

University Hospital

February 18, 2011

University Health
Center - Downtown

VIA E-MAIL

University Center for
Community Health /
Texas Diabetes Institute

Ms. Elizabeth M. Murphy
Secretary
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

File Number - S7-45-10

University Family
Health Centers:

North
Northwest
Southeast
Southwest

SEC Release No. 34-63576

Re: United States Securities and Exchange Commission Proposed Rule¹ Concerning
the Registration of Municipal Advisors

Dear Ms. Murphy:

University Health System
Clinics:

Eastside
Good Health Clinic
Kenwood
Naco Perrin
Old Hwy 90
Salinas
South Flores
Westend
Zarzamora

We write to respectfully request that the Commission (hereinafter defined) modify its interpretation of the term "municipal advisor," or, alternatively, grant exemptive relief, so as to exclude appointed board members from that term. We ask that you take that action in to protect municipal entities (a purpose of the applicable provision) from unintended adverse consequences.

We serve as the President/Chief Executive Officer and Chief Financial Officer of the Bexar County Hospital District, doing business as the University Health System (the "District"). The District, created in 1955, is a separate political subdivision of the State of Texas established pursuant to Article IX, Section 4 of the Texas Constitution, and Chapter 281, as amended, Texas Health and Safety Code (the "Act"). The District is exempt from federal income tax under Section 115(a) of the Internal Revenue Code.

University Health System
Business Center

The District is one of the largest providers of medical and hospital care to the needy and indigent in Texas and the largest in Central and South Texas. Its staff of just over 4,700 health care employees operates University Hospital, San Antonio's only civilian Level 1 Trauma Center and its network of community outpatient facilities provides approximately 1.6 million primary care, preventative care, specialty outpatient care, pharmacy, radiological imaging and laboratory patient visits annually throughout Bexar County. Additionally, the District has had a long-standing affiliation with The University of Texas Health Science Center at San Antonio ("UTHSCSA") and serves as UTHSCSA's principal partner for many of UTHSCSA's research and education programs, including the graduate medical education.



¹ 76 Fed. Reg. 874 (January 6, 2011)

The District is governed by a Board of Managers. The Board is composed of seven members appointed by the Bexar County Commissioners Court for staggered terms of two years (or until a successor is appointed and qualified). Board members are considered to be “public officers” under the Texas Constitution who exercise sovereign functions of government largely independent of the control of others, and, by law, serve without pay. Chapter 281 mentioned above details the Board appointment process by the Commissioners Court and retains for Commissioners Court several important powers, the power to levy the ad valorem property tax in support of the District’s mission (i.e. its public purpose) and approval of its annual budget. Closely linked to the Commissioners Court retained power to tax is its power to also approve municipal securities recommended for approval by the District Board.

This management structure detailed by Chapter 281 provides that the “board shall appoint a person qualified by training and experience as the administrator for the district” to supervise and generally direct the affairs of the District. This position is the President/CEO of the District. In the context of the issuance of municipal securities on behalf of the District, the Board, the President/CEO, the Executive Vice President, Chief Financial Officer and senior staff use outside consultants. These outside consultants include bond counsel and entities generally referred to as financial advisors, all of whom would provide their professional advice to the District consistent with their respective duties owed to the District relating to the issuance of municipal securities. Because any municipal issuance recommended by the President/CEO and the District’s Board must seek final approval from Commissioners Court, bond counsel and financial advisors owe a duty to the District to represent and explain the proposed municipal issuance to the elected Commissioners Court.

As you are well aware, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) amended Section 15B of the Securities and Exchange Act of 1934 (the “Exchange Act”) to make it unlawful for a municipal advisor to provide advice to a municipal entity with respect to municipal financial products or the issuance of municipal securities unless the municipal advisor is registered with the United States Securities and Exchange Commission (the “SEC” or the “Commission”). The Dodd-Frank Act also gives the Municipal Securities Rulemaking Board (the “MSRB”) regulatory authority over municipal advisors and imposes a fiduciary duty on municipal advisors when providing advice to municipal entities. As amended by the Dodd-Frank Act, Section 15B of the Exchange Act is intended to provide protection for municipal entities as well as investors. Under Section 23 of the Exchange Act, the Commission is authorized to adopt rules to implement the provisions of the Exchange Act, including Section 15B, and any act or omission made in reliance on Commission rules in good faith is exempted from liability. In addition, the Commission is specifically authorized by Section 15B(a)(4) of the Exchange Act, as amended by the Dodd-Frank Act, to exempt municipal advisors from any provision of Section 15B, including the registration requirements, fiduciary duties, and MSRB rules applicable to

municipal advisors, if it finds that the exemption is consistent with the public interest, the protection of investors, and the purposes of Section 15B.

Section 15B(e)(4), of the Exchange Act, as amended by Section 975 of the Dodd-Frank Act, defines “municipal advisor” as:

“(A)... a person (who is not a municipal entity or an employee of a municipal entity) (i) that provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such financial products or issues, or (ii) that undertakes a solicitation of a municipal entity.²

Thus, under the statute, an employee of a municipal entity cannot be a “municipal advisor” and is exempt from the proposed rule. As such, all employees of the District would be exempt from the proposed rule. We would also note that the Commission could exercise its regulatory authority to define that all issuers and their elected or appointed governing bodies would be classified as the “municipal entity” and, as such, would be exempt from the proposed rule.

In its proposing release, the Commission provides interpretive guidance on who is considered to be an “employee of a municipal entity.” The release indicates that “municipal employees” include members of a municipal entity’s elected governing body and appointed members of a governing body to the extent such appointed members are ex officio members of the governing body. Under this interpretation, all appointed (non elected members) members, which in our particular case, the entire Board of Managers of the District, would be considered “municipal advisors” and therefore required to register with the SEC and would be subject to MSRB regulation, if they fulfill their official duties by “giving advice” to the District and/or the Bexar County Commissioners Court concerning municipal securities issues or municipal financial products. We strongly believe, as illustrated above, that the level of accountability of the District’s Board of Managers is at least as great, if not greater, than that which has been deemed by the Commission to be afforded to an employee of the municipality.

Based upon our facts and the previously referenced Texas law, we believe that the Commission’s proposed policy decision to treat elected and appointed officials differently concerning their potential classification as a municipal advisor has no merit and will not achieve the Commission’s stated purpose. For the reasons set forth above, each appointed member of the governing body of the District’s Board of Managers is subject to significant regulatory “control” by the Bexar County Commissioners Court,

² Section 15B(e)(4)(A) of the Securities Exchange Act.

all of whom are elected officials. As such, we respectfully request that the Commission modify its interpretation, or, alternatively, exercise its exemptive authority, to include as exempt those governing body members who are appointed by elected officials.

In addition, we have serious concerns about the effect that the proposed interpretation has on potential legal liabilities that could stem from the classification of a person such as a Board member of the District's Board of Managers as a municipal advisor and the corresponding imposition of a federal law fiduciary duty. As you are well aware, violations of this fiduciary duty could subject municipal advisors to criminal and/or civil liabilities. In addition, both the SEC and the MSRB have recently adopted or proposed additional rules to impose further regulatory restrictions and duties on municipal advisors, other than those contained in the proposed rule and interpretation that is the subject of this comment letter.

Texas law concerning appointed board members' "duty" is not well settle; however, it does provide circumstances under which an "official" must disclose a conflict of interest and then recuse themselves from a vote concerning the matter to which the conflict applies. The Board of Managers of the District are subject to these mandatory conflict of interest statutory provisions. As you are well aware, the imposition of this fiduciary duty, under federal law and the supremacy clause, may have the effect of conflicting with and superseding Texas law on this important subject.

