



Nicole Alexander-Scott MD, MPH
Director

Department of Health
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VIA ELECTRONIC MAIL

December 15, 2017

Cynthia Warren, Esq.
Cameron & Mittleman LLP
301 Promenade Street
Providence, RI 02908

Dear Ms. Warren:

This Decision is pursuant to the requirements of RIGL § 23-17.14 *The Hospital Conversions Act* and RIGL § 23-17 *Health Care Facility Licensing Act of Rhode Island*.

Attached is the *Report of the Health Services Council on the applications of Prime Healthcare Foundation, Inc.; Prime Healthcare Services – Landmark, LLC; and Prime Healthcare Management II, Inc. for the Change in Effective Control of Landmark Medical Center in Woonsocket; and Rehabilitation Hospital of Rhode Island in North Smithfield.*

At its November 28, 2017 meeting, the Health Services Council (“Council”) voted to adopt the Report, as written, which recommends approval of the applications subject to the standard conditions of approval, including those contained in the February 14, 2014 hospital conversions Amended Decision, as well as those conditions outlined in the Rhode Island Attorney General’s letter of November 14, 2017 to be incorporated by reference and be made part of the Council’s decision of approval.

The Rhode Island Department of Health (“RIDOH”) accepts the recommendations of the Council and hereby approves the applications, adopting the attached Report, including the findings incorporated in Section IV and conditions of approval in Section VI, as its final decision in accordance with Section 23-17 of the General Laws of Rhode Island.

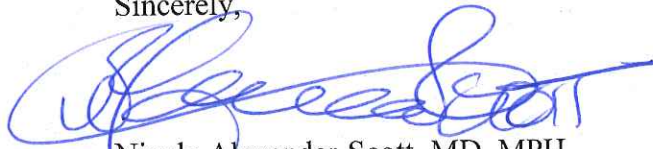
In addition, RIDOH has varied from the recommendations of the Health Services Council by amending conditions to those contained in Section VI of the Report. In accordance with § 23-17-6 of the General Laws of Rhode Island, the conditions of approval shall be those as set forth as attached. The conditions of approval as attached shall supersede those previous conditions of approval contained in the February 14, 2017 hospital conversions Amended Decision.

RIDOH takes notice of the issues regarding the effective date for these applications and transfers of ownership and their implications on the social determinants of health of the communities served by Landmark Medical Center. Accordingly, as provided for in this Decision, these approvals are effective on January 1, 2018. RIDOH does not and shall not recognize any retroactive dating for purposes of implementation and approval of these applications.

Please be advised that these approvals are a pre-condition to licensure. Prior to actual licensure, the applicant must complete the appropriate licensure forms and submit them to the Center for Health Facilities Regulations to initiate final licensure activities.

If you have any questions, please contact Michael Dexter at (401) 222-2788.

Sincerely,



Nicole Alexander-Scott, MD, MPH
Director
Rhode Island Department of Health

Attachments

Final Decision of the Director of the Rhode Island Department of Health

This hospital conversion proposed by the transacting parties, Prime Healthcare Foundation, Inc.; Prime Healthcare Services- Landmark, LLC, and Prime Healthcare Management II, Inc. for Landmark Medical Center ("LMC") and the Rehabilitation Hospital of Rhode Island ("RHRI"), is hereby approved by the Rhode Island Department of Health ("RIDOH"), subject to the terms and conditions outlined below:

General Conditions:

1. The approvals shall be effective on January 1, 2018 ("the effective date of this Decision"). RIDOH does not and shall not recognize any retroactive dating for purposes of implementation and approval of these applications.
2. The transacting parties shall implement the applications, as detailed in the initial application, and as approved by the Director of RIDOH.
3. Prime shall maintain a governing body at Prime Healthcare Services - Landmark, LLC (the licensees) whose membership shall include a minimum of two (2) individuals who are uncompensated, independent and who reside in Rhode Island;

Hospital Operations Conditions:

4. Prime shall keep LMC open and operational, including the complete scope and array of services as existed at the hospital prior to the conversion, for a minimum period of time, which shall be no less than five (5) years from the effective date of this Decision; that Prime may add services (in accordance with Rhode Island statutes and regulations);
5. LMC shall participate in RIDOH's Prescription Drug Monitoring Program (PDMP), ensuring that within one month of the effective date of this Decision all medical doctors, nurse practitioners and physician assistants working in the Emergency Department of LMC shall be enrolled in the PDMP; and ensuring that for every prescription for Schedule II through V the prescriber shall document the findings and decision of that consultation in the patient chart; that all new practitioners to LMC shall be enrolled in the PDMP upon credentialing; and that all existing (non-Emergency Department) practitioners of LMC shall be enrolled in the PDMP upon re-credentialing;
6. LMC shall achieve at least Level 3 certification as outlined in the *Levels of Care for Rhode Island Emergency Departments and Hospitals for Treating Overdose and Opioid Use Disorder* within six (6) months from the effective date of this Decision;
7. LMC shall adopt a transitions-of-care program to prevent unnecessary hospital admissions and re-admissions in accordance with the requirements set forth in Addendum 1 and had been set forth in the February 14, 2014 hospital conversions Amended Decision, herein;
8. LMC and RHRI shall participate in CurrentCare, Rhode Island's Statewide Health Information Exchange, through the following:

- a. Offer enrollment in CurrentCare to all patients seen in ambulatory clinics and physician practices owned by LMC and RHRI, patients seen in the emergency departments, and all patients at time of admission or discharge.
- b. Continue to send or receive any data currently sent or received to or from the state's designated entity for Health Information Exchange, and work with the state's designated entity for Health Information Exchange to expand the quality, scope, and type of data sent or received. LMC and RHRI shall share data for statewide health information exchange purposes, including, but not necessarily limited to data included in CurrentCare. Health information exchange purposes includes exchanging (both sending and receiving) CCDs, ADTs, Labs, Radiology reports, and EKGs as structured data feeds between providers with treating relationships to the patient. If the newly acquired hospital has locations outside of Rhode Island which share the same system as those within Rhode Island, preferably LMC and RHRI will also agree to share these types of data from those locations. LMC and RHRI shall share data from non-Rhode Island sites that is directly related to Rhode Island residents.
- c. Make the CurrentCare data available at all clinical sites (such as ambulatory clinics and physician practices, hospitals, and emergency departments) if at least 25% of the patient population served at the site within the last year is made up of Rhode Island residents. For CurrentCare data to be considered available at the site, CurrentCare data must be made available through bidirectional exchange within the site's Electronic Health Record ("EHR") for any EHR vendor where this is already occurring in Rhode Island and relevant staff must be trained to access this information, alternatively if bidirectional exchange is not already in place with the EHR vendor, at least 75% of relevant clinical staff must be trained and received a username and password to access the CurrentCare Viewer.

Birth Conditions:

9. LMC shall participate in all local (defined as the primary service area) and state-wide coalitions that work to improve prenatal care and to prevent teen pregnancies, including the Rhode Island Alliance and the Rhode Island Statewide Prematurity Task Force;
10. LMC shall maintain a "hard-stop" (as defined by the March of Dimes) for the use of elective Caesarian Sections before 39 weeks;
11. LMC shall obtain Baby Friendly certification within six (6) months from the effective date of this Decision;

CLAS and Health Equity Conditions:

12. In accordance with the federal *National Standards for Culturally and Linguistically Appropriate Services in Health Care (National CLAS Standards)*, published in 2000 by the

Office of Minority Health, U.S. Department of Health & Human Services, and with the current interpreter service policy in Rhode Island, LMC and RHRI shall:

- a. Ensure that a qualified interpreter (for both spoken and sign languages) is present in connection with all services if the appropriate bilingual assistance (including sign language) is not available to translate for every non-English speaker who is a patient or seeks appropriate care and treatment and who is not accompanied or represented by an appropriate qualified interpreter or a qualified sign language interpreter who has attained at least sixteen (16) years of age; and
- b. Post multi-lingual notices in conspicuous places setting forth the requirement in subsection (a) of this section in English and, at a minimum, the three (3) most common foreign languages used within the newly acquired hospital's service areas;

13. Per Section 11.5 (b) of the *Rules and Regulations Pertaining to Hospital Conversions* and in alignment with its *Community Health Needs Assessment (CHNA) Implementation Strategy* LMC shall:

- a. within 90 days of the effective date of this Decision, meet with the collaborative partners of the Woonsocket Health Equity Zone (HEZ) to establish a plan for the investment of financial resources to support the sustainability of the Woonsocket HEZ collaborative;
- b. within 180 days of the effective date of this Decision, submit to RIDOH a written plan for review and approval for the investment of financial resources, in the sum of \$100,000 or more annually, to the Woonsocket HEZ. This plan should include at minimum:
 - i. the total dollar amount to be invested per year;
 - ii. a detailed explanation on how LMC will engage with the HEZ beyond funding;
 - iii. a copy of LMC's existing CHNA and community benefits plan;
 - iv. an analysis that identifies overlaps in LMC's existing CHNA and the HEZ needs assessments/priorities;
 - v. a detailed description on how LMC and its investment plan will address the identified community needs in conjunction with the HEZ;
- c. within 30 days of approval of the investment plan by RIDOH, disperse funding to support the continued sustainability of the HEZ collaborative in Woonsocket in accordance with the approved plan;
- d. submit a report annually to RIDOH on the progress of the collaborative investment in the Woonsocket HEZ;
- e. work with the local HEZ to collaborate on all future versions of LMC's CHNA;

14. Prior to or on the effective date of this Decision and for five (5) successive years, LMC shall submit an implementation plan to RIDOH addressing the following:
- a. The findings of the *RIDOH 2015 Statewide Health Inventory* (and all subsequent editions);
 - b. The delivery of primary care within an integrated health care delivery system for physical (including oral health) and behavioral health (including mental health and substance use) in LMC's service area;
 - c. Activities related to the recommendations of the Rhode Island State Innovation Model, health equity and the *IHI Triple Aim Initiative*, integrated *population health and risk contracting capabilities*, and *participation in population health infrastructure* within Rhode Island, including but not limited to:
 - i. Expansion of Medication Assisted Treatment providers and services to address the overdose epidemic;
 - ii. Participation in interventions to improve the safety of opioid prescribing;
 - iii. Utilization of Certified Community Health Workers and Certified Peer Recovery Specialists within any aspect of the healthcare delivery system or Community Health Teams established in LMC's service area;
 - iv. Expansion of maternal and child health interventions to reduce infant mortality, as well as toxic stress, within maternal fetal medicine, obstetrics, and pediatrics capabilities, as may be applicable to LMC
 - v. Development of relationships with local tribal nations.
 - d. Strategies that support achieving RIDOH's *Integrated Population Health Leading Priorities, Strategies, and Goals*, including but not limited to:
 - i. Addressing social and environmental determinants of health within LMC's community and service area through the *RIDOH Health Equity Zone Initiative (HEZ)*;
 - ii. Reducing and preventing health disparities;
 - iii. Expanding access to care for the community's vulnerable populations;
 - iv. Improving integrated population health outcomes;
 - v. Improving health equity as measured by the *Statewide Health Equity Indicators*, once established;
 - vi. Developing a workforce that reflects the service area's diversity
 - e. Details outlining financial investments to date and going forward in LMC and/or the surrounding Rhode Island community.
15. LMC shall contribute \$100,000, annually in conjunction with the initial and renewed license, to the Health Professional Loan Repayment Program administered by the RIDOH, to pay health professional student loan debt of primary care health providers (as defined by the Federal Bureau of Health Work Force) practicing in the state of Rhode Island;

