

Cooper University Health Care Board of Trustees

One Cooper Plaza
Camden, New Jersey 08103

October 10, 2019

To the Board of Trustees of Cooper University Health Care:

Cooper Health System is the largest employer in Camden County, offers critical access to care in the City of Camden, and provides health care delivery for the entire southern New Jersey region. If its financial soundness or its management is compromised, the health care of many is also compromised. Yet, Cooper is embroiled in yet another scandal under Board Chairman George E. Norcross III that calls into question the integrity and capacity of the leadership of Cooper and its ability to govern in a manner free from further scandal or controversy. The latest scandal over the role of Cooper's management in the questionable purchase of the L3 property in Camden needs to be the final signal that Mr. Norcross must resign immediately from his positions with Cooper and that Governor Murphy, through his Attorney General and Commissioner of Health, must examine whether a monitor, receivership, or other forms of real oversight is appropriate and necessary to oversee the critical operations of Cooper Health.

Please consider the following in recent years:

- **Conflicts of Interest & Patronage:** In 2012, a Philadelphia Inquirer investigation "Powerful Medicine: How George Norcross Used his Political Muscle to Pump up Once-Ailing Cooper Hospital" exposed that "the hospital has become another piece of his political apparatus"; that "Norcross' insurance business and the law firm of his brother" received lucrative contracts from Cooper; that "[m]any of those who received work via Cooper are major political donors"; that [o]n top of the paid lobbyists, George Norcross has had a cadre of former or current politicians either on the hospital's payroll or ready to pitch in in when needed"; and that "[f]rom 2008 to 2010 Cooper paid more than \$40 million to companies tied to the hospital's board of trustees, according to public-disclosure documents the hospital filed with the IRS."ⁱ
- **Kickbacks:** In 2013, Cooper Health System agreed to pay \$12.6 million to settle a whistle-blower lawsuit alleging that it made improper payments to doctors in an effort to build its cardiology business according to the United States Attorney for the District of New Jersey. Authorities alleged that between 2004 and 2010 (Norcross became chairman in 2006), the hospital recruited and paid doctors to build its cardiology program through increasing patient referrals and billing. The physicians were "ostensibly being paid for their advice, but in reality, were being paid to refer their patients to Cooper's Heart Institute for treatment," according to a statement released by the state Attorney General's Office. "Payments to outside physicians by hospitals require heightened scrutiny because those payments may be improper if they are based on patient referrals," United States Attorney for the District of New Jersey Paul Fishman said. "Such kickback arrangements interfere with the physician-patient relationship and can lead to problems of over-utilization and increased costs." (Emphasis added).ⁱⁱ

- **State Subsidies:** In *New York Times* Bestseller “Days of Destruction, Days of Revolt,” (2012) Pulitzer Prize winner Chris Hedges documented that Norcross “has ensured that his hospital complex in the heart of (Camden) city has been lavished with state funds. He pushed through a law in the State House to hand \$12.35 million to fund the hospital’s staff \$220 million expansion. He got the state to pay \$9 million towards a \$140 million medical school and an additional \$3 million for a neonatal unit” and that Cooper “received \$52 million in state funding, more than any hospital in South Jersey — and in the top five for all 72 New Jersey hospitals” (91). Hedges notes: “Poverty is a business. And those who profit most from Camden’s poverty are the state’s Democratic Party leaders, and New Jersey’s most powerful political boss, George E. Norcross, although he holds no elective office” (88).
- **Evidence of Fraud:** According to the Governor’s Task Force on EDA Tax Incentives June 2019 report, “The Cooper Health System acknowledged in its initial application materials that no jobs were at risk of leaving New Jersey and it was not considering any out-of-state locations. The EDA subsequently accepted, without any skepticism or further diligence, Cooper Health’s later claim that it was considering an out-of-state relocation, and approved Cooper Health for nearly \$40 million in tax incentives. The evidence shows otherwise. Had the EDA calculated Cooper Health’s award based on its initial representation that no jobs were at risk of leaving the State, Cooper Health’s award would have been approximately \$7 million—more than \$32 million lower than what it was awarded.” (P. 5). The Task Force found “significant evidence” that the “purported alternative location in Philadelphia was illusory”; an internal email from a Cooper executive noted there was “no probability” of moving to Philadelphia; and the Cooper Health sought to submit a “sham term sheet.”ⁱⁱⁱ (49, 54)
- **Influence by Special Interests:** The Task Force further reported that New Jersey’s tax incentive program “generally excludes retail businesses from eligibility for tax incentives.” The law firm of George Norcross’s brother — and Cooper Foundation Board of Trustees member Phil Norcross — represented The Cooper Health System in connection with its Grow NJ application. In December 2013, an attorney at Philip Norcross’ law firm sent an email to the EDA’s then President and Chief Operating Officer: “[I]n reviewing the qualified business facility definition in the [regulations] that we discussed, my suggestion would be to add a sentence at the end of the definition to say: a university research hospital shall not be considered final point of sale retail. Thanks.” The NJ EDA incorporated the request into its initial regulatory proposal as well as its final regulations. The Cooper Health System—deemed eligible for tax incentives pursuant to this regulation—would later be approved by the EDA for an approximately \$40 million award.^{iv}
- **Evidence of Financial Abuse:** In perhaps the most stunning display of abuse of power of all related to Cooper, it has now been reported that Mr. Norcross and his brother, through intimidation, helped a Cooper Health System company and business partners of Mr. Norcross acquire the L3 building at the expense of a non-profit in Camden City dedicated to city and community redevelopment efforts. The defense of Cooper Health was to blame former President and CEO John Sheridan, namesake of the Sheridan Pavilion, who is now deceased.^v
- **Federal Investigations:** Politico reported that Cooper Health Systems hired prominent criminal defense attorney Abbe Lowell.^{vi} Politico reported that a Cooper spokesperson “did not respond when asked directly if the hospital system had been notified it was the target of a criminal investigation and whether there was also a federal inquiry” and that “Lowell is not the first big legal name retained by Cooper, which previously hired former U.S. Attorney Herb Stern to

