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**THE SENATE
STATE OF NEW YORK**



**JAMES N. TEDISCO
Senator, 49th District**

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December 12, 2019

The Honorable Letitia James
New York State Attorney General
The Capitol
Albany, NY 12224

Dear Attorney General James:

We are writing regarding the plight of more than 1,100 former dedicated health care professionals who worked for the now closed St. Clare's Hospital in Schenectady and have seen their pensions significantly reduced or outright eliminated.

St. Clare's Hospital was closed 10 years ago by a requirement of the state's Berger Commission in its mission to right-size New York's health care facilities, and its operations were absorbed by Ellis Medicine. At the time, the state paid \$58.7 million to cover transition costs, including \$28 million to cover the anticipated needs of the St. Clare's Pension Fund. Unfortunately, for reasons not yet fully identified, that was not enough to cover the fund's pension costs. Since federal law permits a religious exemption, the St. Clare's pension fund has no benefit guarantee insurance.

Senator Tedisco was recently given by a source that chooses to be anonymous, portions of a July 2007 document entitled "Schenectady Healthcare Unification Project – Applicants: Ellis Hospital and St. Clare's Hospital Request For Applications #070514214" that suggests that prior to St. Clare's closure, the New York State Health Department (DOH), state Dormitory Authority (DASNY) and the Roman Catholic Diocese of Albany were notified and aware that \$28 million was nowhere near enough money to fully fund the hospital's woefully underfunded pension fund.

The "Retirement of Debt and Other Liabilities" section, outlining the pension deficit and need for consolidation, which we have included a copy of says that "the St. Clare's Hospital defined benefit plan is underfunded by \$47 million as of December 31, 2006."

After receiving this document, Senator Tedisco's Office filed a Freedom of Information Law (FOIL) request on May 24, 2019 with the DOH and DASNY, who the Senator was told currently possess the full document in question. In October 2019, both DOH and DASNY provided a copy of the document that they acknowledged was incomplete, removing information that "may be under investigation by law enforcement" or others.

Missing from Senator Tedisco's FOIL response are sections 1 and 2 out of 3 total sections, including "Actuarial Studies for Pension and Malpractice Liabilities," which in Part H covers "Retirement of Debt and Other Liabilities" where the main notification from Ellis to the state showed the pension fund to be underfunded. As the copy Senator Tedisco has obtained from his source indicates, in 2007, the state and the Diocese were made fully aware that \$28 million would be insufficient to plug the hole in St. Clare's already failing pension fund.



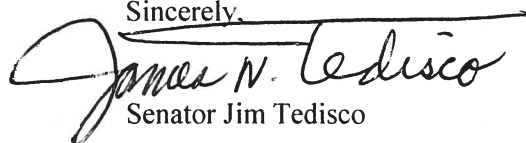
This year, with as little as three weeks' notice, over 1,100 people, who in some cases worked at St. Clare's Hospital for decades, were now faced with the reality that they will receive diminished or no pension at all. These individuals worked hard with the promise that their pensions would be there when they retired.

Given this newly disclosed information that shows the state's knowledge as far back as 2006 that the St. Clare's Pension Fund needed \$47 million to remain solvent, we ask that you include in your investigation into the dissolution of the Pension Fund to examine why there was an agreement for the state to only provide \$28 million in taxpayer funds toward shoring up the St. Clare's Pension Fund after the state and all parties involved were made aware that up to \$47 million was needed.

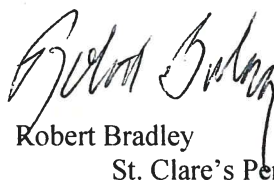
In Ellis's application it is noted that sometime during 2007 a new actuarial evaluation would take place. We ask: was there an evaluation? Who did the evaluation? What were the findings of the evaluation? Why is there a \$19 million discrepancy between the 2006 actuarial analysis and the \$28 million the state paid to the pension fund in 2008? It is remarkable to hear that the application saw a pension fund deficit of \$47 million in 2006 but the state only ended up supporting the pension fund deficit with \$28 million in 2008.

