

Peter Hasselbacher, M.D.
3505 Winterberry Circle
Louisville, KY 40207

Dec 20, 2011

Attorney General Jack Conway
Office of the Attorney General
Capitol Suite 118
700 Capitol Avenue
Frankfort, Kentucky 40601-3449

Re: Acquisition of University of Louisville Hospital by CHI

Dear Attorney General Conway,

You are aware of the proposed acquisition of University of Louisville Hospital by Catholic Health Initiatives and its previously acquired hospitals in Louisville and elsewhere in the Commonwealth. The justification for this remarkable transfer of a public asset to a private religious one is the claim by the University of Louisville that its hospital is a private entity— not withstanding the opinion of your office to the contrary. The University and its Hospital appear to be ignoring your opinion and moving swiftly to close the deal, making moot the determination of the public vs. private issue. I wish to draw your attention to a major stated justification of the University's plans whose solution under the proposed merger appears to be illegal according to Kentucky law. This would render impermissible a major planned implementation of the merger and adds to the increasingly complicated legal issues that should be settled before the acquisition is allowed to proceed.

One of the major claims by the University to justify acquisition by CHI is that the relationship will allow the new partners to increase physician manpower across the state. How this is to be done, why it requires merger, and why this is should be a primary responsibility of the hospitals has not been revealed. In preparation, the University of Louisville Medical School has announced that it has increased its class size, and will continue to do so by targeting out-of-state medical students. It is reported that the current class already has 25% out-of-state students (40 out of 160 students).

However, KRS 164.475 clearly states that the medical schools of Kentucky shall not exceed 15% non-resident students. To my understanding this is still controlling state law. The UofL School of Medicine was aware of this law before it began to target the out-of-state students, done principally to collect higher out-of-state tuition payments. I believe this is another example of the University acting even when the legality of a plan is in doubt, hoping that they are not held accountable afterwards. So it may be with the CHI acquisition.

Perhaps I am incorrect. Perhaps the University found a way to work around the Kentucky statute. If so, I hope you will give me advice on the matter. If I am incorrect, I owe the University of Louisville a public apology. If I am correct, I urge you and the Governor's office, for this reason and other more critical ones, to slow down this run-away train of public asset transfer until all the legal issues have been settled.

Respectfully,

A handwritten signature in black ink that reads "Peter Hasselbacher". The signature is written in a cursive, flowing style.

Peter Hasselbacher, MD
peter@hasselbacher.com
502-802-5092

Attachments:

KRS 164.475
Courier Journal Article of Aug 23, 2011

Aug 24, 2011

KRS

164.475 Allocation of enrollment positions by state schools of medicine and dentistry -- Competitive selection of entering class medical, dental, or law students.

- (1) The boards of trustees of the state colleges and universities offering degree programs in medicine or dentistry shall allocate seventy percent (70%) of the enrollment positions for the entering class each year, equally among each of the Kentucky Supreme Court districts, using the population of each Supreme Court district as determined by the last decennial federal census to determine that district's proportion of the positions, and shall assign these apportioned enrollment positions for each district to those applicants who are legal residents in that Supreme Court district.
- (2) Fifteen percent (15%) of the remaining positions shall be allocated to the state at-large and assigned to applicants who are legal residents at any place within the State of Kentucky.
- (3) Any qualified legal resident shall have a preference in securing an assignment to a position when compared to a nonresident.
- (4) The total number of nonresidents assigned positions shall not exceed fifteen percent (15%) of the total entering class enrollment positions assigned for any school year.
- (5) The selection of entering class medical, dental, or law students shall be accomplished competitively with due consideration being given scholastic standings, recommendations of the pre-professional advisory committees of the various schools where the applicants pursue the pre-professional academic program, and their performance on any required admission test, and any other procedures that deal fairly with the applicant group as a whole.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 235, sec. 4, effective July 14, 1992. -- Created 1978 Ky. Acts ch. 275, sec. 4, effective June 17, 1978.

U of L looks to build near med school

University weighs ways to pay for it

By Chris Otts

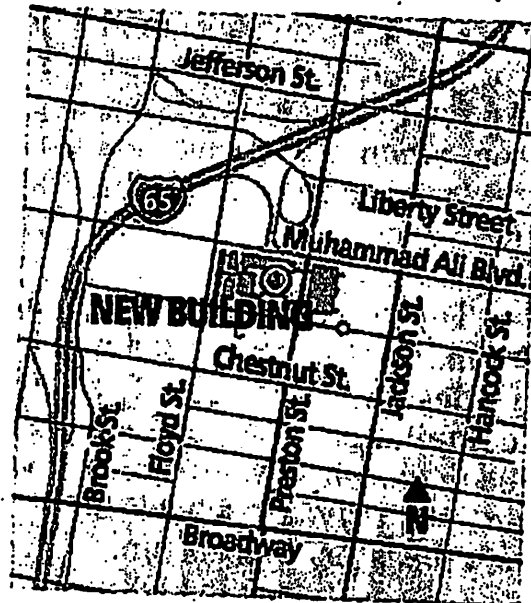
cotts@courier-journal.com

The Courier-Journal

The University of Louisville wants to build a \$67 million instructional building at its downtown Health Sciences campus, and university officials acknowledge that tuition increases on out-of-state medical students could be part of the project's funding plan.

