascack Emergency from November 1<sup>st</sup> through November 21<sup>st</sup> is **\$51,564**.

19. If, despite the Hospital's clear breach of contract, Pascack Emergency is required to continue staffing the emergency room at the Hospital in November and is also forced to pay for the 21-day malpractice policy, Pascack Emergency will suffer severe financial loss.

20. I have contacted John Corcoran Vice President of the Hospital and Frank Candido, M.D., Chairman of the Hospital's Division of Medicine, in an attempt to resolve this issue by having the Hospital cover the cost of the malpractice insurance or add Pascack Emergency's physicians onto the Hospital's existing malpractice policy and assist with staffing costs.

21. Despite the sixteen years of service provided by Pascack Emergency and the extreme financial hardship it will face as a result of the Hospital's breach of contract, the Hospital has refused to admit its breach of the contract, release Pascack Emergency from its contract, or assist it with the costs associated with the Hospital's closure.

I certify the foregoing statements are true, I am aware that if any of the statements are willfully false, I am subject to punishment.

PASCACK EMERGENCY SERVICES, P.A.

DATED: October 19, 2007

By: /s/ Phillip J. LaStella, M.D.  
Phillip J. LaStella, President

# **EXHIBIT A**

**ACREEMENT**

It is on this 1st day of July 1991 agreed by and between PASCACK VALLEY HOSPITAL ASSOCIATION, a non-profit corporation organized under the laws of the State of New Jersey, hereinafter referred to as "Hospital", and Pascack Emergency Services, P.A., a professional association organized under the laws of the state of New Jersey, hereinafter referred to as the Corporation that;

**WITNESSETH**

WHEREAS, the Hospital is the owner and operator of a health care facility located in Westwood, New Jersey, in which there is an Emergency Department (hereinafter sometimes referred to as the "Department"); and

WHEREAS, the Corporation is a professional association organized under the laws of the State of New Jersey, specializing in emergency medical services, and consisting of a physician duly licensed under the laws of the State of New Jersey; and

WHEREAS, the Corporation expressly recognizes that the Hospital has determined that an exclusive contract with a single entity for the provision of emergency medical services at the Hospital is in the best interest of the Hospital insofar as it aids in the enhancement of patient care by permitting effective professional supervision of the Hospital employees in the Emergency Department; effective training by the entity of the departmental personnel; the assurance of adequate coverage by the Department of the Hospital's patients; the assumption by the entity of responsibility for effective administration, supervision, and adequate coverage; the development of the necessary working relationships between the entity and other Hospital personnel; and also takes into consideration the difficulty of obtaining such continuous

Emergency Department; and

WHEREAS, the parties desire to provide a full statement of their agreement in connection with the retention of the Corporation to provide professional emergency medical services at the Hospital during the term of this contract;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this contract, it is understood and agreed by and between the parties hereto as follows:

Section 1. Previous Agreement

The terms and conditions of this Agreement shall govern the relationship between Hospital and the Corporation and this Agreement shall replace any previous agreement between any physicians and Hospital pursuant to which agreement the Corporation or any physicians may have provided emergency medical procedures at the Hospital.

Section 2. Retention of the Corporation

Hospital does hereby retain the Corporation as an independent contractor to provide on an exclusive basis all emergency medical services together with all administrative, supervisory and teaching services within the Emergency Department at the Hospital. The Hospital agrees that it shall not retain, hire, employ or permit any other person or party other than the Corporation to use for purposes of rendering emergency medical procedures any of the equipment, personnel or supplies of the Emergency Department at the Hospital, during the term of this Agreement, provided, however, that Hospital may grant to other physicians such limited privileges regarding the Emergency Department as

may be necessary in time of emergency. Such privileges shall terminate at the conclusion of such medical emergency. The Corporation agrees that it and its shareholders, employee physicians and subcontractors (hereinafter referred to as "subcontracted or employed physicians") shall cooperate with such other physicians.

Section 3. Qualifications of Subcontracted Physicians or Employed Physicians

3.1 All full-time emergency physicians under contract to the Hospital at the time this contract is entered into will be offered an opportunity to become a subcontractor to the Corporation.

3.2 All present subcontracted or employed physicians, prior to the commencement of this contract, have applied to the Medical Staff of the Hospital and have been granted staff membership and privileges coextensive with their responsibilities under this agreement. Such privileges shall not include the right to admit patients to the Hospital.

3.3 All Subcontracted or Employed physicians shall:

(a) hold a current and valid license to practice medicine in the State of New Jersey;

(b) be approved by the Chief Executive Officer of the Hospital or his designee, upon the concurrence of the applicable Division Director and the Chairman of the Credentials Committee, if employment is for a period less than fifteen (15) days per annum, otherwise shall be required to obtain, after approval by the Chief Executive Officer of the Hospital, pursuant to the Medical Staff By-Laws, membership and privileges coextensive with the Corporation's obligations under this contract;

(c) be certified or has completed a residency program qualifying the physician for Board Certification by Specialty Boards

recognized in the Hospitals Medical Staff By-Laws in Emergency Medicine, Internal Medicine or Family Practice;

(d) have current narcotic numbers issued by the State of New Jersey and the United States Drug Enforcement Administration.

3.4 The staff membership and privileges which the subcontracted or employed physicians have or shall obtain, shall be coextensive with the terms and term of this contract. The Corporation expressly recognizes that the Hospital has determined that it is in the best interest of the Hospital, as a matter of enhancing patient care, that the Emergency Department at the Hospital be operated exclusively by a single entity. Therefore, the Corporation expressly agrees that upon termination of this contract, for any reason whatsoever, the status of the subcontracted or employed physicians as members of the Medical Staff, and all accompanying privileges, shall terminate automatically and immediately, and such termination shall not be subject to a due process hearing or review by the Medical Staff or Board of Directors of the Hospital.

3.5 Should the Corporation terminate its relationship with one or more of the subcontracted or employed physicians, the status of such subcontracted or employed physicians as members of the Medical Staff, and all accompanying privileges, shall terminate automatically and immediately, and such termination shall not be subject to a due process hearing or review by the Medical Staff or Board of Directors.

