

OFFICE OF  
INSURANCE COMMISSIONERPlease Reply to: PO Box 40259  
Olympia, WA 98504-0259  
Fax: (360) 586-2022

November 21, 2012

MEREDITH VAUGHAN  
DIRECTOR, STRATEGY AND PLANNING  
PEACEHEALTH  
14432 SE EASTGATE WAY, SUITE 300  
BELLEVUE, WA 98007-6412Re: Form A Filing dated September 28, 2012 – Proposed Acquisition of Control of  
Columbia United Providers Inc. ("CUP")

Dear Ms. Vaughan:

We have reviewed the latest information from PeaceHealth responding to our October 9 and November 9, 2012 letters. From those responses and the information provided in its application, we have made the following conclusion about this proposed acquisition of control application (Form A) filing:

1. PeaceHealth initially filed a Form A filing for a proposed change of control of Columbia United Providers (CUP) during 2010 and the OIC requested a hearing proceeding on that Form A filing that was later held during January 2011. During the January 2011 hearing, the presiding judge did not render a determination because of a dispute over the filing of the affiliation agreement between PeaceHealth and Southwest Washington Health System (SWHS) with the Form A filing and to the OIC. Because of that dispute, PeaceHealth decided not to include CUP in their affiliation and redefined its plan of acquisition of CUP according to its February 16, 2011 letter and Exhibit 1 (First Amendment to the Affiliation Agreement dated December 28, 2010) addressed to Patricia D. Petersen, Chief Hearing Officer.

According to that February 16, 2011 letter and first amendment to the affiliation agreement, PeaceHealth represented to Ms. Petersen and the OIC that PeaceHealth will not dissolve SWHS, nor remove any of the directors on the SWHS board of directors or remove any officers of SWHS, would apply for permission to accomplish a change of control over CUP through a Stock Transfer Agreement for the transfer of stock from SWHS to PeaceHealth through a new Form A application filing. PeaceHealth and SWHS withdrew its first Form A filing. The Chief Hearing Officer subsequently terminated the Form A proceeding.

2. PeaceHealth and SWHS have proceeded with their 2010 affiliation whereby PeaceHealth became the sole member of SWHS in January 2011. SWHS currently owns approximately 90 percent of the outstanding common shares of CUP. For a

for-profit person, control is presumed to exist if a person holds, direct or indirectly, owns, controls, holds with the power to vote, ten percent or more of the voting securities of any other person. Because of that affiliation, PeaceHealth now holds an indirect ownership of CUP common shares. This affiliation and change of control were executed without the prior approval of the Insurance Commissioner.

3. While it may appear there are no changes to the SWHS and CUP board of directors, we noted several SWHS and CUP directors and SWHS officers prior to the affiliation are now affiliated with PeaceHealth. We also noted some directors and officers from PeaceHealth were placed on the SWHS board of directors thereby adding to the number of directors of the SWHS board.
4. From your responses, PeaceHealth has not identified all persons on SWHS board of directors. There appears to be 13 persons on the SWHS board according to its latest 2012 annual report filed with the Washington Secretary of State. Your response to our letters suggests there are only 10 persons on the SWHS board. Also we noted there was a recent change to the replacement of the SWHS CFO with an officer of a medical center affiliated with PeaceHealth and not within the existing SWHS holding company system.
5. Also from your response, PeaceHealth SWHS affiliated medical entities and CUP have entered into various healthcare provider agreements since January 2012. We noted PeaceHealth and CUP have not previously filed or notified the OIC regarding these new or amended healthcare provider agreements.
6. It now appears that PeaceHealth and SHWS have not received formal approval from their respective boards for this proposed transaction and have not completed a negotiated Stock Transfer Agreement to be filed with the Form A filing as previously represented to the OIC. Your answers to our repeated questions about the lack of such agreements are not acceptable and would continue to make the Form A filing incomplete.

Due to these alleged activities by PeaceHealth outlined in this letter, it appears there is a violation of the Health Carrier Holding Company Act because PeaceHealth did not receive prior approval of the change of control of CUP by the Insurance Commissioner. It also appears that PeaceHealth and CUP may be subject to enforcement action which may include fines up to ten thousand dollars per day and/or regulatory actions according to the Act and Title 48 RCW.

We now instruct PeaceHealth to make its Form A filing complete and whole according to the Act by December 7, 2012. Please include a revised Form A Statement for the proposed merger of SWHS with and into PeaceHealth and stock transfer of CUP; an unredacted copy of the 2010 affiliation agreement between PeaceHealth and SWHS, board resolutions regarding the proposed transactions by PeaceHealth and SWHS, agreement and plan of merger between PeaceHealth and SWHS, and signed Stock

Meredith Vaughan  
November 21, 2012  
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Transfer Agreement between PeaceHealth and SWHS. These documents are to be included in the revised Form A filing, and will be made available to the Hearing Officer and to the public through that filing.

If PeaceHealth decides on a different course of action in response to this letter, please contact me on or before December 7, 2012 to discuss that course of action.

If you have any comments or questions regarding this letter, please feel free to contact me at (360) 725-7211.

Yours truly,



RONALD J. PASTUCH, CPA  
Holding Company Manager  
Company Supervision Division  
E-Mail: RonP@oic.wa.gov

Cc: James T. Odiome, CPA, JD, Company Supervision Division  
Robin Aronson, Staff Attorney  
Kate Reynolds, Staff Attorney

Stuart P. Hennessey, General Counsel for PeaceHealth

**RECEIVED**

DEC 07 2012

**INSURANCE COMMISSIONER  
COMPANY SUPERVISION**

December 7, 2012

Ronald J. Pastuch, CPA  
Holding Company Manager  
Company Supervision Division  
Office of the Insurance Commissioner  
PO Box 40259  
Olympia, WA 98504-0259

**RE: Form A Filing dated September 28, 2012 – Proposed Change of Control of Columbia United Providers (CUP)**

Dear Mr. Pastuch,

In response to your November 21, 2012 request for further information regarding PeaceHealth's Form A filing of September 28, 2012, which requests were further clarified and confirmed with you in our conference call on November 27, 2012 and the subsequent exchange of emails, please find below our submission of additional information and attached documents. For clarity, we have numbered the responses according to the paragraphs in your letter of November 21, 2012.

It continues to be our intent and interest to provide any and all requested information. We believe that the attached documents are fully responsive to your requests and hereby make our Form A request whole and complete. As always, if you have any additional questions or desire additional information, please do not hesitate to contact me on by telephone or email.

Meredith E. Vaughan  
System Director, Planning and Strategy

Cc: Peter Adler, SVP, Strategy, Innovation and Development  
Stewart Hennessey, SVP for Legal Affairs

December 07, 2012

**PeaceHealth Response to OIC Request for Supplemental Information to Form A Filing of 9/28/2012**

**1. OIC Statement:**

- We concur with your statements in the first paragraph. We concur with your statements in the second paragraph and we affirm that PeaceHealth has complied with the representations made to Administrative Law Judge Petersen regarding the provisions in the First Amendment to the Affiliation Agreement, e.g., there has been no dissolution of the SWHS corporation and PeaceHealth has not removed any directors or officers of SWHS. However, we call your attention to the fact that a Stock Transfer Agreement would only be appropriately used in an "asset transfer transaction" and would clearly be inappropriate for use in "statutory merger transaction" since in a merger all assets and liabilities are automatically transferred as a matter of law. At the time of the hearing in February 2011, PeaceHealth had intended to utilize an "asset transfer transaction" to combine the operations of Southwest Washington Health System and PeaceHealth and, consequently, had referenced the potential use of a Stock Transfer Agreement. Subsequently, PeaceHealth and Southwest Washington Health System have decided to merge their corporations pursuant to Washington statute. Therefore, the change of control over CUP stock will automatically occur, as a matter of law, upon such merger and there will be no Stock Transfer Agreement. As you will see from the resolutions passed by SWHS and PeaceHealth, the merger has not yet taken place and the boards have directed that it not take place until approval from the Office of the Insurance Commissioner has first been received for the change of control over CUP stock. Should you have any question about this statutory merger process and the inappropriateness of a Stock Transfer Agreement in such a transaction, we invite you or your counsel to contact Stuart Hennessey, Senior Vice President for Legal Affairs at PeaceHealth. His telephone number is 360-729-1105 and his email is shennessey@peacehealth.org.