represent it in a lawsuit against Gov. Phil Murphy's administration." Last week the Philadelphia Inquirer reported that the FBI and federal prosecutors have "launched an investigation in connection with (NJ)'s multimillion-dollar corporate tax incentive program." The engagement of high-priced lawyers, whether for civil or criminal litigation, is an expensive undertaking that is sure to stress the hospital's expenses, especially when considering that the source of hospital revenues, including recklessly or unlawfully awarded tax credits, is under such intense scrutiny.

It is reckless and wrong for Mr. Norcross to remain as Chairman of a health care system that is vital to the Camden community. His continued involvement is a time bomb. He must resign immediately for the good of the institution and the Camden community. And given the totality of wrongdoing, Governor Murphy must — in short order — direct his Commissioner of Health and Attorney General to determine what State intervention is appropriate for Cooper.

The Health Commissioner's role is to undertake continual monitoring of hospitals for their financial soundness or financial distress. And alarms should be going off given the foundations of Cooper's revenues and what are sure to be rising legal bills. Similarly, the Attorney General, in his role as regulator of all State nonprofit entities, is empowered to investigate entities that "misused or improperly failed to use [their] powers, privileges or franchises" or engaged in "continued conduct of activities [that] is prejudicial to the public."

Cooper's record manifestly requires opening an inquiry to whether a fiscal monitor, receiver, or other forms of oversight are appropriate to oversee the administration and operation of Cooper Health System.

Signed,

New Jersey Working Families
NAACP/Camden County East
Camden High Alumni Assoc
Cooper River Indivisible
South Jersey Women for Progressive Change
The Nehemiah Group
Collingswood Progressive Democrats
New Beginnings of Camden
Christian Honor Society
National Action Network Camden
Concerned Black Clergy of Camden
NJ 21 United
Camden We Choose

CC:

Commissioner of Health Judith M. Persichilli
Attorney General Gurbir Grewal
Chief Counsel Matthew Platkin
Chief of Staff George Helmy
Cooper Hospital CEO Kevin O'Dowd

ⁱ https://www.inquirer.com/philly/health/20120325_Powerful_Medicine.html

ⁱⁱ https://www.nj.com/news/2013/01/cooper_hospital_settles_federa.html

ⁱⁱⁱ <https://www.documentcloud.org/documents/6159990-EDA-Task-Force-Report-6-17-19.html>

^{iv} <https://www.politico.com/states/f/?id=0000016b-67c1-df00-a9fb-6fe1d7840001>

^v <https://www.wnyc.org/story/norcross-political-machine-muscled-prime-real-estate-new-jerseys-poorest-city/>

^{vi} <https://www.politico.com/states/new-jersey/story/2019/09/24/cooper-health-immersed-in-tax-incentive-scandal-hires-prominent-attorney-abbe-lowell-1207351>