3.6 The Corporation expressly agrees that should any full-time subcontracted or employed physician, for any reason whatsoever, fail to continuously devote his/her full professional practice to perform obligations under this Agreement, or should any subcontracted or employed physician engage in the practice of Emergency Medicine or

associated services in the Hospital's primary service area (see appendix) without the express permission of the Hospital said subcontracted or employed physician's relationship with the Corporation shall be immediately terminated and said subcontracted or employed physician shall at once no longer be associated with the Corporation.

3.7 The Corporation shall obtain from the subcontracted or employed physicians, prior to their association with the Corporation written acceptance of their agreement to all terms of this contract which may impose obligations on such subcontracted or employed physicians and provide copies of such agreements to the Hospital's Chief Executive Officer.

3.8 The Corporation expressly agrees to indemnify and hold harmless the Hospital against any and all liability arising from the Corporation termination of Contract for any reason whatsoever, of any of the subcontracted or employed physicians.

Section 4. Department Chief

The Department Chief as required by the By-Laws of the Hospital/Medical Staff shall be Dr. Phillip LaStella.

Section 5. Services Provided by the Corporation

5.1 The Corporation through its subcontracted physicians and employed Chief shall have the following administrative, supervisory and professional duties:

(a) The Chief of the Department shall be physically present at the Hospital and available as necessary to perform administrative duties in an efficient and timely manner.

(b) The Corporation shall assume the responsibility for the professional and administrative services to be rendered in the Department.

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twenty-four hours a day, seven days a week. The Corporation shall supply two (2) or more physicians when volume requires. The Corporation shall maintain and supply to the Hospital Chief Executive Officer a schedule indicating which physicians are on duty physically at the Hospital.

(d) The Corporation shall have the responsibility for the professional supervision of all Hospital employees who render or assist in rendering services in or for the Emergency Department, which shall satisfy, but is not limited to, the requirements of applicable regulatory agencies. The Corporation shall supervise pursuant to the By-Laws, policies, rules and regulations of the Hospital, as well as the By-Laws, policies, rules and regulations of the Medical Staff.

(e) The Corporation through the subcontracted or employed physicians, shall render professional services which are usually and customarily rendered by the Emergency Department of the Hospital, including without limitation (a) the prompt evaluation and treatment of acute medical needs of every patient submitting himself to the Emergency Department for medical care, irrespective of ability to pay, except those patients requesting treatment by their personal physician and who do not need immediate medical treatment, (b) the delivery of emergency care to Hospital inpatients in a code situation until an attending physician arrives to assume responsibility for the patient (the Hospital shall notify the attending physician), and (c) consultations with members of the Medical Staff of the Hospital as to the care and diagnosis of any patient, when it is in the best interests of the patient.

(f) A subcontracted or employed physician shall serve on such Hospital or Staff committees as may be required by the Medical Staff By-Laws.

(g) The Corporation shall maintain or supervise the maintenance of adequate and proper medical records with respect to all professional services rendered by the Corporation.

(h) The Corporation shall comply or shall supervise the compliance with, on behalf of the Hospital, all applicable reporting statues and regulations that may apply to the professional and administrative services rendered in the Emergency Department.

(i) The Corporation shall periodically as required report to the Hospital administration all relevant statistical, financial, budgetary and other information as may be required by the Hospital. Such information shall be prepared in accordance with the regulations of governmental reimbursement agencies as they pertain to the Hospital, the Departments of Health, Insurance and Human Resources of the State of New Jersey, and the Department of Health and Human Services of the federal government.

(j) The Corporation shall submit recommendations in accordance with the standard procedures in place at the Hospital on the standardization and purchasing of expendable supplies for the Emergency Department as necessary. Such recommendations shall be designed to promote cost effectiveness and quality of care in the Hospital. Hospital shall have final right of approval regarding any and all expendable supplies ordered.

(k) The Corporation through the Chief, shall maintain at all times the liaison with members of the Medical Staff in order to facilitate the appropriate utilization of the Emergency Department.

(l) The Corporation shall obtain, through a subcontracted or employed physician, the necessary informed consent and signed consent forms pursuant to Hospital policy for the performance of emergency medical services by the Corporation.

(m) The Corporation shall provide, through subcontracted or employed physicians, the necessary on the job training to qualified Hospital employees, in the Department.

(n) The Corporation shall assist the Hospital in obtaining all required local, state, and federal licenses for the Department and shall notify the Chief Executive Officer of the Hospital in advance of the renewal date of said licenses.

(o) The Corporation shall render emergency medical services free of charge to employees of the Hospital when such employees are injured while on duty.

(p) The Corporation shall perform such teaching and other duties as are in accordance with the recommendations of the American College of Emergency Physicians, the New Jersey State Department of Health, the Joint Commission on Accreditation of Healthcare Organizations, and as may be required for Medicare and Medicaid certification.

(q) The Corporation shall make recommendations regarding acquisition of equipment for medical staff needs in the Department to the Hospital's administration and Medical Staff.

(r) The Corporation shall conduct ongoing quality assurance reviews in accordance with JCAHO and Hospital guidelines, and shall operate the Department in compliance with the guidelines of the JCAHO, the Department of Health and for Medicare and Medicaid certification.

(s) The Corporation shall comply with all state, federal

and local rules and regulations, including regulations of the Department of Health, as well as JCAHO requirements, and Hospital and Medical Staff rules and regulations.

(t) The Corporation shall comply with the so-called "antidumping" provisions of the patient transfer amendments in the Omnibus Budget Reconciliation Act of 1989 and all other related laws when treating, discharging or transferring patients.

5.2 The Corporation shall maintain a staff of at least four (4) full-time emergency physicians and part-time emergency physicians as necessary. Further, the Corporation agrees that it will employ additional physicians as may be necessary to adequately handle the Department work load, as determined by the Hospital after consultation with the Chairman of the Medical Executive Committee and the Corporation.

Section 6. Professional Liability Insurance

The Corporation shall at its own expense, secure and maintain professional liability insurance while providing services pursuant to this agreement in the amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate on an occurrence basis. In addition, the Corporation shall insure that all subcontractors and/or employees have and maintain similar insurance in the same amounts. The Corporation agrees to immediately notify the Hospital of cancellation or termination of any such insurance. The Corporation shall indemnify the Hospital for any liability arising as a result of the conduct of the subcontracted physicians and the Hospital shall provide like indemnification arising as a result of the conduct of any Hospital employee.