Fiscal Conditions:

16. Prime shall contribute, annually in conjunction with the initial and renewed license, a sum of \$75,000 to support the state's coordinated health planning process;
17. Prime shall not enter into any contract or other service or purchasing arrangements with an affiliated legal entity except for contracts or arrangements to provide services or products that are reasonably necessary to accomplish the health care purposes of the relevant hospital and for compensation that is consistent with fair market value for the services actually rendered, or the products actually provided;
18. Prime shall not provide any corporate allocation, or equivalent charge, to any affiliated organization(s) in any hospital fiscal year to not exceed reasonable fair market value for the services rendered or the assets purchased or leased from such affiliate;
19. Prime shall report to the Director on annual distributions of revenues to Prime Healthcare Foundation, Inc. and the revenues from Prime Healthcare Foundation, Inc., in a form and substance acceptable to the Director within 30 days of the effective date of this Decision;
20. Prime shall provide complete audited financial statements for Prime Healthcare Services - Landmark, LLC and Prime Healthcare Foundation, Inc. to RIDOH on or before March 1st of each calendar year; RIDOH reserves the right to request more frequent financial information as it deems necessary;

Reporting Conditions:

21. LMC shall offer opt-out adult (as defined by the U.S. Centers for Disease Prevention & Control) HIV testing on all emergency department patients at least once a year and report annually to RIDOH within 30 days of the effective date of this Decision the rate of testing of the prior year;
22. LMC and RHRI shall offer annual seasonal influenza vaccines to 100% of patients at discharge (September through April) and document each said offering in the patient's chart and report annually to RIDOH within 30 days of the effective date of this Decision the rate of vaccination of the prior year;
23. LMC shall adopt evidence-based alcohol-abuse-screening during emergency department visits Screening, Brief Intervention, and Referral to Treatment (SBIRT) for individuals aged fifteen (15) and over and provide annual reports to RIDOH within 30 days of the effective date of this Decision of the number and types of referrals, generated as a result of screening;
24. LMC and RHRI shall provide complete and timely information in response to requests to RIDOH regarding the *RIDOH Statewide Health Inventory*;

25. LMC shall comply with reporting requirements regarding syndromic surveillance as outlined in the *Rules and Regulations Pertaining to the Reporting of Infectious, Environmental and Occupational Diseases*;
26. Prime shall file reports with RIDOH on or before March 1st of each calendar year detailing compliance with these conditions;
27. Prime shall pay for the costs of RIDOH in performing such monitoring, evaluation and assessment in an amount to be determined by the Director as he or she may deem appropriate, which should be placed in escrow for a period of five (5) years;

Addendum 1

Model for Transitions of Care

With respect to the implementation of the provisions regarding EMERGENCY DEPARTMENT VISITS and subsections a. through e. inclusive thereof, and HOSPITAL ADMISSIONS and subsections a. through c. thereof, Landmark Medical Center shall at all times seek and obtain patient consultation, input, and patient consent. Such implementation shall also be executed consistent with applicable federal and state law and regulations.

1. EMERGENCY DEPARTMENT VISITS

- a. **Patients who have primary healthcare providers:** When a patient seeks care from Landmark Medical Center's Emergency Department, the Emergency Department shall identify the patient's primary healthcare provider, and shall make every reasonable effort to contact the patient's primary healthcare provider for a consult before admitting the patient. If the patient is not hospitalized, before discharge, the Emergency Department shall make an appointment for the patient with the patient's primary healthcare provider, to assure appropriate follow-up care. The Emergency Department shall also transmit the patient's Emergency Department record or a copy thereof if paper records are used to the patient's primary healthcare provider.
- b. **Patients who do not have primary healthcare providers:** If the patient does not have a primary healthcare provider, and the patient is not hospitalized, before discharge from the Emergency Department, the Emergency Department shall make an appointment for the patient with a suitable primary healthcare provider within the hospital's catchment area -- taking into consideration the patient's choice, the patient's ability to access the primary healthcare provider geographically and financially -- to assure proper follow-up care. The Emergency Department shall also transmit the patient's Emergency Department record or a copy thereof if paper records are used to the patient's new primary healthcare provider. To facilitate these activities, the Emergency Department shall maintain a list of primary healthcare practices located geographically within the hospital's catchment area, and a list of which practices are accepting new patients. The Emergency Department will keep a count of the times in which an appointment with a suitable primary healthcare provider cannot be made for a patient who does not have a primary healthcare provider, and report this count in writing to the Rhode Island Department of Health (Department of Health) on a quarterly basis.
- c. **Documentation:** The Emergency Department shall document in the patient's Emergency Department record the patient's primary healthcare provider, all attempts to reach him or her, a summary of consults with the primary healthcare provider, and specifics of medical appointments made before discharge. Annually, Landmark Medical Center shall provide the Department of Health with counts of the number of times patients' primary healthcare providers were reached before admitting patients to the hospital from the Emergency Department, and the number of times patients' primary healthcare providers were not so reached.
- d. **The EMS Innovations Project:** Landmark Medical Center will join the Department of Health's EMS Innovations Project, to limit preventable emergency department use.