They deny, however, that the tuition hike would be anywhere close to the numbers listed in an internal proposal, obtained by The Courier-Journal, that suggests the new building and renovations to nearby facilities could be paid for by admitting more out-of-state medical school students and raising their tuition 6 percent annually starting next year and for the following 24 years.

"We asked the business offi-



THE COURIER-JOURNAL

READ THE DOCUMENT

Go to this story at courier-journal.com for a copy of the proposal.

cer to run the numbers, what it would have to be" to fully fund the project with tuition hikes, said David Wiegman, an associate vice president for health affairs who oversees academics at the School of Medicine.

But Wiegman said the docu-

See BUILDING, Page A8

BUILDING: Funds not yet available

Continued from Page A1

ment, dated May 6, does not reflect the true funding plans, which more realistically will rely on state money. In fact, if such tuition increases were required to pay for the project, it wouldn't get built, he said, noting, "Nobody has pursued it beyond the sheet of paper" obtained by the newspaper.

However, Wiegman said tuition revenue could be part of a mix of funds — such as state dollars, private gifts, federal funds and tax-increment financing — that could pay for the project.

The five-page internal document obtained by the newspaper anticipates that a total of \$108 million in principal and interest costs over 25 years could be covered by hiking nonresident tuition annually through 2037.

The plan also assumes enrolling 16 additional out-of-state medical students beginning in 2015. There are about 40 out-of-state medical students per class currently, Wiegman said.

By 2037, out-of-state students would pay \$190,932 a year, according to the internal projections. The plan assumes a starting tuition of \$44,487 this year, but the approved tuition rate is actually \$42,820, according to the Kentucky Council on Postsecondary Education.

Wiegman stressed that those projections were created only to show how much the university would have to raise tuition if no other funding was available.

The document also lists philanthropy and tax-increment financing as "other possible funding sources," although it does not give an estimate of how much could be raised through those channels.

U of L spokesman Mark Hebert agreed with Wiegman that the university views state money as the primary way to fund the project.

"Any insinuation that U of L wants to pay for new classroom building at HSC (Health Sciences Center) on (the) backs of out-of-state students and increased enrollment would be false," he said in an email.

It is unclear, however, how much state aid the

school can count on in the near future.

The university has sought state funds for the project since 2008, according to documents on file with the Council on Postsecondary Education, which makes funding recommendations every two years to the governor and the Kentucky General Assembly.

It is the university's second-highest priority for state-funded capital projects, behind a \$77.6 million classroom building proposed for the main Belknap campus.

Rep. Bob Damron, D-Nicholasville, said the state funded no capital projects in its 2010-2012 budget, and although the economic climate has improved modestly, he doubts the state could fund both the medical building and the Belknap building in the 2012-2014 budget.

"I doubt anybody is going to be able to get two projects of that size funded through this session," said Damron, chairman of the House Democratic Caucus and long a member of the Capital Projects and Bond Oversight Committee.

Plans call for the medical building to be four stories, including one basement level, and to connect to the medical school's existing instructional building on Muhammad Ali Boulevard, as well as to the Kornhauser Health Sciences Library.

The building would be primarily for the medical school, although it would be used by the other three health sciences schools —

nursing, dentistry and public health and information sciences, Wiegman said.

Once it is built, the library and the medical school's current instructional building would be renovated.

A project description on file with the Council on Postsecondary Education lists a completion date of June 2015, but Wiegman said no true timeline can be estimated until funding becomes available.

The internal proposal says construction would begin in April 2012 with the new building completed in 2014, but Wiegman said that's not realistic. "That's just a date plugged in to be able to build scenarios from," he said.

Wiegman said the building is of great importance to the medical school, which needs additional lecture hall and teaching lab space.

The school's enrollment has shot up 29 percent since 1999 to 160 students in each year's class, and its current instructional building is 41 years old, he said.

The new building would include two 200-seat lecture halls, which would "take care of our classes quite nicely," as well as several rooms that would facilitate small-group learning, a relatively new emphasis in medical education, he said.

U of L's tuition is subject to annual approval by the university's board of trustees and the Council on Postsecondary Education. Owsley Brown Frazier,

chairman of the trustees, said in an email, "it is unclear how the building will be funded, but it is clear that it will not be funded on the backs of students by tuition increases."

He said no decision about medical school tuition has been made beyond the 2011-2012 academic year.

"That will be a discussion for the board next year and in future years," he said.

Council on Postsecondary Education spokeswoman Sue Patrick declined to comment on potential tuition increases because the university has not submitted any funding plan for the building to the council, other than asking for state money.

In 2010, U of L's out-of-state medical tuition was just below the median \$44,644 for all U.S. public medical schools that charge a different rate to nonresidents, according to data from the Association of American Medical Colleges.

U of L's in-state medical tuition of \$27,782 was above the median \$24,850 among schools that charge tuition to in-state students, according to 2010 data from the group.

Wiegman said it's important for the university's tuition not to rise from the middle of the pack.

"Student debt is always a concern because you want anyone who has the talent and the driving interest to be able to become a doctor, not just anyone who can afford it," he said.

Reporter Chris Otts can be reached at (502) 582-4589.

40 = 25% / 160

40

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