Section 7. Term and Termination

automatically renew itself for an additional term of two (2) years, unless either party shall notify the other party in writing, sent by Certified Mail, return receipt requested, at least one hundred eighty (180) days before the expiration date of the then current term of this Agreement, of its intention not to renew this Agreement beyond the expiration of its then current term. Either party may decide not to renew this Agreement as provided herein, with or without cause for any reason whatsoever. Further, either party may terminate this Agreement at any time for any reason whatsoever, with or without cause, upon 180 days written notice sent by Certified Mail, Return Receipt requested. During the one hundred eighty (180) day period following the giving of notice of intention not to renew or notice of termination, whichever is applicable, the parties shall continue to perform their duties and obligations under this agreement, except as may otherwise be provided herein;

(b) Further, during this one hundred eighty (180) day period following notice of intention not to renew or notice of termination, whichever is applicable, the Corporation expressly agrees to cooperate with the Hospital and any parties with whom the Hospital is negotiating or any parties with whom the Hospital has reached agreement concerning the provision of services in the Emergency Department to provide for an orderly transition as hereinbefore described; and

(c) The Hospital cannot negotiate with a subcontracted physician for a period of two (2) years after their relationship with

the Corporation ends or within two (2) years from the termination of the Agreement with the Hospital unless termination is pursuant to Section 7.2 a-f or the Hospital pays the Corporation liquidated damages of \$5,000 per physician and \$15,000 if a physician becomes Chief.

7.2 The parties expressly agree that this agreement shall be subject to immediate termination by the Hospital in the sole discretion of the Hospital upon the occurrence of any one of the following:

(a) The Chief shall die or become mentally or physically unable to perform the duties and obligations required by this agreement;

(b) The Chief shall fail to have all qualifications, training and licenses necessary to perform the duties and obligations under this agreement;

(c) The membership on the Medical Staff of the Hospital of The Chief is terminated by resignation or by revocation, or said party otherwise fails, for any reason whatsoever, to renew his staff membership and privileges.

(d) The license to practice medicine in the State of New Jersey of The Chief is revoked or suspended for any reason;

(e) The Chief is determined to have, either civilly or criminally, violated the Medicare or Medicaid laws or reimbursement regulations and is or will be prohibited from participating in the Medicare or Medicaid program;

(f) The Chief is found guilty of a crime involving moral turpitude;

7.3 Further, the parties expressly agree that, should any of the occurrences listed in 7.2 (a)-(f) above take place but involve a subcontracted physician or employee of the Corporation other than

~~Contractor shall be immediately terminated by the Corporation and any and all other association by and between said subcontracted physician or employee of Corporation and the Corporation shall be immediately terminated.~~

Section 8. Relationship of the Parties

The Corporation shall require the subcontracted or employed physicians to perform their work and functions at all times in strict conformance with the currently approved medical methods and practices and in a competent and professional manner. The Hospital shall neither have nor exercise any control over the professional medical judgment exercised by the subcontracted or employed physicians in the practice of medicine. However, the Corporation agrees to conform to all governmental requirements in the performance of its services hereunder and to comply with all rules, regulations, and policies of the Hospital and the Medical Staff. It is not intended that an employer-employee, joint venture or partnership arrangement be established hereby expressly or by implication between the Hospital and the Corporation or the subcontracted physicians or employees. Rather, in discharging all duties and obligations hereunder, the Corporation and the subcontracted or employed physicians shall at all times be and remain in an independent contractor relationship with the Hospital.

Section 9. Hospital Facilities and Equipment

9.1 Hospital shall make available within the Department for the sole use of the Corporation except as otherwise provided in this agreement, such equipment as is necessary for the proper performance and conduct of the Department. All such equipment shall be kept and

maintained by the Hospital in good order and repair and when obsolete shall be replaced by the Hospital with equipment of modern character and utility as allowed by the Hospital's budget. The Corporation shall submit an annual Capital Budget for consideration by the Medical Staff, Administration & the Board of Directors. The Hospital's obligation to replace any such equipment shall be subject to all applicable statutes, rules and regulations of the state of New Jersey, as well as final determination of the Board of Directors. The Corporation shall report to the Chief Executive Officer of the Hospital or his designee any condition of Department equipment known to any such physician that requires servicing, repair, or replacement.

9.2 The Hospital shall furnish the Department with the necessary supplies, stationery, housekeeping and laundry services, electricity for light and power, gas, water, heat and space as may be required for the performance and conduct of procedures within the Department. The Hospital will provide an office in the Hospital for Dr. LaStella to use in his position as Chief of Emergency Medicine. The Hospital shall also employ within the Department sufficient ancillary personnel, including, but not limited to, technicians and clerical personnel for the proper performance of procedures in the Department, as determined by the Chief Executive Officer of the Hospital after consulting with the Director/Chief of the Department.

Section 10. Hospital Employees

10.1 All non-physician personnel, except as may otherwise be provided herein, shall be employed and paid by Hospital, consistent with currently applicable budgeted positions, Hospital rules, regulations, policies and salary structure, and governmental statutory and regulatory obligations and restrictions. Salaries and personnel policies for

persons within the Department shall be uniform with those applied to Hospital personnel in similar personnel classifications in other departments of the Hospital. All Hospital employee action, including hiring, firing, and payment of salaries, shall be taken only by authorized Hospital personnel. The Chief shall consult with the Hospital Chief Executive Officer regarding personnel actions within the Department.

10.2 Decisions respecting salaries of the Hospital personnel shall be the sole responsibility of the Hospital.

Section 11. Compliance with Law

11.1 The Corporation agrees to conduct its business in accordance with all laws and regulations of the federal government or state government, as the case may be.

11.2 To the extent and in a format required by section 108 of the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") and implementing regulations, the Corporation shall provide the Hospital with data, allocations and information for the Hospital to timely comply with its obligations, as they relate to the services rendered pursuant to this Agreement.

