

**AFFIDAVIT OF BEN WYATT**

STATE OF IOWA                    )  
  ) ss.  
COUNTY OF WINNESHIEK    )

The undersigned being first duly sworn on oath does depose and state:

1. I am a member and Chair of the Board of Trustees of the Winneshiek Medical Center. I was first elected to the Board by the residents of Winneshiek County in 2001 and was elected by the members of the Board to serve as its Chair in 2004.
2. The statements made in this Affidavit are made from my personal knowledge.
3. I have reviewed the letter prepared on behalf of the Board of Trustees by legal counsel and believe the statements contained in the letter are true and correct.
4. Winneshiek Medical Center is a 25 bed critical access hospital located in Decorah, Iowa.
5. As a county hospital, the purpose of Winneshiek Medical Center is to provide medical and other related services to the citizens of Winneshiek County. Under Iowa law, the Board of Trustees has the duty to “engage in all activities necessary to manage, control, and govern the hospital.”
6. In 2005, to best serve the needs of Winneshiek County’s residents, Winneshiek Medical Center formed an alliance with Mayo Clinic and entered into a Professional Services Agreement and Management Services Agreement with it.

7. Under the Management Services Agreement, Mayo provides administrative services to Winneshiek Medical Center and has done so since 2005.
8. Under the Professional Services Agreement, Mayo provides physician services through the Decorah Clinic.
9. Winneshiek County is also served by a large competing health system which owns and operates a clinic in Decorah.
10. As a result of the presence of two health systems in Winneshiek County, there is significant competition for market share of health care services.
11. For a number of years, Winneshiek Medical Center has engaged in strategic planning to determine how best to remain financially viable so that it can continue to provide quality services to the residents of Winneshiek County in a changing health care environment.
12. The strategic planning process has also included discussion of the relationship between the Mayo Clinic Health System and Winneshiek Medical Center, including a review and planned revision of the Physician Services Agreement and the Management Services Agreement to reflect that Mayo Clinic Health System-Franciscan Medical Center in La Crosse, Wisconsin is the party directly providing administrative and professional services to Winneshiek Medical Center.
13. That strategic planning process has included discussion of marketing and pricing strategies and other proprietary business information.

14. Because of the highly competitive market and the confidential nature of the information, the Board of Trustees determined that a portion of the discussions concerning strategic planning must be held in closed session.
15. At all times material, Winneshiek Medical Center was represented by legal counsel with extensive experience in advising public entities and hospitals.
16. Because the Board of Trustees is aware of its obligations as a governmental entity under the Iowa Open Meetings Law, it consulted legal counsel concerning compliance with that law.
17. On advice of counsel, the Board of Trustees closed the sessions pursuant to the provision it was advised covered the discussion of proprietary business information that was part of its strategic planning process. In addition, on at least one occasion, the Board of Trustees closed the meeting pursuant to the provision that permits closed sessions for purpose of discussing litigation strategies with counsel (as well as the section that covered the strategic planning process), because a dispute had arisen concerning payment of certain amounts under the Professional Services Agreement between Mayo and Winneshiek Medical Center.
18. In addition, the Board of Trustees recorded all closed sessions, but did not maintain minutes of those sessions, because the Trustees were told by counsel that minutes of those sessions were not required. It was the Board of Trustees' understanding that if minutes were requested, they could be generated from the recordings.

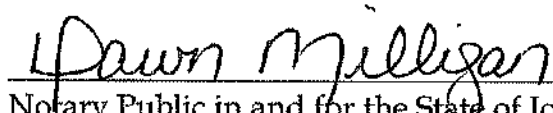
19. In preparation for completing this Affidavit, I listened to the recordings of the following closed sessions, which I understand are included in the Auditor's inquiry: March 31, 2010, August 4, 2010, November 30, 2010, and January 5, 2010.
20. It is my belief that public disclosure of the information contained in these recordings will harm Winneshiek Medical Center's competitive position. I have spoken with legal counsel, who has also reviewed the recordings and agrees. The Board of Trustees has maintained those recordings in their entirety and understands that it is required to permit inspection of those records when release of the information will no longer harm Winneshiek Medical Center's competitive position.
21. As the strategic planning process progresses, Winneshiek Medical Center will make public portions of the strategic plan and seek public input.
22. With regard to the November 30, 2010 meeting of the Board of Trustees, the reason for holding that meeting in Rochester, Minnesota was to permit the Board of Trustees to meet with a number of decision makers from the Mayo Clinic Health Systems and Franciscan Medical Center to discuss and plan for the future with regard to management of Winneshiek Medical Center. The Board of Trustees determined that the meeting was necessary to continue to improve the provision of health care to Winneshiek County residents. I believe the meeting would not have been possible if it could not have taken place in Rochester.
23. Legal counsel attended the meeting in Rochester.

24. The Mayo Clinic is approximately seventy miles from Decorah, all on state highways.
25. Notice was given to the public in a timely fashion that the meeting would occur at the Mayo Clinic, and one member of the public, the manager of the competing clinic, attended the meeting. (This is not much different than the attendance at Board meetings in Decorah, which rarely include more than two or three public members in attendance).
26. The Board of Trustees takes its obligations as a public entity under the Iowa Open Meetings law very seriously and at all times believed it was operating consistent with that laws and consistent with advice provided by its legal counsel.
27. The Board of Trustees continues to review and evaluate its compliance with the Open Meeting law. Since October 2011, with assistance of its current counsel, it has done the following:
  - a. It now maintains both minutes and recordings of closed sessions.
  - b. It has discontinued the practice of scheduling "closed sessions" on the tentative agenda if there is no specific reason for holding a closed session at the time the agenda is posted.
  - c. It specifies in the agenda the particular code sections, including Iowa Code Section 21.5(1)(I), that it relies on for closing the sessions and will continue to give attention to expanding the descriptions of the subject of its closed sessions, both on the agendas and in minutes.
  - d. In October of 2011, three members of the Board of Trustees attended an Iowa Hospital Association webinar training entitled "Iowa's Sunshine Laws." Board members will continue to seek out training with regard to the Open Meetings law.

Dated this 10 day of May, 2012

  
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Ben Wyatt,  
Chair, Board of Trustees  
Winneshiek Medical Center

Subscribed and sworn to before me this 10 day of May  
2012.

  
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Notary Public in and for the State of Iowa

