



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

UHS of ROCKFORD, LLC and  
UHS of DOVER, LLC,

Appellants,

v.

DELAWARE HEALTH  
RESOURCES BOARD and  
SUN BEHAVIORIAL DELAWARE,  
LLC,

Appellees.

C.A. No. 16A-02-005-JAP

ON APPEAL FROM DECISION  
OF THE DELAWARE HEALTH  
RESOURCES BOARD

DATED: January 28, 2016

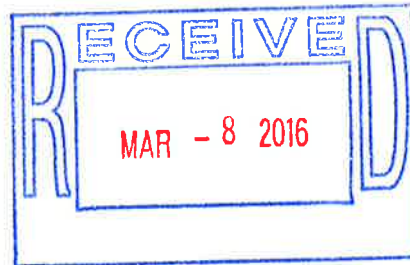
PRAECIPE

To: Sheriff, Kent County

PLEASE SERVE Notice of Appeal upon:

Appellee:

The Delaware Health Resources Board  
Delaware Division of Public Health  
410 Federal Street, Suite 7  
Dover, DE 19901  
Attn: William Love, Chair



2016 MAR - 8 AM 7:56  
SHERIFF'S HANDS  
KENT COUNTY, DEL.

Dated: March 1, 2016

FERRY JOSEPH, P.A.

/s/ Jason C. Powell

JASON C. POWELL, ESQ. (No. 3768)

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UHS of Dover, LLC



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C.A. No. N16A-02-005 JAP

ON APPEAL FROM DECISION  
OF THE DELAWARE HEALTH  
RESOURCES BOARD

DATED: JANUARY 28, 2016

2016 MAR -8 AM 7:51  
SHERIFF'S HANDS  
KENT COUNTY, DEL.

**CITATION ON APPEAL**

TO: Sheriff, Kent County

To cite the Delaware Health Resources Board so that, within 20 days after service thereof upon the Custodian of its records, exclusive of the date of service, Custodian shall send this Court a certificate copy of the record of the proceedings below, including a typewritten copy of the evidence, including, but not limited to transcripts from all the hearings held, including, but not limited to, hearings held on December 17, 2015; November 19, 2015; October 22, 2015; October 15, 2015; September 29, 2015; September 10, 2015; July 23, 2015; and August 27, 2015 (unless all parties having an interest in the outcome of the appeal shall file with the Delaware Health Resources Board, within 10 days from the filing of the Notice of Appeal, a written stipulation that the evidence may be omitted as part of the record,

in which case the stipulation shall be included as part of the record), together with this citation.

Dated: 3/2/16

Sharon Agnew  
Prothonotary  
  
Per Deputy

EFiled: Feb 18 2016 10:40AM  
**SUPERIOR COURT** Transaction ID 58591580  
**CIVIL CASE INFORMATION STATEMENT (CIS)** Case No. N16A-02-005 JAP



COUNTY:

(N)

K

S

CIVIL ACTION NUMBER: \_\_\_\_\_

<b>Caption:</b> UHS of Rockford, LLC and UHS of Dover, LLC, Appellants  v.  Delaware Health Resources Board and SUN Behavioral  Delaware, LLC, Appellees	<b>Civil Case Code:</b> AADM <b>Civil Case Type:</b> Administrative Agency - Delaware Health Resources (SEE REVERSE SIDE FOR CODE AND TYPE) Board <b>Name and Status of Party filing document:</b> UHS of Rockford, LLC and UHS of Dover, LLC, Appellants <b>Document Type: (E.G.; COMPLAINT; ANSWER WITH COUNTERCLAIM)</b> Notice of Appeal  <b>JURY DEMAND:</b> YES _____ No <input checked="" type="checkbox"/>
<b>ATTORNEY NAME(S):</b> Jason C. Powell, Esq. Thomas R. Riggs, Esq. <b>ATTORNEY ID(S):</b> No. 3768 No. 4631 <b>FIRM NAME:</b> Ferry Joseph, P.A. <b>ADDRESS:</b> 824 N. Market Street, Suite 1000, P.O. Box 1351  Wilmington, DE 19899 <b>TELEPHONE NUMBER:</b> (302)575-1555 <b>FAX NUMBER:</b> (302)575-1714 <b>E-MAIL ADDRESS:</b> jpowell@ferryjoseph.com triggs@ferryjoseph.com	<b>IDENTIFY ANY RELATED CASES NOW PENDING IN THE SUPERIOR COURT OR ANY RELATED CASES THAT HAVE BEEN CLOSED IN THIS COURT WITHIN THE LAST TWO YEARS BY CAPTION AND CIVIL ACTION NUMBER INCLUDING JUDGE'S INITIALS:</b> UHS of Rockford, LLC and UHS of Dover, LLC v. Delaware Health Resources Board and SUN Behavioral Delaware, LLC C.A. No. N16A-01-004 (JAP) <b>EXPLAIN THE RELATIONSHIP(S):</b> Appeal of DHRB decisions, also the subject of N16A-01-004 (JAP) and filed by agreement of the parties    <b>OTHER UNUSUAL ISSUES THAT AFFECT CASE MANAGEMENT:</b>    (IF ADDITIONAL SPACE IS NEEDED, PLEASE ATTACH PAGE)
<b>THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER, OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.</b>	