**2. OIC Allegation: The OIC alleges that PeaceHealth may have implemented a change of control without prior approval of the Insurance Commissioner when SWHS affiliated with PeaceHealth.**

- We concur with your statements in the first, second and third sentences. We disagree with your statements in the fourth and fifth sentences. It was the sole purpose of the First Amendment to the Affiliation Agreement to assure that the Affiliation Agreement was not construed as indirect ownership of or control over CUP common shares. Both you and your counsel were fully apprised of that purpose at the hearing on February 16, 2011 before Administrative Law Judge Petersen and neither of you raised any objection to use of the First Amendment for that purpose. Indeed, Judge Petersen relied upon your consent to use of the First Amendment for that purpose in reaching her decision to terminate the proceeding. We believe those facts are inconsistent with, and preclude, the assertions in the fourth and fifth sentences.

3. OIC observed that there are "several SWHS and CUP directors and SWHS officers who are now affiliated with PeaceHealth". The OIC also noted that "some directors and officers from PeaceHealth were placed on the SWHS board of directors thereby adding to the number of directors of the SWHS board".

- Attached to this response is an updated roster of current SWHS directors and officers (Exhibit A). Please note that in our prior Form A supplemental filing, PeaceHealth incorrectly omitted Sr. Andrea Nenzel and Mr. John Weisman from the SWHS board of director's roster. Also Mr. Tom Haywood was incorrectly listed as an officer of the SWHS corporation. We apologize for these errors and omissions and they have been corrected in attached Exhibit A.
- In response to the first sentence of paragraph 3, we confirm that there is one individual who serves on all three Boards of Directors of PeaceHealth, Southwest Washington Health System and Columbia United Providers. He is Ronald Prill. Prior to the Affiliation Agreement, Mr. Prill already served on both the Southwest Washington Health System and Columbia United Providers Boards of Directors. Pursuant to the terms of the Affiliation Agreement, Mr. Prill was nominated by Southwest Washington Health System for a seat on the PeaceHealth Board of Directors and was appointed by PeaceHealth. We confirm that PeaceHealth did not in any way seek or influence his nomination. There is a second person who serves on the Boards of Directors of PeaceHealth and Southwest Washington Health System. She is Andrea Nenzel, CSJP. Prior to the Affiliation Agreement, Sister Andrea served on the PeaceHealth Board of Directors and, pursuant to the terms of the Affiliation Agreement, she was nominated by PeaceHealth for the Southwest Washington Health System Board of Directors and appointed by Southwest Washington Health System. We confirm that the Board of Directors of PeaceHealth has not passed any resolution directly or indirectly seeking to exercise control over Columbia United Providers. We also presume you agree that it would be impossible for two overlapping directors between PeaceHealth and Southwest Washington Health System and one overlapping director between Southwest Washington Health System and Columbia United Providers to constitute a quorum for action, let alone the needed majority votes necessary to take action, on any of these boards. Thus, we submit that the minimal overlap to which this sentence refers is not relevant to the issue of control over Columbia United Providers. We also submit that it does not in any way violate the letter or spirit of the First Amendment to the Affiliation Agreement.
- Also, in response to the first sentence of paragraph 3 we confirm that there is one officer of Southwest Washington Health System who is now employed in a senior management position with PeaceHealth. That is Joseph Kortum who is the President of Southwest Washington Health System and is employed by PeaceHealth. Mr. Kortum is also a member of the Columbia United Providers Board of Directors. Notably, Mr. Kortum has held his position on the Columbia United Board of Directors since before the Affiliation Agreement. We confirm that PeaceHealth has never sought to influence Mr. Kortum's vote on the Board of Directors of Columbia United Providers. We repeat our submission that even if, in arguendo, PeaceHealth had attempted to influence the votes of Messrs. Prill and Kortum on the Board of Directors of Columbia United Providers, it would be theoretically impossible for two individuals to constitute the necessary

majority on the Columbia United Providers Board of Directors to constitute a quorum, let alone the majority needed to transact business.

- With regard to the third sentence of the third paragraph, we confirm, as explained above, that only one member of the PeaceHealth Board of Directors was elected to the Southwest Board of Directors: Sister Andrea Nenzel.
4. **The OIC requests explanation of what appears to be a discrepancy in the number of persons (10 vs. 13) serving on the SWHS Board over time as identified within PeaceHealth's various Form A filings. The OIC also requests explanation of a recent change in the SWHS CFO with an officer of a PeaceHealth medical center which is not within the existing SWHS holding company system.**
- In response to the first and second sentences of paragraph 4, we have explained in response to paragraph 3, above, that the prior list of members for the Southwest Washington Board of Directors was incorrect. We apologize for that error. A corrected list has been attached as **Exhibit A**, hereto. The SWHS Board has 12 members. Please note that Terry Brandon, who was listed in SWHS' 2011 and 2012 annual reports to the OIC, has stepped off the SWHS Board as of this year.
  - In response to the third sentence of paragraph 4 we confirm that the prior CFO for Southwest Washington Health System recently resigned and that the CFO for St. John's Hospital in Longview Washington is filling in on a temporary basis while the recruitment process is under way. The individual serving as the CFO for St. John's and the interim CFO for SWHS is Thomas Haywood.
  - Mr. Haywood was incorrectly listed as an officer of SWHS Board in PeaceHealth's prior Form A supplemental request for information. Mr. Haywood does not serve on the SWHS Board nor is he an officer of the SWHS. We apologize for the prior error.
5. **The OIC notes that medical entities affiliated with "PeaceHealth SWHS" (sic) have entered into healthcare provider agreements with CUP since January 2012 and asserts that CUP has not previously filed or notified the OIC regarding these agreements.**
- In response to this paragraph 5, we understand from our telephone call with you on November 23, 2012, that we are in agreement that this information is not within PeaceHealth's knowledge and can only be responded to by CUP.
  - Based on that understanding, PeaceHealth forwarded your letter of November 21, 2012 to Ann Wheelock, CEO, CUP, who has provided her response in **Exhibit C** (attached).
  - If the OIC has further questions about the CUP's provider agreement filings with the OIC, they should be directed to Ann Wheelock, CEO, CUP at (360) 449-8938.
6. **The OIC requests that PeaceHealth and SWHS each submit board resolutions approving the transfer of SWHS's CUP stock and control to PeaceHealth.**
- In response to paragraph 6, we confirm that PeaceHealth and SWHS have approved the requested resolutions, which are attached as **Exhibit D** and **Exhibit E** respectively.

**7. Eighth Paragraph (Un-Numbered in the letter of November 21, 2012):**

**Additional Information Requests:**

- Unredacted Affiliation Agreement 2012 PeaceHealth Affiliation Agreement (**Exhibit F**).
- First (and only) Amendment to the Affiliation Agreement (**Exhibit G**)
- PeaceHealth Board Resolution (**Exhibit D**)
- SWHS Board Resolution (**Exhibit E**)
- Agreement and plan of merger between PeaceHealth and SWHS (**Exhibit H**)
- Signed Stock Transfer Agreement between PeaceHealth and SWHS As addressed in our response to paragraph 1, it appears this misunderstanding concerning a Stock Transfer Agreement has arisen from the fact that PeaceHealth and Southwest Washington Health System intend to change control through a statutory merger rather than an asset transfer. Thus, there will be no Stock Transfer Agreement since the change of control occurs as a matter of law pursuant to the statutes on merger.

**EXHIBITS**

- a. **Exhibit A:** SWHS Board Membership (current as of December 7, 2012)
- b. **Exhibit B:** CUP Board Membership (current as of December 7, 2012)
- c. **Exhibit C:** CUP CEO response to OIC question #5 about the filing of provider agreement notification since January 1, 2012.
- d. **Exhibit D:** PeaceHealth Board Resolution accepting transfer of CUP control from SWHS.
- e. **Exhibit E:** SWHS Board Resolution approving transfer of CUP shares/control to PeaceHealth
- f. **Exhibit F:** Unredacted Affiliation Agreement between PeaceHealth and SWHS
- g. **Exhibit G:** First (and only) Amendment to the Affiliation Agreement
- h. **Exhibit H:** Agreement and plan of merger between PeaceHealth and SWHS

