

FILED
LUCAS COUNTY

2014 AUG 11 PM 1:50

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

Capital Care Network of Toledo,

Appellant,

vs.

State of Ohio Department of Health,

Appellee.

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Case No. CI0201403405

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OPINION AND JOURNAL ENTRY

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Hon. Myron C. Duhart

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Following an oral hearing conducted August 11, 2014, this administrative appeal is before the Court for a decision on the R.C. 119.12 "Emergency Motion To Suspend and Stay The Order of the Ohio Department of Health from Which Appellant Appeals" ("motion to stay") filed by the appellant. Upon review of the pleadings, written and oral arguments of counsel, and applicable law, the Court will grant the motion to stay.

In ruling on the appellee's motion, the Court has considered the "unusual hardship" standard set forth by the General Assembly in R.C. 119.12. The Court finds that, based on the nascent record in this case along with the arguments of counsel, "it appears to the [Court] that an unusual hardship to the appellant will result from the execution of the

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[appellee's] order pending determination of the appeal." R.C. 119.12. Thus, the Court will "grant a suspension" of the appellee's order pending a determination of the appeal. *See id.*

The Court will schedule this matter for further hearing for preliminary injunction, and after receiving agreement of the parties will combine that hearing with a trial on the merits, to be conducted on September 4, 2014, at 10:00 a.m. The Court will establish a briefing schedule for this matter upon notification by the parties, on or before Friday, August 15, 2014, as to their choice of whether to have this matter heard in an oral hearing on September 4 or, instead, in a non-oral hearing.

JOURNAL ENTRY

The Court hereby ORDERS that "Emergency Motion To Suspend and Stay The Order of the Ohio Department of Health," filed by the appellant is granted. The Court further ORDERS that this matter is assigned for a hearing to be conducted on September 4, 2014, at 10:00 a.m. The Court further ORDERS that the Court will establish a briefing schedule upon notification by the parties, on or before Friday, August 15, 2014, as to their choice of whether to have this matter heard in an oral hearing on September 4 or, instead, in a non-oral hearing.

8/11/14

M. Duhart
Myron C. Duhart, Judge

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