11.3 To the extent required by the Hospital for reimbursement purposes, the Corporation shall complete and maintain time sheets, a log or similarly accessible records having the time spent on services performed by physicians for the Hospital, for individual patients or for other purposes, in order to facilitate the allocation of time between physician services to the provider, physician services to patients, physician availability services, and activities such as funded research that are not reimbursable for Medicare purposes. If required, the Corporation shall cooperate fully with the Hospital in developing an

estimated allocation and shall enter into an allocation agreement with the Hospital which is consistent with all applicable laws and regulations.

11.4 The Corporation shall maintain records and information developed under this section for a period not less than four years from the date the matters described therein took place.

Section 12. Competition

12.1 No part of the premises of the Hospital shall be used at any time by the Corporation or its subcontracted or employed physicians as an office for the private practice of medicine. Further, the Corporation agrees that neither it, nor the subcontracted or employed physicians, nor any P.A. or partnership in which the Corporation or the subcontracted or employed physicians are either officers, directors, shareholders, partners or employees, shall render the professional services described herein during the term of this agreement within the Hospital's primary service area except at for, or with the express permission of the Hospital as provided herein.

12.2 Further, the Corporation agrees that neither it, nor the subcontracted or employed physicians, nor any P.A. or partnership in which the Corporation or the subcontracted or employed physicians are either officers, directors, shareholders, partners or employees, shall render the professional services described herein within the Hospital's primary service area, except for another Hospital, during the period of two (2) years following the termination of this Agreement, without the approval of the Board of Directors of the Hospital.

12.3 Further, in the event that the relationship between the Corporation and any of the subcontracted or employed physicians is terminated prior to the termination of this contract, the Corporation

expressly agrees that, upon execution of this contract, it shall have in force and effect an agreement by and between the Corporation and each of the subcontracted or employed physicians that shall prevent said physicians from rendering the professional services described herein within the Hospital's primary service area, except for another Hospital, for a period of two (2) years following the termination of their relationship with the Corporation, without the approval of the Board of Directors of the Hospital, and that all future subcontracted or employed physicians shall, upon commencing their relationship with the Corporation, be made to execute such an agreement.

12.4 Further, if the Hospital engages in any project offering emergency medical services, the Corporation shall have the right to participate in said project.

Section 13. Rights and Title to Property

Rights to property and title to supplies, the corporation departmental and patient medical records, charts, hospital equipment, and furnishing shall remain the sole property of the Hospital. The Corporation may, however, secure copies of the Corporation's records and charts at its own expense. Unless expressly donated to the Hospital, all personal property acquired by the Corporation its employees or subcontracted physicians remains the property of the Corporation. A list of personal property shall be provided to the Chief Executive Officer of the Hospital of the Hospital at the commencement of this contract, and such list shall be modified from time to time as is necessary.

Section 14. Assignment

The Corporation shall have no right to assign this agreement. Hospital shall have the right to assign this agreement to any affiliated

organization or successor Hospital

Section 15. Disclosure

Neither the Corporation nor any of the subcontracted or employed physicians shall disclose information relating to Hospital operations without the prior written consent of Hospital.

Section 16. Records

The Corporation shall maintain its own books and records and shall permit access to such books and records as required by law, including but not limited to Section 952 of the Omnibus Reconciliation Act of 1980 and shall impose the same requirements on any and all independent contractors, subcontractors, associates, agents or employees that render services pursuant to this agreement.

Section 17. Governing Law

This agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of New Jersey.

Section 18. Severability

If any term or provision of this agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Entire Agreement

This agreement constitutes the entire understanding and agreement between the parties and may not be modified without written agreement of the parties.

Section 20. Captions

Captions contained in this agreement are inserted only as a matter of convenience and in no way define, limit, or extend the scope or intent of this agreement or any provision hereof.

Section 21. Disputes

In the event of disputes arising out of this agreement, concerning either administrative matters or the rendering of professional services, whenever the same have not been resolved between the Chief Executive Officer of the Hospital or his designee and the Corporation, reference of any such dispute shall be made by the Chief Executive Officer of the Hospital or his designee to the Hospital's Board of Directors. Recommendations of the Hospital's Board of Directors shall be final and binding upon the parties.

Section 22. Gender

Any noun or pronoun used in this agreement shall be construed in masculine, feminine or neuter as its sense and use may require.

Section 23. Indemnity

The Corporation agrees to indemnify Hospital for any actions on the part of the Corporation in entering into this agreement, which may be a breach of any other agreement to which the Corporation or the subcontracted physicians are or were a party.

Section 24. Notices

Notices under this Agreement shall be sent to the parties at the addresses set forth below, or to such other addresses as the parties may from time to time respectively designate in writing:

Hospital:

Pascack Valley Hospital Association  
Old Hook Road  
Westwood, NJ 07675

The Corporation:

Pascack Emergency Services  
6 Whitney Street  
Closter, NJ 07624

Section 25. Compensation

25.1 The Corporation will bill all patients seen by the subcontracted or employed physicians directly for the professional fees for services rendered to such patients. The Corporation shall be solely responsible for the determination of the professional fees charged within the Department; provided, however, such fees shall be reasonable and shall be comparable to like services rendered in similar institutions in the surrounding geographic area. The Corporation shall bill each patient for professional emergency medical services in accordance with procedures established by Medicare, Medicaid, Blue Cross/Blue Shield, and/or other applicable programs, regulations or policies, when such patient is covered by such programs, and shall accept as payment in full for such services reimbursements from the applicable program except as may otherwise be expressly provided by law or regulation, including, but not limited to, any deductible or co-insurance or co-payment amount for which the beneficiary is responsible under such program.

25.2 The Group agrees that it will not bill indigent patients, as defined by Hospital Medical Staff rules, regulations, or policies, for professional services rendered.

25.3 The Corporation agrees that, when the Hospital deems it necessary as a matter of goodwill to reduce or write-off entirely charges for service the Hospital renders to a given patient or patients, the Corporation will likewise reduce or write-off, in direct proportion of the Hospital reduction or write-off, its charges to the same patient

25.8 Both parties recognize that this Agreement is entered into primarily based upon the parties' individual assessments of the existing Medicare and Medicaid reimbursement and third party payor payment structures. If there is a material change in such structures, either party may request renegotiation of the Agreement in response to such change. If the parties fail to reach a mutually acceptable solution to such change, either party may terminate this Agreement upon sixty (60) days written notice to the other party.