Commentators have noted that the proposed rule fails to define "provides advice". Arguably, the District's Board of Managers' deliberations and subsequent voting regarding recommendations concerning the issuance of debt by the District (that would have to be generally approved by or ratified by the Bexar County Commissioners Court) or concerning the investment of public funds or the approval of derivative transactions is not providing "advice" that is the focus of the proposed rule. However, this places the Board of Managers of the District in a very precarious position because the failure to register, if required, carries with it substantial penalties.

We, in good conscience are not willing to accept this definitional determination and lack of clarity in the proposed rule. Although the District's Board of Managers have engaged independent financial advisors, bond counsel, accountants, and selected various investment banks to be members of underwriting pools that will form syndicates to sell the District's municipal securities, the District's Board of Managers must also have the freedom to engage in active discussions in an open forum with these consultants concerning their proposed plan of finance, structuring assumptions, capital items, operation and maintenance budgets, redemption provisions, the review and approval of disclosure documents, and various other matters concerning the contemplated debt issuance without the risk of becoming "municipal advisors" under the proposed rule. We also believe that the Commission's previous enforcement

actions concerning municipal securities around the United States compel both elected and appointed board members who authorize the issuance of publically-offered municipal securities to be active participants in this process.

We have concerns that IF the appointed members of the District's Board of Managers are "deemed" by the Commission to be a "municipal advisor" pursuant to the Commission's interpretation, then such deliberations, discussions, and votes could be classified as "advice" that would impose the proposed rule's licensing requirements and fiduciary duty on the members and trigger the reporting, record keeping, and certification requirements set forth in the proposed rule.

Each appointed member of the District's Board of Managers is subject to current scrutiny by the Bexar County Commissioners Court. Annually, in compliance with the District's Conflict of Interest Policy, each member must complete the District's Conflict of Interest Questionnaire and submit it for filing with the District's Integrity Officer. A copy of the questionnaire and referenced policy is attached as Exhibit A hereto and is incorporated by reference for all purposes. It is also our understanding that the Commission's existing MA-T Municipal Advisory Temporary Registration Form (that is attached hereto as Exhibit B and incorporated by reference for all purposes) may be the template for the creation of the proposed rule's MA-I format.

As we previously disclosed and discussed, each member of the District's Board of Managers must submit, on an annual basis, a completed Conflict of Interest Questionnaire. As such, we believe that the proposed rule's MA-I Form is cumbersome, unnecessary in our situation, and may have a chilling effect on prospective board members, because the information disclosed in the MA-I Form will be publically available, and discourage their contemplated public service as a member of the District's Board of Managers. We are confident that you will agree that having the most qualified members on the District's Board of Managers is in the public's best interest. It seems to us that the proposed rule's MA-I Form has merit and applicability for a person truly providing "financial" advice to a municipal entity but, in our case, not to an appointed member of the District's Board of Managers.

We also have concerns about the annual certification requirement in the proposed rule, if and when an appointed board member is deemed to be a municipal advisor that is providing "advice" to its board. Once again, the administrative time and manpower costs to comply with these registration, record keeping, and certification requirements, as well as the inevitable registration and annual certification filing fees and expenses, and additional continuing education requirements for the appointed board member will potentially be so onerous as to have a chilling effect on an individual's willingness to perform this vital public service. As is true with many appointed board members, the members of the District's Board of Managers spend countless hours, all unpaid, on a weekly basis fulfilling their obligations as Board members in support of the District's primary mission, which is providing health care to the indigent of Bexar County.

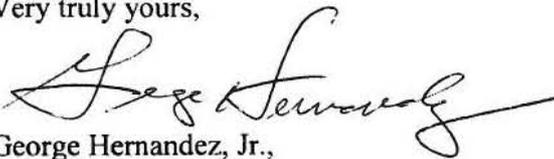
For each of the stated reasons, we respectfully request that the Commission limit the scope of the “municipal advisor” to address, only from a policy standpoint, the specific factual situation that was the impetus for the Dodd-Frank provisions. We are confident that you will agree that none of the appointed members of the District’s Board of Managers should be classified as municipal advisors for the reasons set forth in this comment submission.

