

A Review of the
Rhode Island Hospital Conversion Act
RIGL § 23-17.14 and
Review of Prospect Medical Holdings Conversion

Presented to Forum on:

"Consolidation, Private Equity, and Drug Prices in
Health Care Costs"

Hosted By: Rep. Kerry Wood, Co-Chair of the
Insurance & Real Estate Committee
Friday, September 24, 2021

Rhode Island Office of the Attorney General



PURPOSES OF THE HCA

- (1) Assure the viability of a safe, accessible and affordable healthcare system that is available to all of the citizens of the state;
- (2) To **establish a process to review** whether for-profit hospitals will maintain, enhance, or disrupt the delivery of healthcare in the state and to **monitor hospital performance** to assure that standards for community benefits continue to be met;
- (3) To establish a review process and criteria for review of hospital conversions;
- (4) To clarify the jurisdiction and the authority of the **department of health to protect public health and welfare** and the **department of attorney general to preserve and protect public and charitable assets** in reviewing both hospital conversions which involve for-profit corporations and hospital conversions which include only not-for-profit corporations; and
- (5) To provide for **independent foundations** to hold and distribute proceeds of hospital conversions consistent with the acquirer's original purpose or for the support and promotion of health care and social needs in the affected community.

WHAT IS A CONVERSION?

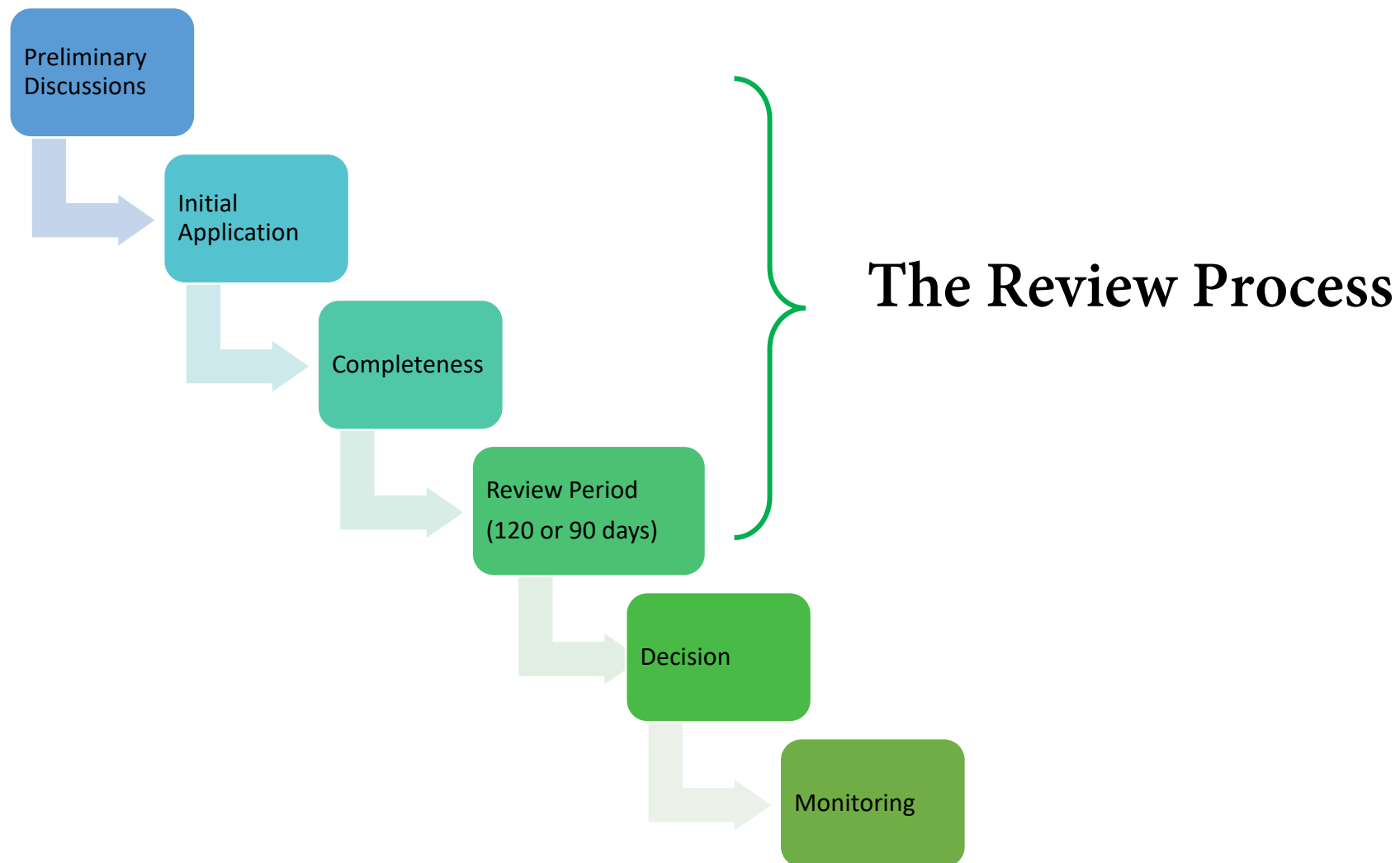
“Conversion” means any transfer of 20% or greater of any of the following in a hospital:

- ownership,
- control,
- membership interests,
- authority, or
- voting rights.

HCA Basics

- Under R.I. Gen. Laws § 23-17.14-5, all hospital conversions require review and approval from the Attorney General and Department of Health.
- Attorney General and Department of Health review all conversions concurrently.

HCA PROCESS



Attorney General Criteria

Governance

Conflicts of Interest

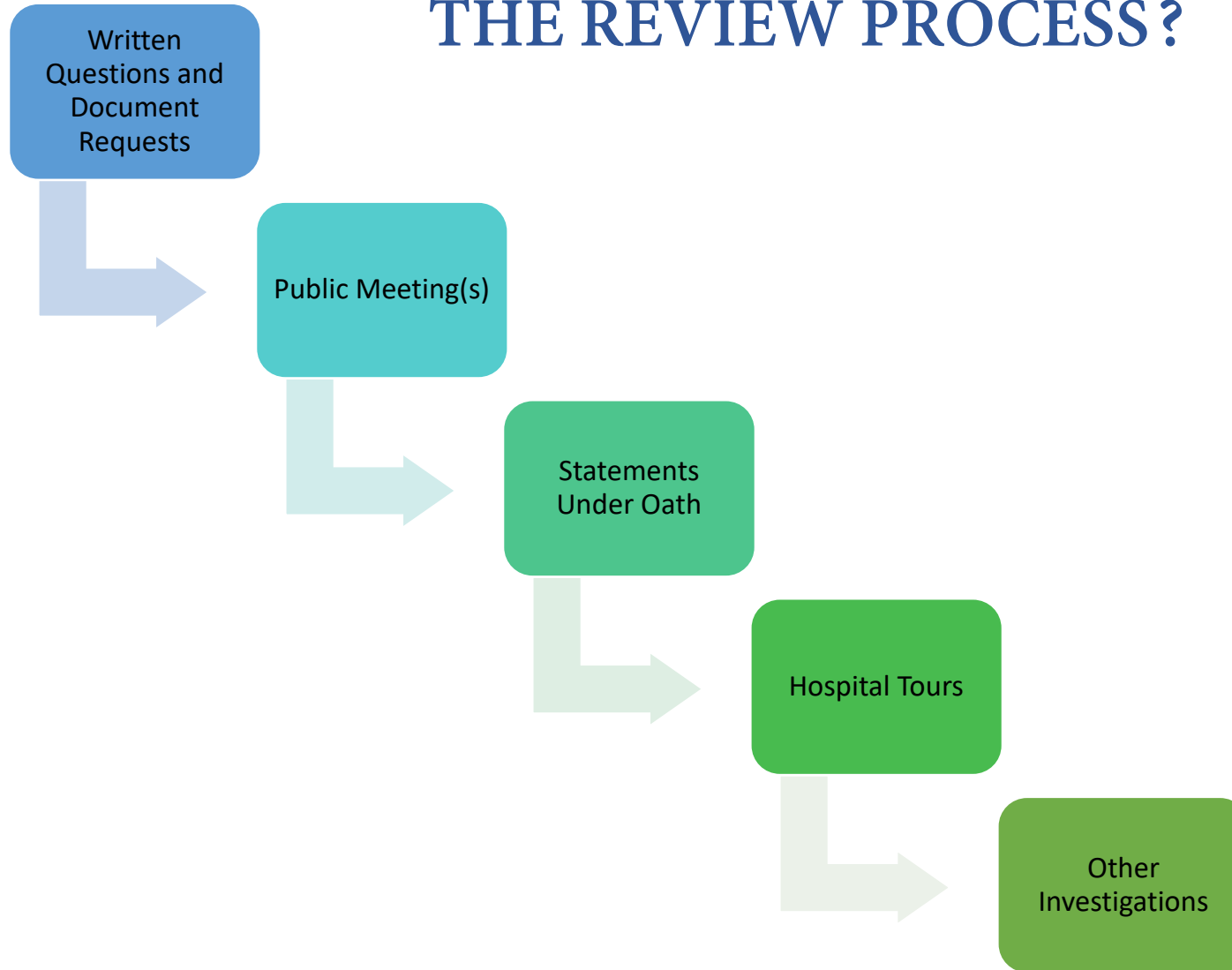
Charitable Assets

Antitrust

Valuation

Transacting Parties

WHAT'S HAPPENING DURING THE REVIEW PROCESS?

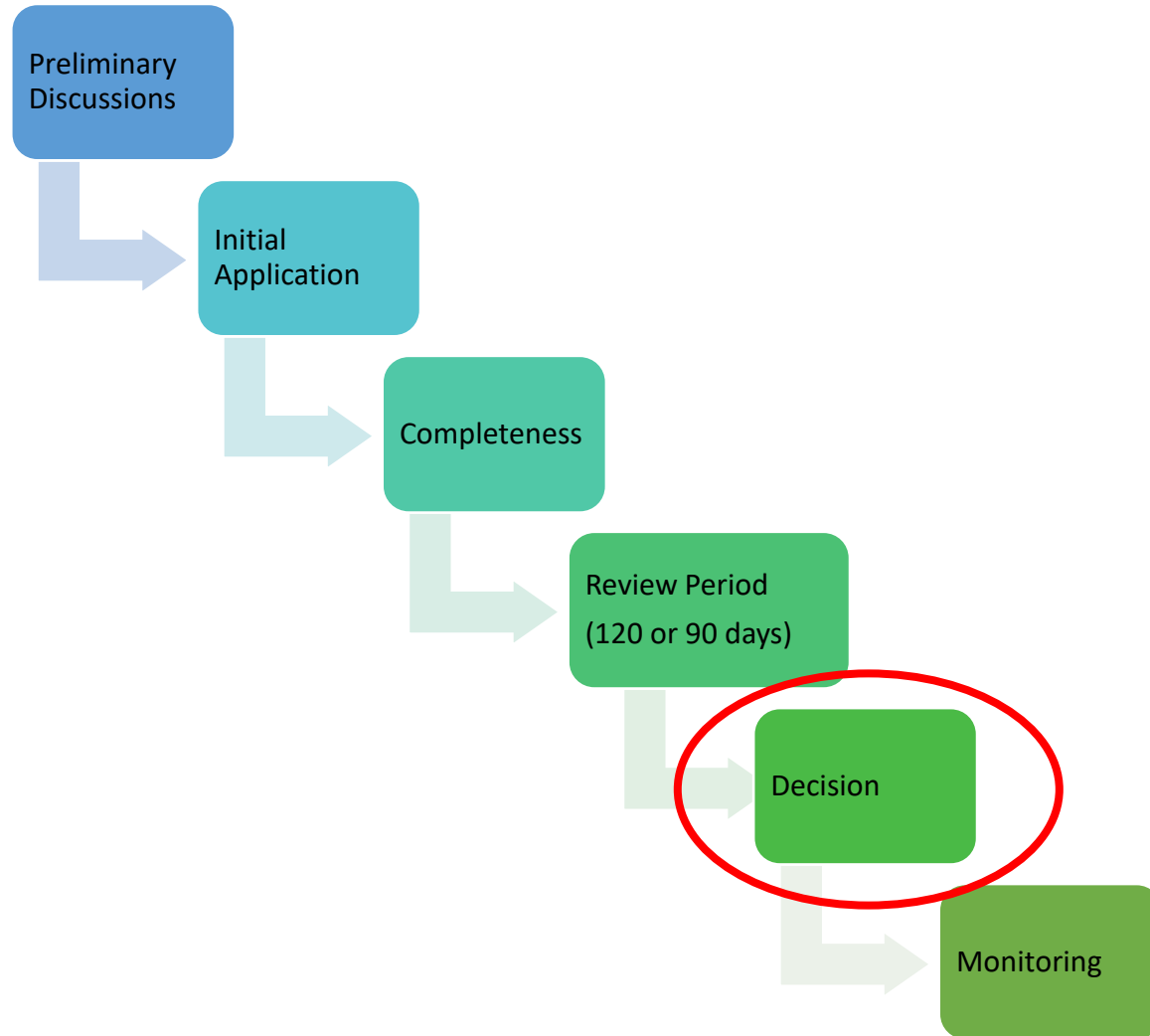


Use of Experts

§ 23-17.14-13: The departments may engage experts or consultants to assist in their conversion review.

