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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	94002351
Party	Applicant Critical Homecare Solutions, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. 77/012,845  
For the mark CHS in International Class 44  
Published in the Official Gazette on August 14, 2007

**CRITICAL HOMECARE SOLUTIONS, INC.,  
Applicant**

v.

**Concurrent Use No. 94002351**

**CATHOLIC HEALTH SERVICES OF LONG ISLAND  
and/or CHS HOME SUPPORT SERVICES,  
User**

**APPLICANT'S PROOF IN SUPPORT OF ENTITLEMENT TO REGISTRATION**

On May 5, 2009, the Trademark Trial and Appeal Board granted concurrent use applicant Critical Homecare Solutions, Inc.'s ("Applicant") motion for default judgment for failure by Catholic Health Services of Long Island (and/or CHS Home Support Services) to answer Applicant's allegations.

In the May 5, 2009, order, the TTAB stated that Applicant may prove its entitlement to registration as against Catholic Health Services of Long Island (and/or CHS Home Support Services) by less formal procedures, such as by the submission of affidavit evidence.

Pursuant to the TTAB's May 5, 2009, Order Applicant hereby attaches as **Exhibit A** proof in support of its entitlement to registration, the affidavit of Nitin Patel, Applicant's Senior Vice President of Operations.

**WHEREFORE**, Applicant asserts that it has proved its entitlement to registration and asks the TTAB to grant the Concurrent Use Registration for the trademark, CHS (U.S. Ser. No. 77/012,845).

By: Christopher M. Parent

Date: June 29, 2009

Christopher M. Parent  
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**Attorneys for Concurrent Use Applicant  
CRITICAL HOMECARE SOLUTIONS, INC.**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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**CATHOLIC HEALTH SERVICES OF LONG ISLAND  
and/or CHS HOME SUPPORT SERVICES,  
User**

**AFFIDAVIT IN SUPPORT OF ENTITLEMENT TO REGISTRATION**

I, Nitin Patel, declare under oath as follows:

1. I currently serve as Senior Vice President of Operations for Critical Homecare Solutions, Inc. ("CHS"), a Delaware corporation with a principal office located at Two Tower Bridge, Suite 150, One Fayette Street, Conshohocken, Pennsylvania 19428.

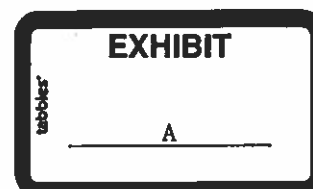
2. I am over eighteen years of age and am fully competent to execute this affidavit.

The statements made herein are based on my personal knowledge.

3. CHS and its subsidiaries offer health care services – both traditional and specialized – in their patients' homes.

4. Through its subsidiaries, CHS operates in a number of states, primarily in the Southeast, Midwest, and Northeast regions of the United States. CHS does not currently operate in New York.

5. Upon information and belief, Catholic Health Services of Long Island and/or CHS Home Support Services (the "User") is an integrated healthcare delivery system, which conducts



business in Long Island, New York. Upon information and belief, the User operates only in Nassau, Suffolk, and Queens counties in the state of New York.

6. CHS does not operate, advertise, or conduct business in Long Island, New York, specifically in the New York counties of Nassau, Suffolk, and Queens (the "New York Counties").

7. The areas where CHS operates and does business are geographically remote from the New York Counties, or any area where CHS is likely to operate.

8. CHS will not conduct business in the New York Counties under the CHS Mark. CHS will also not advertise in local media located within the New York Counties directed to inhabitants of the New York Counties, so long as the User continues to use its mark in connection with home health care services.

9. CHS is not aware of any actual confusion with the User to date. If CHS encounters any actual consumer confusion between its CHS mark and User's trademark, CHS will cooperate reasonably with the User in order to thereafter avoid such confusion.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application for the mark CHS or any resulting registration, declares that he is properly authorized to execute this affidavit on behalf of CHS.

Date: 6-29-09

**CRITICAL HOMECARE SOLUTIONS, INC.**

By: 

Name: Nitin Patel

Title: Senior Vice President of Operations

COMMONWEALTH OF PENNSYLVANIA )  
CITY AND COUNTY OF Montgomery )

ss.

SUBSCRIBED AND SWORN to before me this 29<sup>th</sup> day of June 2009, by Nitin Patel,  
Senior Vice President of Operations for Critical Homecare Solutions, Inc., a Delaware  
corporation.

Dana N. Stancil  
NOTARY PUBLIC

My Commission expires: July 23, 2012