25.9 Additionally, the Corporation agrees that when the Hospital contracts to provide services to groups of persons (such as a contract with a labor union or HMO for its members) and such services include emergency medicine services, the Corporation will not bill the patient in such cases if required by the Hospital but will bill the Hospital instead, and all such billing (whether to the Hospital or the patient) shall be at a discounted fee if mutually agreed upon. The Hospital will notify the Corporation whenever such a contract is entered into by the Hospital.

25.10 Because the subcontracted or employed physicians are changing their relationship with the Hospital from Hospital contracted providers to independent subcontractors, it is recognized that they will experience cash shortages from initial delays in collections from the provision of professional services. Consequently, the Hospital agrees, that during the first six months of this agreement, the Hospital will provide cash advances to the Corporation if the amount collected by the Corporation each month does not exceed \$66,000, in each of the first six months. The amount of the advance shall be the difference, if any, between \$66,000, and the amount collected each month by the Corporation. No cash advances will be made after the expiration of the first six

months of this agreement. However, the Corporation may request an extension of this provision if collections are substantially below \$66,000 per month. During the following six months, the Corporation shall be obligated to begin repayment if their collections are substantially above \$200,000 per quarter. During the first year, any amount to be repaid and the method used will be mutually agreed upon by the Hospital and Corporation at that time.

25.11 If not already begun, repayment of the advance of the first year will begin in the second year and each year thereafter until total amount is repaid. Further, the Corporation agrees to forward to the Hospital as repayment, all collections in excess of \$200,000 per quarter until total amount of advance is repaid. Advance repayments will be made to the Hospital by the 15th day of September, December, March and June. Upon termination of this agreement for any reason whatsoever, the Corporation agrees that its uncollected accounts receivable will be applied to repay all advances made but not yet repaid. The Hospital shall render a monthly accounting to the Corporation of the amount of advances still outstanding and once all such amounts have been repaid, the Corporation shall have no further obligation to repay advances.

Hospital agrees to make these advances in recognition of the fact that the Corporation is providing a critical hospital service and in consideration of its agreement to carry out the essential functions of the Hospital, its agreement to treat all patients, regardless of their ability to pay.

In WITNESS WHEREOF, the parties have hereunder set their hands and seals the day and year first above written.



ATTEST: PASCACK VALLEY HOSPITAL

*Emilia Palombit*

By: *[Signature]*

ATTEST: PA

*Gentry R. McFowen*

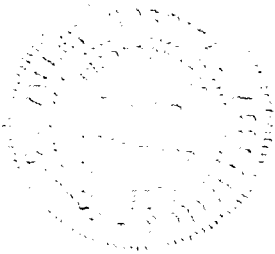
By: *Phillip [Signature]*

such supplementation will be incorporated in the plan. Dr. LaStella agrees to devote such time to teaching as is necessary to assure delivery of high quality patient care on the part of the Emergency Department physicians, nurses and other staff. Dr. LaStella further agrees to perform such teaching functions as he and the President deem appropriate for the benefit of physicians on the staff of the Hospital. Dr. LaStella shall also provide the Administration with quarterly reports detailing all services rendered pursuant to this addendum.

In consideration of the additional services rendered by Dr. LaStella pursuant to this agreement, he shall be compensated at a rate of \$15,000.00. Such additional compensation shall be payable quarterly. The term of this addendum shall be consistent with the underlying contract.

IN WITNESS WHEREOF, the parties have executed this addendum in the Borough of Westwood, State of New Jersey, this 1st day of June 1991.

PASCACK VALLEY HOSPITAL ASSOCIATION, INC.



By: *Sam Alfano*  
 President & CEO  
 Pascack Valley Hospital

ATTEST:

*Brian P. McShane*

*Phillip J. LaStella*  
 Phillip J. LaStella, MD

# **EXHIBIT B**

ADDENDUM

IT IS as of the 1st day of January 1998 AGREED by and between PASCACK VALLEY HOSPITAL ASSOCIATION, a nonprofit corporation organized under the laws of the State of New Jersey, hereinafter referred to as "Hospital", and PASCACK EMERGENCY SERVICES, P.A., a professional association organized under the laws of the State of New Jersey, hereinafter referred to as the "Corporation", that;

WHEREAS, the Hospital and the Corporation entered into an agreement dated as of July 1, 1991 for the provision by the Corporation of services in the emergency department of the Hospital, which agreement was amended by an addendum dated as of January 1, 1995 (the agreement as amended is referred to herein as the "Agreement"); and

WHEREAS, the parties desire to amend the agreement as set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Addendum, it is understood and agreed by and between the parties hereto as follows:

1. Section 7.1 of the Agreement is hereby revised to read as follows:

7.1. This Agreement shall commence as of January 1, 1998 and shall remain in full force and effect for a term of two years, unless terminated earlier according to the terms hereinafter set forth:

(a) Provided, however, that this Agreement shall automatically renew itself for additional terms of one year each, unless either party shall notify the other party in writing, sent by certified mail, return receipt requested, at least 180 days before the expiration of the term of this Agreement, of its intent not to renew this Agreement beyond the expiration of the original term. Either party may decide not to renew this Agreement as provided herein, with or without cause, for any reason whatsoever. Further, either party may terminate this Agreement at any time for any reason whatsoever, with or without cause, given by written notice sent by certified mail, return receipt requested, at least 180 days prior to any anniversary date of the Agreement, or, during any one year renewal term, at least 180 days prior to the intended date of termination. During the 180 day period following the giving of notice of intention not to renew or notice of termination, whichever is applicable, the parties shall continue to perform their duties and obligations under this Agreement, except as may otherwise be provided herein;

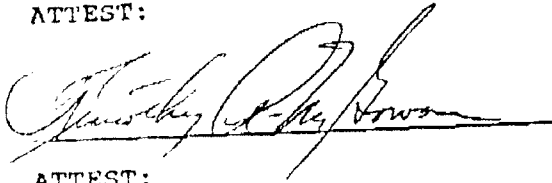
(b) [No change]

(c) [No change]

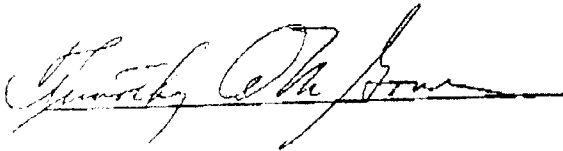
2. Except as otherwise set forth above, the remaining terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunder set their hands and seals the day and year first above written.