2. HOSPITAL ADMISSIONS

- a. **Patients who have primary healthcare providers:** When a patient is admitted to an inpatient unit of Landmark Medical Center, before discharge, in order to facilitate an optimal transition-of-care from the inpatient setting to the discharge setting:

- The physician of record shall discuss a patient's transition-of-care needs regarding discharge from the hospital with the patient's primary healthcare provider in person or by telephone. If a primary healthcare provider is not immediately available to discuss a patient's transition-of-care needs, Landmark Medical Center's physician of record shall use the "Direct" e-mail feature of CurrentCare to notify the patient's primary healthcare provider of an impending discharge at least 24 hours prior to discharge, and to leave the physician of record's contact information.
 - Landmark Medical Center shall provide nurse care managers and/or community health teams access to the patient for transitions-of-care planning.
 - Landmark Medical Center shall collaborate with nurse care managers and/or community health teams in the formulation of discharge plans.
 - Landmark Medical Center shall also after consultation with and the consent of the patient make an appointment for the patient with the patient's primary healthcare provider, to assure appropriate followup care. Landmark Medical Center shall also transmit a summary of the patient's inpatient record to the patient's primary healthcare provider.
- b. **Patients who do not have primary healthcare providers:** When a patient is admitted to an inpatient unit of Landmark Medical Center, before discharge, in order to facilitate an optimal transition-of-care from the inpatient setting to the discharge setting:
- Landmark Medical Center shall make an appointment for the patient with a suitable primary healthcare provider within the hospital's catchment area -- taking into consideration the patient's choice and patient's ability to access the primary healthcare provider geographically and financially -- to assure appropriate follow-up care. Landmark Medical Center shall also transmit a summary of the patient's inpatient record or a copy thereof if paper records are used to the patient's new primary healthcare provider. To facilitate these activities, Landmark Medical Center shall maintain a list of primary healthcare practices located geographically within the hospital's catchment area, and a list of which practices are accepting new patients. Landmark Medical Center will keep a count of the times in which an appointment with a suitable primary healthcare provider cannot be made for a patient who does not have a primary healthcare provider, and report this count in writing to the Department of Health on a quarterly basis.
- c. **Documentation:** Landmark Medical Center shall document in the patient's inpatient record the patient's primary healthcare provider, specifics of pre-discharge transition-of-care consultations and collaborative discharge planning, and specifics of medical appointments made before discharge. Annually, Landmark Medical Center shall provide the Department of Health with counts of the number of times patients' primary healthcare providers were reached for discussion before inpatient discharge, and the number of times patients' primary healthcare providers were not so reached.



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

November 14, 2017

Via Electronic and Regular Mail

Michael Dexter, Chief
Center for Health Systems Policy and Regulations
Rhode Island Department of Health
Three Capitol Hill
Providence, RI 02908

Re: Landmark Medical Center and the Rehabilitation Hospital of
Rhode Island (the "Hospitals")

Dear Mr. Dexter:

Thank you for your letter dated November 7, 2017 regarding the Change in Effective Control ("CEC") applications of the Hospitals, currently pending before the Health Services Council ("HSC"). Regarding the transfer of the Hospitals to the nonprofit Prime Healthcare Foundation, Inc. (the "Foundation"), the Department of Attorney General has reached certain agreements with the Foundation and Prime Healthcare Services, Inc. ("PHSI", and collectively, "Prime"), that will be further discussed herein.

First, following the Superior Court filing of the Petition of the Attorney General to Enforce its Hospital Conversions Act Decision and the Asset Purchase Agreement, PHSI and the Attorney General agreed to a Consent Order dated March 24, 2017. Therein PHSI agreed that following CEC approval, and the donation of the Hospitals to the Foundation, the five-year commitments previously made in the Asset Purchase Agreement with the Court-Appointed Special Master (the "APA") and the five-year conditions within the Attorney General's Hospital Conversions Act Decision (the "Decision"), would transfer to the Foundation. Since the transfer of the Hospitals to the Foundation has occurred without CEC approval, the Consent Judgment must be amended to account for responsibility for compliance with those obligations since December 31, 2016.

Michael Dexter, Chief
Center for Health Systems Policy and Regulations
Rhode Island Department of Health
November 14, 2017
Page Two

In addition, Prime has agreed to extend the Retainer Agreement with the Attorney General's monitoring expert, Affiliated Monitors, Inc. (the "Monitors") for an additional two (2) years through January 1, 2019. Accordingly, Prime will continue to report to the Monitors on applicable Decision conditions, and the Monitors will produce reports on compliance for an additional two (2) years, for a total monitoring period of five (5) years. Under this arrangement, Prime will continue to pay monitoring costs.

Concerning charitable assets of the now nonprofit Hospitals, Prime has consented to annual reporting, at a minimum, on any charitable assets, and disbursement of such assets, at Landmark. Prime has represented to the Attorney General that Landmark does not maintain charitable assets and has not received charitable contributions since December 31, 2016. Additionally, in response to CEC questions, Prime has said that the Foundation does not fundraise and does not contemplate a charitable giving program in Rhode Island. However, annual monitoring would enable the Attorney General to be informed if the Foundation changes its position on fundraising or receives contributions for the benefit of Landmark.