As we work to get the answers to these questions, we hope you can now work to help quickly solve this issue which has caused much consternation to 1,100 New Yorkers. Thank you for your consideration.

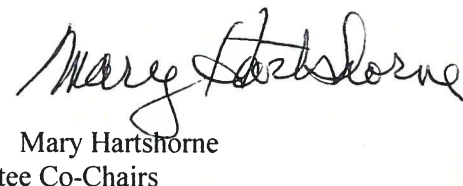
Sincerely,



Senator Jim Tedisco



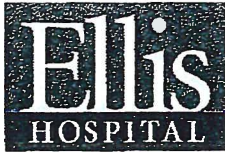
Robert Bradley



Mary Hartshorne

St. Clare's Pensioners Committee Co-Chairs

P.S. Enclosed please find relevant sections of "Schenectady Healthcare Unification Project – Applicants: Ellis Hospital and St. Clare's Hospital Request For Applications #070514214



**SCHENECTADY HEALTH CARE
UNIFICATION PROJECT**

Applicants: Ellis Hospital & St. Clare's Hospital

Request for Applications
RFA Number 0705141214

Implementation of Commission Mandates

submitted to:

NEW YORK STATE DEPARTMENT OF HEALTH
and the
DORMITORY AUTHORITY of the STATE of NEW YORK

July 2007

SCHENECTADY HEALTH CARE UNIFICATION PROJECT

Ellis Hospital & St. Clare's Hospital
HEAL Grant Application, RFA #: 0705141214
Request for Funding Application

Applicants: Ellis Hospital & St. Clare's Hospital
Date Submitted: July 2007

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SCHENECTADY HEALTH CARE UNIFICATION PROJECT

Applicants: Ellis Hospital & St. Clare's Hospital

RFA #: 0705141214

H. Retirement of Debt and Other Liabilities (continued)

Pension Liability

As described in Section D., the St. Clare's Hospital defined benefit plan is underfunded by \$47 million as of December 31, 2006. This underfunding resulted from a combination of:

- Poor investment returns
- Inability by the Hospital to make required contributions over recent years due to the financial challenges of its role as the safety net provider in Schenectady
- Inaccurate actuarial assumptions by the former actuary (Prudential Retirement) which overstated projected earnings and plan assets as well as understated the liability through failure to recognize the plan's early retirement provisions.

Over the past three years, the St. Clare's Hospital has attempted to stem the growth in the liability by making plan changes to reduce benefits, eliminating the guarantee of benefits by Prudential, and ultimately freezing the plan in January 2006 and replacing it with a defined contribution plan. Further plan changes are currently under review with the intent of reducing the accrued liability by \$12.1 million.

HEAL funding of \$47 million – payable in the first year of the compliance plan – would fully fund the plan when taken in conjunction with the pension obligation reduction resulting from the plan change. Please note that the \$47 million estimate is subject to change once a 2007 actuarial valuation is obtained. The Hospital is also attempting to re-negotiate its contract with Prudential Retirement in an effort to improve investment returns, thus increasing plan asset growth.

The summary disclosure information prepared by the new actuary, Milliman, is included in **Attachment #6**.

Payroll related liabilities:

Ellis Hospital currently employs 2,107 active full-time and part-time employees on its payroll, including 451 Registered Nurses and Assistant Instructor staff who are represented by the New York State Nurses Association (NYSNA). All other hospital employees are non-union. The unionized Registered Nurse and Assistant Instructor employees have a two-week notification requirement in the collective bargaining agreement in the event of the layoff of their positions. All other staff, except employed physicians and temporary staff, are covered by our severance pay policy. The amount of severance pay benefits is equal to one (1) week of pay for each two (2) years, or partial two (2) years of continuous service and our practice has been to provide a minimum of two (2) weeks for non-exempt staff or a minimum of four (4) weeks for exempt staff. Ellis Hospital's practice has also been to extend hospital sponsored health and/or dental insurance coverage through the severance period.

Payroll related liabilities: