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INSURANCE COMMISSIONER

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OIC HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

March 26, 2014

AnnaLisa Gellermann, Esq.  
Deputy Commissioner, Legal Affairs Division  
Office of Insurance Commissioner  
5000 Capitol Boulevard  
Tumwater, WA 98501

SUBJECT: Seattle Children's Hospital, Docket No. 13-0293

Dear Ms. Gellermann:

This is in response to your letter dated March 21, 2014 in the above referenced matter. I appreciate the time you devoted to your fact finding, the personal information you shared with me, and your careful efforts in reaching your conclusions. Under Title 48 RCW, WAC 284 and Title 34 RCW, it is my obligation to protect the integrity of the OIC's hearing process. Title 34 RCW requires strict separation of functions between your office as the prosecutor and my office as the adjudicator, and Title 48 RCW and regulations further that goal. As is well established in case law interpreting Title 34 RCW, this strict separation of functions is critical to ensure that the OIC's hearing process - from notification of rights to appeal, to receipt of the Demand for Hearing and determination of the right to hearing, and throughout the adjudicative process - provides required due process and results in decisions that are fair to both the aggrieved parties and the OIC.

Second, as the presiding officer in this instant case it was my legal obligation under Title 34 RCW and the CJs, before commencing this case, to evaluate whether there are any interests, relationships or other facts which might tend to influence my impartiality. It is also my continuing obligation, throughout this case, to evaluate whether there are any interests, relationships or other facts which might tend to influence my impartiality. If I knew of any such facts prior to the commencement of this case, then I was obligated to have recused myself. Just as always, I certainly addressed this question long before I commenced this case, and I concluded that there are no relationships, interests or facts of any kind which might affect my ability to conduct this proceeding in a fair and impartial manner.

Third, pursuant to RCW 34.05.425 any party to an adjudicative proceeding such as this one may petition for disqualification of a presiding officer after receipt of notice indicating that the individual will preside or, if later, promptly upon discovering facts establishing grounds for disqualification. Upon receipt of such a motion, the presiding officer is obligated to carefully

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consider the facts alleged and determine whether to grant the petition, stating facts and reasons for the determination; that determination is appealable to the superior court. To my knowledge no party has filed a petition for disqualification alleging any such facts in this case.

In your letter you do not request a response, however I trust the above information will be helpful. Finally, while a party to a proceeding normally only communicates the facts he has found and conclusions he argues to opposing counsel and the presiding officer if and when that party files a petition for disqualification (and not just for general informational purposes as is apparently the situation here), and while the presiding officer is not required to respond unless a petition for disqualification is filed, I do confirm that the facts you have disclosed in your letter are correct.

Once again, I appreciate the time you devoted to your fact finding and choosing to share this information with me and opposing counsel, and please recognize that my strict compliance with my legal obligations described above along with the agency's careful observance of required separation of functions within this agency provide required due process and result in decisions in OIC hearings that are fair to both the aggrieved parties and the OIC; that specifically with regard to this case my legal obligations described above have been strictly adhered to; and that any party has the right to question a presiding officer's impartiality at any time by filing a petition for disqualification.

Sincerely,



Patricia D. Petersen, J.D.  
Chief Presiding Officer

cc: Michael Madden, Esq. (*via electronic mail*)  
Gwendolyn C. Payton, Esq. (*via electronic mail*)  
Timothy J. Parker, Esq. (*via electronic mail*)  
Maren R. Norton, Esq. (*via electronic mail*)  
Charles Brown, Esq. (*via electronic mail*)