Finally, to confirm their commitment to the Hospitals, Prime has agreed to continue to operate Landmark Medical Center as an acute care facility with an open and accessible emergency room for an additional five (5) years following CEC approval. The original five (5) years required by the APA will expire on December 31, 2018, so their renewed commitment extends that five (5) years from the date of CEC approval. Recognizing concerns about dissolution as expressed in your November 7th letter, the Council may want to consider this commitment as a condition of approval.

Regards,



Katie Enright
Assistant Attorney General

KE/dm

REPORT OF THE HEALTH SERVICES COUNCIL
ON THE APPLICATIONS OF
PRIME HEALTHCARE FOUNDATION, INC;
PRIME HEALTHCARE SERVICES – LANDMARK, LLC; AND
PRIME HEALTHCARE MANAGEMENT II, INC.
FOR CHANGE IN EFFECTIVE CONTROL OF
LANDMARK MEDICAL CENTER IN WOONSOCKET; AND
REHABILITATION HOSPITAL OF RHODE ISLAND IN NORTH SMITHFIELD

Health Services Council

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Submitted to the
Health Services Council
to Review and Adopt
November 28, 2017

Adopted by the
Health Services Council
November 28, 2017

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I. SYNOPSIS

The Health Services Council recommends that the applications of Prime Healthcare Foundation, Inc.; Prime Healthcare Services—Landmark, LLC; and Prime Healthcare Management II, Inc. for the Change in Effective Control of Landmark Medical Center, an acute care hospital located at 115 Cass Avenue in Woonsocket; and Rehabilitation Hospital of Rhode Island, a rehabilitation hospital center located at 116 Eddie Dowling Highway in North Smithfield, be approved.

II. PROPOSAL DESCRIPTION

Prime Healthcare Services—Landmark, LLC (“Prime—Landmark”), a Delaware limited liability company, currently owns and operates Landmark Medical Center (“LMC”), an acute care hospital located in Woonsocket, and Rehabilitation Hospital of Rhode Island (“RHRI”), a rehabilitation hospital center located in North Smithfield (LMC and RHRI are collectively referred to as the “Hospitals”). Prime-Landmark’s current parent is Prime Healthcare Services, Inc. (“PHSI”), a California business corporation. PHSI, through Prime-Landmark, acquired LMC and RHRI on December 31, 2013 as approved by the Rhode Island Department of Health and the Rhode Island Attorney General.

The purpose of the applications is for PHSI to donate Prime-Landmark to Prime Healthcare Foundation, Inc. (the “Foundation”), a Delaware non-stock charitable corporation through the December 31, 2016 Membership Interest Transfer, Donation and Conveyance Agreement between Prime Healthcare Services and Prime Foundation (“Donation Agreement”). The Foundation through its subsidiaries operates thirteen (13) nonprofit hospitals. Prime-Landmark will become a subsidiary of the Foundation and will continue to own and operate two Hospitals. As a result of the donation, Prime-Landmark will become a charitable entity and, thus, LMC and RHRI will change from for-profit to not-for-profit entities.

Pre-donation and Post-donation organizational charts depicting the ownership of the Hospitals are attached.

Pursuant to RIGL §23-17.14-5 and §23-17.14-12 “Review process by department of health for conversions involving for-profit hospital as the acquiree”, any Hospital Conversion involving a for-profit hospital as the acquiree and a not-for-profit corporation as the acquiror shall be reviewed by the Department of Health in accordance with the provisions for Change of Effective Control (RIGL §23-17-14.3 and §23-17-14.4).

Prime Healthcare Management II, Inc. (“Prime Management II”), a California corporation, will provide certain centralized services, including legal, risk management, clinical operations support, human resources, purchasing, public relations, finance and accounting to the Hospitals. The Reddy Family Trust is the sole shareholder of Prime Healthcare Management II. (Prime – Landmark, Foundation, and Prime Management II are collectively referred to as the “applicant”.)

The applicant has stated the proposed donation will have no effect on the Hospitals’ operations and Prime-Landmark will operate the Hospitals and continue to offer all services that are currently provided.

As state above, the proposed transaction is a donation. Pursuant to the Donation Agreement there is no financing or capital cost associated with the donation of the Hospitals to the Foundation.

III. INTRODUCTION

Pursuant to the requirements of Chapter 23-17 of the General Laws of Rhode Island entitled "Licensing of Health Care Facilities," the applicant filed applications for the changes in effective control of the subject-licensed facilities. This request is made because the statute requires that the Department of Health shall review all proposed conversions involving a for-profit hospital as the acquiree and either a for-profit corporation or a not-for-profit hospital or corporation as the acquiror in accordance with the provisions for change of effective control. Furthermore, the statute requires that any proposed change in owner, operator or lessee of a licensed health care facility be reviewed by the Health Services Council and approved by the state-licensing agency prior to implementation.

Staff reviewed the applications, found them to be acceptable in form, and notified the applicant and the general public by a notice on the Department's website and e-mail that the reviews would commence on April 15, 2017. The notice also advised that all persons wishing to comment on the applications submit their comments to the state agency by May 15, 2017, when practicable.

Written comment was received from Senator Roger A. Picard of Woonsocket, Cumberland (District 20) in a letter dated May 11, 2017, requesting if the applications are approved to place a condition that requires LMC to keep its tax obligation to the City of Woonsocket. Senator Picard asked that the proposal's impacts on Woonsocket residents' physical and mental health that would result from the loss of city revenue be considered in the decision.

Written comment was received from Deborah Garneau, Maternal and Child Health Director at Rhode Island Department of Health, in a letter dated May 15, 2017. Ms. Garneau strongly encouraged LMC to pursue a Baby Friendly certification and noted that LMC is the only birthing hospital in the state that has not been certified.