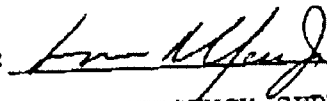
ATTEST:



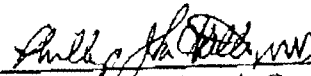
ATTEST:



PASCACK VALLEY HOSPITAL  
ASSOCIATION

By: 

PASCACK EMERGENCY SERVICES,  
P.A.

By:   
2/14/98

# EXHIBIT C



**Pascack  
Valley  
Hospital**

# OFFICE COMMUNICATION

DATE: September 20, 2007  
TO: All Pascack Valley Hospital Employees  
FROM: Jane Connorton, President & CEO

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I know that the past months have been particularly difficult for everyone due to the uncertainty of the hospital's future. This letter will provide you an update on critical developments.

The Board of Trustees of Pascack Valley Hospital Association has made the difficult, but necessary decision to file a petition under Chapter 11 of the U.S. Bankruptcy Code. The petition will be filed in the U.S. Bankruptcy Court for the District of New Jersey in Newark within the next few days. The decision was made as a result of several years of significant operating losses and a severe, non-reversible liquidity crisis.

Despite the hospital's efforts over the past year to identify a strategic partner, no offer has been made to acquire Pascack Valley Hospital as an acute care institution. Given this situation, coupled with significant ongoing operating losses (anticipated to exceed \$50 million over these past four years) the hospital simply does not have sufficient resources to remain in operation. Therefore, it is with deep regret I inform you that we anticipate Pascack Valley Hospital will close its entire operation over the course of the next several months. With the approval of the New Jersey State Department of Health and Senior Services, complete closure of the hospital is anticipated by year-end. The hospital's bondholders have approved the financing of the hospital's accounts receivable which will be utilized to sustain the operation through the anticipated closure date and to fund the costs of the closure. Consistent with federal law, the Hospital will provide all non-union employees with a written 60-day notice, indicating expected termination dates. The notification for union employees will be given to the HPAE Local #5029 representatives.

Senior Management will be working closely with the New Jersey State Department of Health and Senior Services, and other relevant agencies over the course of the next weeks to develop a "Closure Plan". The "Closure Plan" will ensure a safe and orderly transition of care for our patients to other appropriate healthcare facilities and an orderly termination of programs and services. As the details of the "Closure Plan" are finalized, I will share them with you so that you know what and when to expect as we move forward. I thank you for your patience during this planning process with the State Department of Health and Senior Services.

You undoubtedly have a myriad of questions concerning your own status that we need to address. Town Hall meetings have been scheduled for Friday, September 21, 2007 and Monday, September 24, 2007 (see attached schedule). We may not have answers to all of your questions at this point in time. Nevertheless, I think it is essential we have these meetings and continue to schedule them until all your questions are addressed. The Human Resources Department will be readily available in the coming weeks to assist you with your individual needs. Also attached, please find information that is designed to answer initial questions that you may have.

I know this is a very difficult and troubling announcement for all members of the Pascack Valley Hospital Community. Your tireless dedication to this institution and its patients over the course of so many years is an outstanding tribute to your professionalism and demonstrates a deep affection for this wonderful hospital and the community you have so capably served.

While everyone had worked hard to avoid this outcome, the financial challenges faced by Pascack Valley Hospital proved insurmountable.

I will continue to provide you with status reports on a regular basis.

Enc.

Cc: Well Care Group Board of Trustees      Pascack Valley Hospital Association Board of Trustees  
Members of the General Active Staff      Members of the Pascack Valley Hospital Auxiliary  
All Volunteers

**Questions & Answers for Employees**  
**Pascack Valley Hospital Chapter 11 Filing**

The following information is designed to answer initial questions that employees may have regarding PVH's Chapter 11 process.

**Chapter 11 Process**

**1. What is Chapter 11?**

Chapter 11 refers to the chapter in the U.S. Bankruptcy Code that contains the provisions for court-supervised re-organizations of companies. A "re-organization" under Chapter 11 may also take the form of an orderly wind-down of business affairs and the liquidation of a company's assets.

**2. What is "Bankruptcy Code" ?**

Bankruptcy Code is the comprehensive set of federal statutes dealing with all aspects of Bankruptcy Law.

**3. Is the hospital planning to re-organize under Chapter 11 or close and liquidate?**

The hospital will be closing and liquidating all of its assets, the proceeds of which will be utilized to pay down the hospitals' liabilities in the order of priority established by Bankruptcy Code.

**4. Why is the hospital closing after Bankruptcy rather than using it to re-organize?**

During the past several years PVH has been faced with large operational losses, ongoing cash flow and accounts payable issues and a severe, non reversible liquidity crisis. In the absence of a strategic healthcare partner, coupled with the significant financial losses, (actual and anticipated losses in the past four years have exceeded \$50 million), the hospital simply does not have sufficient resources to remain in operation. It has been determined by the Board of Trustees that the only option for the organization is to file for Chapter 11 bankruptcy to seek protection from creditors while moving to close the hospital with the approval of the New Jersey Department of Health and Senior Services.

**5. Why is there no strategic partner for PVH to align with?**

Despite intensive efforts over the past 12 months to identify a potential partner, to date, no organization has come forward with a proposal to keep PVH in operation as an acute care institution. Absent a partner, PVH has insufficient assets with which to continue operations and must be closed. Time and money have simply run out.

**6. What happens during Chapter 11?**

The filing provides an automatic "stay" which prevents creditors from pursuing their claims by seizing PVH's assets or collecting debts owed by PVH. Chapter 11 permits daily operations to continue. Employees are paid for productive time after the filing date, and goods and services purchased after the filing date are paid for in the ordinary course of business.