- Outside healthcare/regulatory/nonprofit counsel
- Valuation/financial consultants
- Antitrust consultants

HCA PROCESS



Decision & Conditions

Decision within 120 days of acceptance of Initial Application, either:

- Approving;
- Approving with Conditions
 - Denying

Conditions relate to:

- Proposed Conversion
 - Review Criteria
 - Purpose of HCA

Attorney General Regulatory Authority in For-Profit Context

- The Attorney General is a **healthcare regulator** under the Rhode Island Hospital Conversion Act (HCA), which requires the Attorney General to:
 - Ensure “the acquiror’s adherence to a minimum investment to protect the assets, financial health, and well being of [Roger Williams and Fatima hospitals] and for community benefit.”

R.I.G.L. § 23-17.14-28(c)

Prospect Medical Holdings Conversion Causes for Concern

Prospect Medical Holdings was not in the same financial condition that it was when it bought the Rhode Island Hospitals in 2014.

In 2017, PMH's assets exceeded its liabilities by **\$67 million.**

In 2020, PMH's liabilities exceeded its assets by over **\$1 billion.**

How Prospect became highly leveraged

In 2018, PMH's Board – Lee, Topper and Leonard Green – did a \$457 million leveraged dividend recapitalization that “substantially weakened the balance sheet of PMH, benefitting the shareholders while providing minimal or no funds to any of the local operating entities.” *Carris Report*, pp. 2-3.

To put it plainly: In 2018, they took out a \$1.12 billion loan, paid off some existing debt, and **paid \$457 million in dividends** to Lee, Topper, and Leonard Green partners and investors.

How Prospect became highly leveraged

In 2019, to pay down debt and raise cash, PMH (Leonard Green, Lee and Topper) **sold all but three of PMH's hospitals** to a real estate investment trust, Medical Properties Trust, Inc. (MPT), for **\$1.4 billion**, then leased them back for 15 years.

PMH **no longer owned** these hospital facilities.

They had **fewer assets**, thus **less of an ability to borrow money**.

The Forecast by Experts:

- “While I do not believe that PMH faces a liquidity crisis in the next twelve months, I believe it will come sooner rather than later, probably with 18 to 24 months.” *Carris Report, p. 11*
- “They cannot continue to have significant operating losses and fund necessary capital projects and expect to survive long-term.” *Carris Report, p. 11*

Conditions of Approval of the Transaction:

- **\$80 Million in Escrow**

- To cover all **operating expenses** for the next five years.
- To cover necessary **capital expenditures** for the next five years.
- To pay back the **\$27 million** in federal CARES Act relief funds owed by Roger Williams and Fatima hospitals.

Conditions of Approval of the Transaction:

- **Maintain Operations:**

- For the next five years, PMH must keep Roger Williams and Fatima hospitals “open and operational.”
- For the next five years, PMH must maintain and continue to provide the full complement of existing “Essential Health Services” at Roger Williams and Fatima.

Conditions of Approval of the Transaction:

- **No Reduction in Services:**
- “Essential Health Services” – defined in the conditions:
 - 24-hour emergency department
 - Medical/Surgical Services and Intensive/Coronary Care Unit
 - Acute Dialysis Services
 - Inpatient and Outpatient Rehabilitation Services
 - Ambulatory Care Services
 - Emergency Services, including emergency behavioral health services
 - Inpatient & Outpatient Psychiatric/Mental Health/Addiction Services

Conditions of Approval of the Transaction:

- Retirement Plan/Charity Care:
 - For the next five years, PMH **must guarantee funding** of the Roger Williams and Fatima hospitals' **401(k) retirement plans**.
 - For the next five years, PMH must provide **charity care**, consistent with DOH regulations and state law.

Conditions of Approval of the Transaction:

- **Monitoring**

- Attorney General and outside Monitor selected by the Attorney General will **monitor the transaction and its conditions** for longer than the full **five years** allowed by the Hospital Conversion Act.
- Monitoring period extended to **September 30, 2026**.