The Health Services Council met on May 16, 2017, October 31, 2017, and November 14, 2017 to review this proposals with the applicant in attendance at the meeting. At the November 14, 2017 meeting, the Health Services Council voted seven in favor and none opposed (7-0) to recommend that the applications be approved subject to the standard conditions of approval and to those conditions outlined in the Attorney General's letter of November 14, 2017, to be incorporated by reference and be made part of the Council's decision of approval, the referenced letter is attached.

IV. FINDINGS

Section 23-17-14.3 of the licensing statute requires the Health Services Council to consider specific review criteria in formulating a recommendation for a change in effective control. The Council's comments and findings on each of the criteria follow:

A. The character, competence, commitment, and standing in the community of the proposed owners, operators or directors of the health care facility.

According to the applicant, there will be no changes in clinical operations, staffing, or changes in contracts at the Hospitals due to the proposed donation.

The applicant stated both Hospitals have received full accreditation from the Joint Commission.

Prior to the Hospitals ownership by PHSI, the Hospitals spent five years under Special Mastership. PHSI has operated the Hospitals since January 1, 2014. According to the applicant, since PHSI took over operations of the Hospitals:

- \$4.5 million investment in primary care
- By the end of 5 years, committed to investing \$45 million in equipment and infrastructure (The applicant stated the capital expense from January 1, 2014 to December 31, 2016 is \$27 million. The Attorney General recognizes \$18 million for this period because the AG counts only actual cash spent, not the amounts committed on capital leases. The applicant stated it anticipates a large IT capital expense in 2017 due to the implementation of EPIC and Physician recruitment spending is on track for the \$4.5 million commitment)
- Midwifery – Pulmonary – Ortho - OBGYN
- Increase births from 10 to 40 per month
- Wound Care Center
- Cancer Center
- DaVinci Surgical robot
- InMotion Instant Arm robot (stroke rehab)
- Plans for Level III Trauma Center
- Numerous infrastructure/related improvements

According to the applicant, LMC received an A rating from Leapfrog Hospital Safety Grade for Fall 2017, which was announced October 31, 2017.

A donation timeline provided by the applicant indicated \$75 million in donations from 2005 to 2016 by the Foundation. This included,

- \$40 million to establish California University of Science and Medicine –a non-profit medical school
- \$5 million for medical equipment for Africa and Armenia
- \$5 million for scholarships and new health sciences buildings at Victor Valley Community College
- \$450,000 to establish The Lodge at Lenape Valley Foundation in Bucks County, PA – crisis services for behavioral health patients

Memos received from the Center for Health Facilities Regulation of the Rhode Island Department of Health stated RHRI had no deficiencies and no enforcement actions in past three (3) years.

The CHFR Memo additionally stated, on March 23, 2015 a State complaint investigation survey was conducted and on December 9, 2016 a modified annual state licensure survey and a new complaint investigation survey were conducted at LMC. State deficiencies were cited related to restraints, lack of a safe patient handling program, not signing and dating MD orders (this was recited), not following plan of care, lack of multilingual notification, infection control and not completed discharge forms. LMC's last complaint survey on April 19, 2017 revealed no deficiencies. There are no enforcement actions against LMC in the past three (3) years.

The applicant has stated there has been no convictions and/or criminal offenses, and has identified all citations, violations, investigations, and civil proceedings. Additionally, the

applicant stated there is a pending Department of Justice prosecution against the applicant as described below.

Expert Review

RIDOH engaged an expert with Krokidas & Bluestein LLP to conduct a legal review on the impacts this transaction may have on the Hospitals. At the October 31st meeting of the Health Services Council, the expert presented her analysis and findings based on the materials provided by the applicant through June 2017. The expert stated based on the information available, the proposed transaction appears to have a neutral/ positive impact on the Hospitals' operations. During her presentation, the expert indicated that she still had several unanswered questions on the transaction. At this meeting, the Health Services Council requested that answers to the expert's unanswered questions be addressed by the applicant prior to taking any further action.

A set of supplemental questions dated November 3, 2017 were sent to the applicant in order to address the unanswered questions. Based upon the November 9, 2017 responses to the supplemental questions by the applicant, the expert provided a second presentation to the Health Services Council at the meeting of November 14, 2017. At this meeting, she noted that the applicant did not or did not fully answer some of the questions and some of the responses created conflicts with prior information provided by the applicant. At this meeting, the expert again stated that the proposed transaction appears to have a neutral/positive impact on the Hospitals' operations with the provisos and assumptions of any new or remaining unknown undocumented or unclear information and the exception for unknown and/or unquantifiable risks to the Foundation.

The expert's reports from the October 31, 2017 and the November 14, 2017 meetings are attached.

RIDOH Consent Agreement

On October 30, 2017, RIDOH entered into a Consent Agreement with Prime – Landmark, the Foundation, and PHSI, because the applicant had transferred the Hospitals to the Foundation on December 31, 2017, prior to review and approval by RIDOH and in violation of RIGL 23-17.14 and RIGL 23-17.

Through the Consent Agreement, the applicant agreed to pay a fine in the amount of \$1 million. Of this amount, \$500,000 to be paid to the Rhode Island General Treasurer and \$500,000 to be paid to the City of Woonsocket to be used for one or more public health purposes to benefit the residents of Woonsocket (and the surrounding area) in a manner consistent with one or more of RIDOH's and the State's priorities, i.e. addressing social and environmental determinants of health, eliminating health disparities, and ensuring health care access to vulnerable populations.