**7. Will the hospital have sufficient cash to meet payroll and buy supplies during the Bankruptcy process?**

Yes. With bondholder approval, the hospital is financing its accounts receivable and has converted this to what is called DIP financing (debtor in possession). Cash will be made available while the hospital winds down operations and then closes the facility. The Bankruptcy court will be asked to approve this financing the day of the filing.

**8. How will the Chapter 11 filing affect our day-to-day operation?**

We will be operating as usual while executing a closure plan and continuing to provide healthcare services to our patients. The Bankruptcy court will be asked to approve several "day 1" motions so that the hospital can continue paying employee wages and payments to critical vendors.

**9. What is the anticipated date of closure?**

It is anticipated that all clinical services will be closed by the end of November. It is further anticipated that the facility itself will be closed in it's entirety by December 31, 2007.

**10. What will close first? Will closure be all at once or done in stages?**

A Closure Plan is being developed that outlines the process and the considerations involving an orderly, safe closure of the hospital. With New Jersey Department of Health approval, the hospital will cease to admit elective patients on a specific date to be determined. Ambulatory programs will also be phased out over the next 60 day period. The hospital is also going to submit a C.O.N. (certificate of need) application to the New Jersey Department of Health and Senior Services which is required for closing a hospital.

**11. What should I say if patients ask about the filing, especially given the pending closure?**

Tell them that we will continue to provide high quality healthcare services until the hospital is closed. Patients will also receive a letter about the filing. In this letter, they will be informed of such things as how to access copies of their medical records if needed and where to seek assistance with referral and linkages to alternative healthcare providers for their future needs.

**12. Will there be gradual layoffs as a result of the filing and anticipated closure or will the institution simply close on a specific date?**

No, there will not be gradual layoffs within the first 60 day period from the date of filing. In accordance with federal regulations, non-union staff will be given a 60 day written notice of termination, which will require your signature upon receipt. Pursuant to the same federal regulations the schedule for the termination of the unionized staff will be provided by the hospital to the union. This means that you will be offered continued employment by the hospital for at least the next 60 days. Terminations will occur after the 60 day period has elapsed as programs and service areas are phased out and the respective departments no longer require a staff presence.

**13. What will happen to the Affiliates if they are not included in the September '07 Chapter 11 filing? And when?**

Shortly following the Bankruptcy filing, the respective Boards will meet to independently evaluate options and determine the most appropriate course for each affiliate company

**Pension Related Questions**

**14. What will happen to my pension?**

Benefits under the Pascack Valley Hospital Pension Plan are insured by the Pension Benefit Guaranty Corporation, an agency of the US government. The PBGC will administer the Plan and will continue to pay benefits, in accordance with the terms of the Plan, but subject to special limitations imposed by the Employee Retirement Income Security Act of 1972 ("ERISA).

**15. Once the pension plan is managed by P.B.G.C. will it remain exactly the same?**

No. When the PBCG takes over a plan like the PVH Pension Plan, the benefits that it will pay are subject to limitations imposed by ERISA. There is a maximum limit on the monthly pension that is payable at age 65, and this limit is adjusted downward for pensions commencing at earlier ages, or for pensions that include survivor benefit protection.

For plans terminated in 2007, the maximum benefit commencing at age 65 as a single life annuity that is payable by the PBGC would be \$4125 per month, or \$49,500 per year. (The maximum benefit payable under the terms of the PVH Pension Plan is \$50,000 per year.) This limit is reduced by 7% for each of the first 5 years, and by 4% for each of the next 5 years that commencement precedes age 65. (The PVH Pension Plan provides for reduction of 6% per year for early commencement.)

**16. Am I currently vested in the PVH pension plan?**

You are currently vested in your accrued benefit under the PVH Plan, if you have completed at least five years of service, as determined under the rules of the Plan. If you are vested in your accrued benefit as of the date that the Plan terminates, you will continue to be vested. As required by ERISA, affected employees who have not previously become vested in their accrued benefits will become fully vested once the plan is terminated. However, accrued benefits that become vested only as a result of the termination of the Plan are not guaranteed by the PBGC and will be paid only to the extent that the assets of the Plan are sufficient to meet this liability.

**17. Will individuals who currently collect a monthly pension be impacted by a termination of the Plan and a takeover by the PBGC?**

When it takes over the Plan as its trustee, the PBGC will continue paying monthly pensions, without interruption, to those who were in receipt of benefits when the Plan was terminated, while it reviews plan records to determine each participant's benefit. These interim payments, will be based upon an estimate of the amount payable by PBGC under its rules. The estimated amount may be less than a pensioner was receiving prior to the termination of the Plan, but will be paid in the same annuity form chosen at retirement. When the PBGC finalizes its benefit determinations, it may change the amount payable to a pensioner, with adjustments for any previous underpayments or overpayments.

**18. What type of written notification regarding my pension benefit can I expect to have and by what date?**

When the PVH Pension Plan is to be terminated, you will receive a Notice of Intent to Terminate from the Hospital, at least 60 days, but no more than 90 days, prior to the proposed termination date. This Notice will provide information about the status of the Plan, about the procedures for Plan termination, and about the PBGC's benefit guarantee. After the PBGC approves the termination, you will receive notification of your benefits under the Plan.

**19. Will there be any credit for any unused, accrued sick time in my final pension calculations?**

Under the terms of the Plan, accrued unused sick time, determined as of 12/31/06, is included in calculating pension benefits for participants who retire or terminate employment after reaching age 55 and completing 10 years of Service, as defined in the Plan. Upon termination of the Plan, the determination of the accrued benefits of participants who satisfy these age and service requirements as of the date the Plan terminates will take this feature of the Plan's benefit formula into account. The extent to which the portion of a pension that is based on unused accrued sick time as of 12/31/06 will be subject to the PBGC guarantee will be determined by the PBGC.

**20. Where will I get information regarding my future pension benefits?**

In the coming weeks, PVH will be requesting the assistance of Buck Consultants, the actuarial consultants for the Plan regarding Plan termination issues. We will do everything we can to ensure that all current employees, vested former employees, and retirees get the answers to the questions that they will have regarding pension benefits. Human Resources will be requesting that Buck consultants come on-site to meet with employees.

