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September 18, 2024

VIA E-MAIL

The Honorable Bernie Sanders, Chairman
Committee on Health Education, Labor, and Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, DC 20510

Re: Senate HELP Committee Subpoena to Dr. Ralph de la Torre

Dear Senator Sanders:

We write to follow up on our September 4, 2024 letter (“Letter”) to the Senate Health, Education, Labor, and Pensions Committee (the “Committee”) and the Committee’s recent announcement that it intends to vote this week on two contempt resolutions regarding the July 25, 2024 subpoena issued to Dr. de la Torre, in his capacity as Chairman and Chief Executive Officer of Steward Health Care System LLC (“Steward”), for testimony at the Committee’s September 12, 2024 hearing titled “Examining the Bankruptcy of Steward Health Care: How Management Decisions Have Impacted Patient Care” (the “Hearing”).

As we underscored in our Letter, Dr. de la Torre lacks the authority to speak on behalf of Steward with respect to the ongoing bankruptcy proceedings and he is prohibited by a federal court order from doing so. Despite these valid objections, however, the Committee moved forward with the Hearing without meaningfully considering the issues that Dr. de la Torre raised and without attempting to reschedule the Hearing. What is more, the Committee’s disregard for Dr. de la Torre’s request to reschedule the Hearing in light of these legal restrictions substantiated our concern that the true purpose of the Hearing was not to gather facts within the Committee’s constitutional and congressional remit, but instead a pseudo-criminal proceeding with the goal of convicting Dr. de la Torre in a court of public opinion.

Our concerns that the Hearing would be used to ambush Dr. de la Torre in a pseudo-criminal proceeding were on full display last week, with the Committee soliciting testimony from witnesses calling Dr. de la Torre and Steward executives “health care terrorists” and advocating for Dr. de la Torre’s imprisonment, all while the Committee refused to even acknowledge or aid

the bankruptcy settlement that would ensure continuity of services in all but two Steward hospitals across the nation.

Dr. de la Torre cannot be permitted to provide sworn testimony at this time, given that the Hearing was seemingly designed as a vehicle to violate Dr. de la Torre's constitutional rights, including his Fifth Amendment rights. The U.S. Constitution affords Dr. de la Torre inalienable rights against being compelled by the government to provide sworn testimony that is specifically (yet baselessly) sought to frame Dr. de la Torre as a criminal scapegoat for the systemic failures in Massachusetts' health care system. Accordingly, on the advice of counsel, Dr. de la Torre invokes his procedural and substantive rights under the Fifth Amendment of the U.S. Constitution, including the privilege to refrain from testifying at the Committee's Hearing. *See Quinn v. United States*, 349 U.S. 155, 161 (1955). ("Still further limitations on [Congress's] power to investigate are found in the specific individual guarantees of the Bill of Rights, such as the Fifth Amendment's privilege...").

If the Committee had any concern for the hospitals affected by Steward's bankruptcy proceedings it would, consistent with Dr. de la Torre's request to postpone the hearing for a more appropriate time, permit the bankruptcy resolution to move forward and focus its actions on tackling legitimate questions in the best interests of Steward patients, hospitals, and communities.

Sincerely,

A handwritten signature in blue ink, appearing to read 'AJM', with a long horizontal line extending to the right.

Alexander J. Merton

cc: Warren Gunnels (Staff Director, Senate HELP Committee)
Amanda Lincoln (Republican Staff Director, Senate HELP Committee)
Greg Carter (Oversight Director, Senate HELP Committee)
Caitlin Soto (Chief Counsel, Senate HELP Committee)
Chung Shek (Chief Clerk, Senate HELP Committee)