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C.A. No.

ON APPEAL FROM DECISION  
OF THE DELAWARE HEALTH  
RESOURCES BOARD

DATED: JANUARY 28, 2016

**NOTICE OF APPEAL**

To: Prothonotary

The Honorable William Love, Chair  
Delaware Health Resources Board  
Delaware Division of Public Health  
410 Federal Street, Suite 7  
Dover, DE 19901

SUN Behavioral Delaware, LLC  
c/o John E. Tracey, Esquire  
Young Conaway Stargatt & Taylor, LLP  
1000 North King Street  
Wilmington, DE 19801

Latoya Wright  
Delaware Health Care Commission  
Margaret O'Neill Building, 3<sup>rd</sup> Floor  
410 Federal Street, Suite 7  
Dover, DE 19901



Joanna S. Suder, Esquire  
Department of Justice  
Carvel State Office Building  
820 North French Street, 6<sup>th</sup> Floor  
Wilmington, Delaware 19801

PLEASE TAKE NOTICE, pursuant to 16 *Del. C.* § 9305 and Rule 72 of the Delaware Superior Court Civil Rules, that UHS of Rockford, LLC and UHS of Dover, LLC, Appellants (collectively "UHS"), do hereby appeal to the Superior Court of the State of Delaware from the decision of the Delaware Health Resources Board (the "Board") to approve the Certificate of Public Review Application of SUN Behavioral Delaware, LLC, ("SUN") dated November 9, 2015, and the Board's subsequent denial of UHS's Motion for Reconsideration as set forth in the Board's Order dated January 28, 2016.

### **GROUND FOR APPEAL**

1. The Board did not follow the applicable law in reaching its decision to approve the Certificate of Public Review application of SUN for the construction and operation of a new mental health and rehabilitation facility in Sussex County, Delaware and/or in denying UHS's Motion for Reconsideration.

2. The Board did not follow its adopted procedures in reaching its decision to approve the Certificate of Public Review application of SUN and/or in denying UHS's Motion for Reconsideration.



3. The decision of the Board to approve the Certificate of Public Review application of SUN was tainted by the improper actions and inactions of a Board member who also served on the relevant sub-committee.

4. The decision of the Board to approve the Certificate of Public Review application of SUN otherwise failed to reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent" as required by 16 *Del. C.* § 9303(d)(2) and/or failed to consider data and information, or was prevented from considering data and information, needed to carry out its responsibilities as required by 16 *Del. C.* § 9303(d)(3).

5. The decision of the Board to approve the Certificate of Public Review application of SUN, or at least the scope and size of the application of SUN, was otherwise not supported by the relevant review considerations as set forth in 16 *Del. C.* § 9306.

6. The decision of the Board to approve the Certificate of Public Review application of SUN, at least the scope and size of SUN's application, was arbitrary and capricious, clearly wrong and contrary to the Board's requisite processes.



Dated: February 18, 2016

FERRY JOSEPH, P.A.

/s/ Jason C. Powell

JASON C. POWELL, ESQ. (No. 3768)

THOMAS R. RIGGS, ESQ. (No. 4631)

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Attorneys for UHS of Rockford, LLC and

UHS of Dover, LLC