**21. Who do I contact when I am ready to collect my pension?**

If you are eligible to commence a pension from the Plan and wish to do so, and you have yet received any notification that the Plan has been terminated, you should contact the Human Resources Department.

Once the plan has been terminated and the PBGC has become the trustee, participants who wish to commence a pension, or inquire about the status of their benefits, should contact the PBGC directly. The telephone number for the PBGC Customer Contact Center is 1-800-400-7242. The internet address for the PBGC's website is [www.pbgc.gov](http://www.pbgc.gov).

**Employee Benefit Issues**

**22. What does bankruptcy mean in terms of my accrued benefits (vacation, personal and holiday time) as well as severance pay?**

Under U.S. Bankruptcy Code, employees are entitled to a "priority payment" for wages, sick, personal and vacation days and severance earned within 180 days prior to the bankruptcy filing, up to a maximum of \$10,950. Any benefit claims over the \$10,950 limit or accrued before 180 days of the bankruptcy filing are classified as general unsecured claims.

In accordance with the Bankruptcy code outlined above, the hospital will apply to the Bankruptcy court for permission to honor sick, personal and vacation day accruals as well as severance pay up to the \$10,950 limit.

Additionally, we are filing a motion to request that the Bankruptcy Court authorize employee obligations (accrued time and severance) in excess of the \$10,950 limit.

However, it must be noted that the bondholders have a lien on all of the hospital's assets and may object to the payment of these benefit claims. Therefore, the hospital cannot assure that it will be authorized to make payments for accrued time and/or severance.

**23. Will I get paid for any sick time after the Chapter 11 filing and prior to closure of the hospital?**

Under Bankruptcy code, you would be eligible to take and be paid only the amount of sick hours that you have accrued after the filing date. Federal Bankruptcy Code prohibits the use of sick time accrued prior to the filing date, except if we are successful in persuading the Bankruptcy Judge to grant our motion described in question number 22.

**24. Will I get paid for unused sick time once my position is terminated?**

No. Consistent with past practice, no employee who has voluntarily or involuntarily left the hospital will be paid for unused sick time

**25. Can I still take planned vacations?**

Vacation time earned after the filing date may be taken in the normal course and in accordance with existing PVH practice. As always, vacation schedules must be approved by your supervisor.

Vacation time accrued within 180 days prior to the filing (within the \$10,950 limit that includes accrued wages, sick, personal and severance time) falls into the category of "priority" claims, however use of such time is subject to the approvals as outlined in the answer to question #22.

Any vacation time accrued prior to the 180 day timeframe (or in excess of \$10,950) will be converted into an unsecured monetary claim and cannot be taken.

**26. What will happen to the health benefits and how long will they last?**

Employee health benefits will still be in effect throughout the course of your employment. If you are currently covered by one of the Group Health Insurance Plans, your individual / family health and dental benefits will end on the last day of the month of which you are terminated.

**27. What is COBRA and am I eligible for it?**

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requires most employers with a group health plan to offer employees the opportunity to continue temporarily their group health care coverage under their employer's plan if their coverage would cease due to termination, layoff, or other change in employment status. However, the hospital has a self insured health insurance program that will cease to exist once the hospital closes by year end. Therefore, once the plan no longer exists, the COBRA benefit will also cease.

**28. How can I get information on individual or family health coverage on my own?**

In 1992, the New Jersey Legislature created the Individual Health Coverage (IHC) Program to ensure that people without access to employer or government sponsored health care programs could purchase health coverage for themselves and their families from a variety of private carriers.

You can learn more about the New Jersey IHC Program by contacting the web address:

<http://www.state.nj.us/dobi/reform.htm>

In addition, you may contact any local insurance agency and inquire about your options. They will be happy to assist you to design a plan that best meets your needs. The Human Resource Department will be providing a resource list to assist employees in this matter.

**29. What happens to pending claims?**

The insurance carrier will continue to process any claims incurred during your coverage.

**30. What happens to the life insurance that I am offered through the hospital?**

Your life insurance will cease upon the termination of your employment. We will ask representatives of Unimerica, which is the company that offers the Life Insurance through the hospital, to meet with employees who are interested in establishing an individual term policy.

**31. What happens to the funds in the 403B account?**

These funds are protected by law and are neither part of nor affected by the filing.

**32. Are the contributions to the voluntary retirement account (403B) up-to-date and are my funds safe in the accounts?**

Yes, these contributions happen automatically at the time of payroll. Additional contributions will cease once you no longer are employed by the hospital. The hospital will also be requesting that representatives from Metropolitan Life make themselves available to meet with employees in the near future. They can assist you with making the best decision regarding your funds.

**33. How can I obtain employment verification in the future?**

Prior to termination of employment, all employees will be provided with an "employment verification" document from the Human Resources Department.

**34. How do I apply for unemployment?**

You will need to follow the application process of applying for unemployment benefits in the county in which you reside. In Bergen County, the unemployment office is in Hackensack. You can access them by internet as well as the telephone.

**New Jersey State Unemployment**

By Telephone: (609) 984-2296

Northern NJ: (201) 601-4100

By Internet: [www.wnjuifile.net](http://www.wnjuifile.net)

In addition, the hospital has asked for the New Jersey State Department of Unemployment to run on-site workshops for employees to provide both re-employment guidance and assistance with filing for unemployment benefits as needed.

**35. Will PVH provide assistance to employees with finding another job?**

The Human Resource Department will be asked to coordinate a "job fair" for our current employees. We will seek the participation from area hospitals, healthcare facilities and other interested companies to attend the fair.

**36. How will staff be kept informed throughout this process?**

We will communicate all significant developments either directly to you in memo form or in group Town Hall meetings. Initial Town Hall meetings will be held on Friday September 21<sup>st</sup> and on Monday September 24<sup>th</sup>. The schedule of times will be distributed to all departments.

**37. How do I get answers to my specific questions?**

We understand that this is a difficult time and recognize that each employee will have unique questions and concerns. Thus, in the coming weeks, the Human Resource Department will be scheduling informational sessions on the employee benefit issues outlined above.