In closing, we request that the Commission treat all appointed board members in the same manner as the interpretation treats elected officials and municipal employees.

Thank you for your careful consideration of this request to exempt all appointed board members in the Commission’s final rule definition of “municipal advisor” so that the final rule will accomplish its intended public purpose.

Please do not hesitate to contact us if we can provide any future clarification or support on this important manner.

Very truly yours,



George Hernandez, Jr.,
President/Chief Executive Officer



Peggy Deming,
Executive Vice President/
Chief Financial Officer

Enclosure

cc:

Dr. Roberto Jimenez (Chairman, University Health System)
Mr. James R. Adams (Vice Chairman, University Health System)
Mr. Ira Smith, Jr. (Secretary, University Health System)
Mr. Alexander E. Briseño (Member, University Health System)
Ms. Rebecca Quintanilla Cedillo (Member, University Health System)
Mr. Robert Engberg (Member, University Health System)
Ms. Linda Rivas (Member, University Health System)
Honorable Nelson W. Wolff (Judge, Bexar County, Texas)
Honorable Sergio Rodriguez (Precinct #1, Bexar County Commissioners Court)
Honorable Paul Elizondo (Precinct #2, Bexar County Commissioners Court)
Honorable Kevin Wolf (Precinct #3, Bexar County Commissioners Court)
Honorable Tommy Adkisson (Precinct #4, Bexar County Commissioners Court)
Honorable John Cornyn (United States Senator)
Honorable Kay Bailey Hutchison (United States Senator)
Honorable Lamar Smith (United States House of Representatives)
Honorable Charles Gonzalez (United States House of Representatives)
Honorable Francisco Canseco (United States House of Representatives)

EXHIBIT A

District's Conflict of Interest Questionnaire

80964051.2



University Health System

Conflict of Interest Questionnaire

Please complete the following questions. The terms used below have the same meaning as given in the attached Conflicts of Interest Policy. If you have any questions, please contact the Integrity Officer @358-2193 for guidance. You can complete your questionnaire online or return your completed questionnaire to the Integrity and Regulatory Services Department MS-134.

1. Do you have an employment or other business relationship with any person or entity doing business, or seeking to do business, with the University Health System that will result in you, your significant other, family member, or associate receiving (or is likely to receive) taxable income within a 12-month period? (Investment income is excluded.)

No

Yes

- If yes, please describe this relationship and identify the entity or person doing business or seeking to do business with the University Health System.

- If yes, have you engaged in any actions or decisions (either directly or indirectly), as a board member, officer or staff member of the University Health System that concern this person or entity? Please describe.

2. As a board member, officer or staff member of the University Health System have you engaged in any actions or decisions (either directly or indirectly) which resulted in personal gain or benefit for you, your significant other, family member, or associate?

No

Yes. Please describe below.

EXHIBIT B
SEC Form MA-T

OMB APPROVAL
OMB Number: 3235-0659
Expires: March 31, 2011
Estimated average
Burden hours per form: 2.5
Per amendment: 0.5

Note: Form MA-T is an electronic form accessible through a link located on the website of the U.S. Securities and Exchange Commission at www.sec.gov. It may not be filed in paper form.

FORM MA-T

MUNICIPAL ADVISOR TEMPORARY REGISTRATION FORM

ITEM 1 - IDENTIFYING INFORMATION

A. This is:

- An initial temporary registration as a municipal advisor
- An amendment of temporary registration as a municipal advisor
Municipal Advisor Registration Number: _____ - _____
- A withdrawal of temporary registration as a municipal advisor
Municipal Advisor Registration Number: _____ - _____

B. Full Legal Name of municipal advisor:

(firm name or name of sole proprietor)

C. Name under which the municipal advisor conducts business, if different:

D. IRS Employer Identification Number of the municipal advisor: _____

(Note: If you are a sole proprietor, leave this space blank. Do NOT fill in your social security number.)

E. If the municipal advisor is also registered with the SEC as an investment adviser, its SEC file number: 801-_____

F. If the municipal advisor is also registered with the SEC as a broker, dealer, or municipal securities dealer, its SEC file number: _____

G. If the municipal advisor has a number ("CRD Number") assigned by the FINRA's CRD system or by the IARD system, its CRD number *(Do not provide the CRD number of the municipal advisor's officers, employees, or affiliates)*: _____

H. Municipal advisor's principal office and place of business:

(1) Address (*do not use a P.O. Box*):

(number and street)

(city) (state/country) (zip+4/postal code)

(2) Telephone number at this location:

(area code) (telephone number)

(3) Facsimile number at this location, if any:

(area code) (telephone number)

(4) General e-mail address for the municipal advisor, if any:

@

(5) Website, if any, of the municipal advisor

www. _____

I. Mailing address, if different from the municipal advisor's principal office and place of business address:

(number and street)

(city) (state/country) (zip+4/postal code)

J. Contact person: *[The contact person should be a person whom the municipal advisor has authorized to receive information and respond to questions about this registration.]*

(name)

(title)

(telephone number, including area code) (facsimile number, if any, including area code)

(number and street)

(city) (state/country) (zip+4/postal code)

@
(e-mail address, if any, of contact person)

ITEM 2 - MUNICIPAL ADVISORY ACTIVITIES

What type(s) of municipal advisory services does the municipal advisor provide? *Check all that apply.*

- (1) Advice concerning the issuance of municipal securities
- (2) Advice concerning the investment of the proceeds of municipal securities
- (3) Advice concerning guaranteed investment contracts
- (4) Recommendation and/or brokerage of municipal escrow investments
- (5) Advice concerning the use of municipal derivatives (e.g., swaps)
- (6) Solicitation of business from a municipal entity or obligated person for an unaffiliated person or firm (e.g., third party marketers, placement agents, solicitors and finders)
- (7) Preparation of feasibility studies, tax or revenue projections, or similar products in connection with offerings or potential offerings of municipal securities
- (8) Other (specify): _____

ITEM 3 - DISCIPLINARY INFORMATION

In this Item, we ask for information about the municipal advisor's disciplinary history and the disciplinary history of all associated municipal advisor professionals (as defined in the Glossary accompanying this form). For any question to which you answer "yes," a drop-down box will appear for you to supply relevant information. *Note: If you have submitted a Criminal Disclosure Report Page or Pages, a Regulatory Action Disclosure Page or Pages, or a Civil Judicial Action Disclosure Reporting Page or Pages to FINRA or the SEC in connection with other filings, you may provide such information by referencing the public disclosure system (BrokerCheck or Investment Adviser Public Disclosure) that currently contains the disclosure, the CRD number of the entity under which the disclosure is listed, and whether the entity under which the disclosure is listed is a firm or individual. (Example: Please reference BrokerCheck, CRD 123456, for the individual Mr. X for reportable disclosures; Example: Please reference IAPD, CRD 987654, for the firm X's reportable disclosures.)*

One event may result in "yes" answers to more than one of the questions below.

A. In the past ten years, has the municipal advisor or any associated municipal advisor professional:

- (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony? YES/NO
- (2) been charged with any felony? YES/NO
You may limit your response to Item 3.A(2) to charges that are currently pending.

B. In the past ten years, has the municipal advisor or any associated municipal advisor professional:

- (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a misdemeanor involving: investments or an investment-related business, or any fraud, false statements, or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses? YES/NO
- (2) been charged with a misdemeanor listed in Item 3.B(1)? YES/NO
You may limit your response to Item 3.B(2) to charges that are currently pending.