The October 30, 2017 Consent Agreement is attached.

City of Woonsocket

According to the applicant, the Woonsocket community is economically disadvantaged, with the median income below the state average and an unemployment rate higher than the state average. The applicant noted LMC has a positive impact on the community, allowing those in the area to receive quality healthcare locally.

Representatives of the City of Woonsocket spoke in opposition to the proposal at the May 16, 2017, the October 31, 2017, and the November 14, 2017 meetings of the Health Services Council due to the approximately \$1.7 million annual loss in property taxes that would result from LMC converting from a for-profit to nonprofit hospital.

At the October 31, 2017 meeting, Lisa Baldelli-Hunt, Woonsocket Mayor stated *"I think that it is important to remember that the taxation that would be lost from this particular hospital going into nonprofit status is very detrimental to the residents of the City of Woonsocket"*. Mayor Baldelli-Hunt also stated, *"I think it is very disingenuous on his part and on the part of the hospital to lead us to believe that they would be doing something for the State of Rhode Island, something for the City of Woonsocket in moving this to a nonprofit, into a profit status and 36 months later having a change of heart. And I know Mr. Souza refers to the benefits that come along with this acquisition. So, all the issues that we are well aware of that when they moved forward with this acquisition. So, all the issues that they present as to why it is so important and it's so, you know, dire that they become a nonprofit, those are all areas that they were very well aware of prior to coming to us and asking us to accept them as the buyer and to move forward in a profit status. So, this is not a revelation that has occurred in the last 36 months. So, they were aware of it. They were aware of it then. They are aware of it now. They baited us then and now they are switching."*

John DeSimone, Esq., Solicitor, City of Woonsocket, added to the Mayor's comments stating *"what I found somewhat disingenuous is the reference since the last meeting, which I think was May of this year, Landmark said that they met with us, and you know, in an attempt -- I think one of the members here asked if you tried to meet with the City. I can tell you I was at that meeting. It was not constructive. There was no offers made."* Mr. DeSimone also brought forth concerns regarding the applicant's character as it relates to the October 30th Consent Agreement between the applicant and RIDOH.

In the applicants November 9, 2017 response to the supplemental questions, the applicant stated: *Dr. Reddy did not engage in a "bait and switch". Five years ago, Dr. Reddy promised to save the RI Hospitals and he did. PHSI, Prime Healthcare's for-profit parent, acquired the RI Hospitals because it, rather than Prime Foundation, had the capital to invest.*

At the November 14th Health Services Council meeting the applicant stated, *"Mike [Souza] has tried to explain how much we really do want to work with the City of Woonsocket. We have been very, very supportive over the past four years, and we have tried to negotiate with the Mayor to come up with some kind of a reasonable payment. What we think is -- it is just the discussions aren't productive because, at this time, the Mayor just wasn't willing, until the application is approved, she is just not willing to compromise."*

In regard to the current property taxes paid by the applicant, at the November 14th meeting Mayor Badelli-Hunt stated *"I believe we stated the last time that they were current with their taxes."*

Department of Justice Prosecution

At the October 31st meeting, Mr. DeSimone, City of Woonsocket City Solicitor, referenced the Department of Justice Case and stated: *"I would refer you to the United States District Court for the Central District of California, Western Division, that court case, which is CV1108214PJW. It's the Department of Justice case against Prime. And actually, in the summary of the action, it pretty much spells out what I think they are doing here. Their business model is to buy distressed hospitals and make them profitable, which is good, but defendants engaged in a systematic practice of maximizing revenues by, among other things, inducing physicians who work at Prime hospitals to increase the number of inpatient care admissions of Medicare beneficiaries who visit the emergency department at a Prime hospital without regard to whether an in-patient admission is medically necessary. The reason why you do that is when you get someone to get into that type of care you get four times the reimbursement. So, the United States Department of Justice filed this complaint against them and like 13 of their hospitals. Some of them are nonprofits."*

The applicant stated there is currently a pending case in the US District Court for the Central District of California. The United States alleges various Prime Healthcare hospitals in California improperly admitted Medicare patients rather than providing outpatient care in an observation setting. Separately, there are allegations that the same Prime Healthcare hospitals in California improperly up-coded Medicare claims in an effort to boost reimbursement. Prime Healthcare denies allegations and is vigorously defending the case. The case is currently in the discovery phase with a trial date set for November 26, 2018.

Additional Public Comments

At the October 31st and November 14th Health Services Council meetings, public comment in opposition to the applications was made by Elizabeth Ward, member of the general public. Ms. Ward referenced the DOJ case pending against the applicant and other concerns she had regarding the applicant's character. Ms. Ward further addressed concerns regarding the applicant's character as it relates to the Consent Agreement entered into between the applicant and RIDOH.

Findings of the Council

At the November 14th meeting, the Council voted seven in favor and none opposed to recommend approval of the applications. A member of the Council stated, *"I think if we look at, you know, the overall bottom line impact of the outside evaluation, it does positively impact the hospital's condition with regard to other, you know, obviously, financially, which is quite challenging in today's environment for hospitals, so I move approval."*

A second member of the Council stated, *"I'm going to vote yes, but I'm just going to say I'm doing it based on applying a totality of the evidence, so our requisite review criteria."*

There was a lot here from both sides and from the public, and I think, if we look at the four corners of what our requisite review criteria is, regardless of how we feel, legally, I think we are bound and I vote on it."

Finding: The Council finds that the applicant satisfies this criterion at the time, place and circumstances as proposed.