C. Has the SEC or the Commodity Futures Trading Commission (CFTC) ever:

- (1) found the municipal advisor or any associated municipal advisor professional to have made a false statement or omission? YES/NO
- (2) found the municipal advisor or any associated municipal advisor professional to have been involved in a violation of its regulations or statutes? YES/NO
- (3) found the municipal advisor or any associated municipal advisor professional to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? YES/NO
- (4) entered an order against the municipal advisor or any associated municipal advisor professional in connection with investment-related activity? YES/NO
- (5) imposed a civil money penalty on the municipal advisor or any associated municipal advisor professional, or ordered the municipal advisor or any associated municipal advisor professional to cease and desist from any activity? YES/NO

D. Has any other federal regulatory agency, any state regulatory agency, or any foreign financial regulatory authority:

- (1) ever found the municipal advisor or any associated municipal advisor professional to have made a false statement or omission, or been dishonest, unfair, or unethical? YES/NO
- (2) ever found the municipal advisor or any associated municipal advisor professional to have been involved in a violation of investment-related regulations or statutes? YES/NO
- (3) ever found the municipal advisor or any associated municipal advisor professional to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? YES/NO

- (4) in the past ten years, entered an order against the municipal advisor or any associated municipal advisor professional in connection with an investment-related activity? YES/NO
 - (5) ever denied, suspended, or revoked the municipal advisor's or any associated municipal advisor professional's registration or license, or otherwise prevented the municipal advisor or any associated municipal advisor professional, by order, from associating with an investment-related business or restricted the municipal advisor's or any associated municipal advisor professional's activity? YES/NO
- E. Has any self-regulatory organization or commodities exchange:
- (1) ever found the municipal advisor or any associated municipal advisor professional to have made a false statement or omission? YES/NO
 - (2) ever found the municipal advisor or any associated municipal advisor professional to have been involved in a violation of its rules (other than a violation designated as a "minor rule violation" under a plan approved by the SEC)? YES/NO
 - (3) ever found the municipal advisor or any associated municipal advisor professional to have been the cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? YES/NO
 - (4) ever disciplined the municipal advisor or any associated municipal advisor professional by expelling or suspending it from membership, barring or suspending its association with other members, or otherwise restricting its activities? YES/NO
- F. Has the municipal advisor's or any associated municipal advisor professional's authorization to act as an attorney, accountant, or federal contractor ever been revoked or suspended? YES/NO
- G. Is the municipal advisor or any associated municipal advisor professional the subject of any regulatory proceeding that could result in a "yes" answer to any part of Item 3.C., 3.D., or 3.E.? YES/NO
- H. (1) Has any domestic or foreign court:
- (a) in the past ten years, enjoined the municipal advisor or any associated municipal advisor professional in connection with any investment-related activity? YES/NO

- (b) ever found that the municipal advisor or any associated municipal advisor professional was involved in a violation of investment-related statutes or regulations? YES/NO
 - (c) ever dismissed, pursuant to a settlement agreement, an investment-related civil action brought against the municipal advisor or any associated municipal advisor professional by a state or foreign financial regulatory authority? YES/NO
- (2) Is the municipal advisor or any associated municipal advisor professional now the subject of any civil proceeding that could result in a "yes" answer to any part of Item 3.H(1)? YES/NO

ITEM 4 – EXECUTION

The municipal advisor consents that service of any civil action brought by or notice of any proceeding before the Securities and Exchange Commission or any self-regulatory organization in connection with the municipal advisor's municipal advisory activities may be given by registered or certified mail or confirmed telegram to the municipal advisor's contact person at the main address, or mailing address, if different, given in Items 1.H, 1.I., and 1.J.

The undersigned deposes and says that he/she has executed this form on behalf of, and with the authority of, the municipal advisor. The undersigned and the municipal advisor represent that the information and statements contained herein and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and the municipal advisor further represent that, if this is an amendment, to the extent that any information previously submitted is not amended such information is currently accurate and complete.

Date: _____

Full Legal Name of Municipal Advisor: _____

By. _____
(signature)

Title: _____

Warning: Intentional misstatements or omissions of fact constitute Federal criminal violations. See, 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).