B. The extent to which the facility will provide, without material effect on its viability, safe and adequate treatment for those individuals receiving the facility's services.

According to the applicant, the Hospitals' names and operations will not change as a result of the shift to non-profit status. This transaction is a donation. There is no financing or capital cost associated with the donation of LMC and RHRI to the Foundation.

According to the applicant they will have access to ample funds for capital and operating needs. Because of the centralized services that will be offered by Prime Healthcare Management II, it will have a great economic and operational benefit. Also, the applicant will be able to save costs because of the leveraged purchasing power of Prime Healthcare.

The following revenues and expenses were recorded at the Hospitals for FY 2014, 2015, 2016 and 2017:

Landmark Medical Center				
	FY 2014	FY 2015	FY 2016	FY 2017 Projected
Total Revenues	\$117,161,722	\$122,882,888	\$121,928,441	\$125,684,439
Total Expenses	\$112,302,296	\$124,224,083	\$122,216,264	\$123,562,558
Operating Profit	\$4,859,426	\$(1,341,195)	\$(287,823)	\$2,121,881

Rehabilitation Hospital of Rhode Island				
	FY 2014	FY 2015	FY 2016	FY 2017 Projected
Total Revenues	\$8,665,781	\$9,712,947	\$8,749,869	\$9,290,907
Total Expenses	\$9,247,579	\$9,334,254	\$9,487,881	\$9,292,685
Operating Profit	\$(581,798)	\$378,693	\$(738,013)	\$(1,778)

According to the applicant, the Prime Healthcare System does not have any formal budgets, whether operating or capital. It makes financial decisions as decisions are required. Expenses are managed through a daily dashboard that displays information including: census, FTE's per occupied bed, length of stay, and Emergency Room visits among other metrics. According to the applicant, CMS has no issues with Prime Healthcare's budgeting and strategic planning process shared with local management (board) and Manger review daily operations (statistics,

revenues, expenses) on a daily, monthly and annual basis through the use of dashboards (“a living budget”) to include current month, previous month and same month last year, along with trend reports to see each month over a long period of time.

The applicant further stated, if the applications are approved, Prime – Landmark, will use the December 31, 2016 effective date. If CMS inquires about this date, Prime – Landmark stated it will explain that it delayed notice, pending approval from RIDOH. Prime – Landmark further stated it will file a Change in Information, notifying Medicare of the change in membership of Prime – Landmark. Prime – Landmark will provide similar notice to the State.

According to the applicant, on a consolidated basis, LMC and RHRI are taking steps to increase productivity at new practices. The availability of the Loan Repayment Program for nonprofits allows eligible professionals, including doctors, nurse-midwives, nurse practitioners, nurses and pharmacists, among others, to participate in the program. To qualify, the professional has to work in a public or non-profit health care facility located in a Health Provider Shortage Area (HPSA) on an outpatient basis. Woonsocket is a HPSA for dental care, primary care and mental health. LMC clinicians may be the beneficiaries of the program, to repay professional school loans in exchange for up to six (6) years of outpatient care in a HPSA. The applicant stated possible recruits will allow Landmark to make better choices about the physicians that it engages.

The applicant stated participation in the 340(b) drug discount program could produce savings of about \$890,000 annually. However at the November 14th meeting the expert noted *“I do want to note that one of the main items that they have pointed to are the 340 -- the additional revenues that would come from the 340(b) program in terms of pharmacy discounts. That is really under attack right now in Washington. So, there's a possibility that the 340(b), the benefits that are being expected will be greatly diminished.”*

Finding: The Council finds that the applicants satisfy this criterion at the time, place and circumstances as proposed.

- C. The extent to which the facility will provide safe and adequate treatment for individuals receiving the health care facility's services.

See (A) above.

Finding: The Council finds that the applicant satisfies this criterion at the time, place and circumstances as proposed.

D. The extent to which the facility will provide appropriate access to traditionally under-served populations.

The following payor mix were recorded at the Hospitals for FY 2014, 2015, 2016 and 2017:

Landmark Medical Center				
	2014	2015	2016	2017
Medicare	50%	51%	50%	51%
Medicaid	23%	23%	24%	22%
Blue Cross	11%	11%	11%	11%
Commercial	4%	4%	5%	4%
HMO's	2%	2%	2%	2%
Self-Pay	2%	2%	3%	3%
Other:	8%	7%	5%	7%
Total	100%	100%	100%	100%

Rehabilitation Hospital of Rhode Island				
	2014	2015	2016	2017
Medicare	60%	54%	53%	58%
Medicaid	13%	14%	15%	13%
Blue Cross	11%	13%	13%	12%
Commercial	4%	3%	5%	4%
HMO's	1%	2%	2%	2%
Self-Pay	0%	0%	0%	0%
Other	11%	14%	12%	11%
Total	100%	100%	100%	100%

According to the applicant, they are committed to supporting underserved populations and, since PHSI acquired LMC, that tradition remains unchanged. They do not discriminate on the basis of a patient's ability to pay.

According to the applicant, the Foundation and PHSI Hospitals have contributed \$4.6 Billion in free care from 2010 through December 2016. The applicant stated LMC provided charity care from 2013 to October 2016 as follows:

Charity Care at LMC	
2013	\$4,618,643
2014	\$2,251,000
2015	\$1,840,228
2016	\$2,139,000

The applicant plans to continue using their charity care policies already in place.

Finding: The Council finds that, based on the evidence presented and representations made by the applicant, the applicant satisfies this criterion at the time, place and circumstances as proposed.

V. RECOMMENDATION

After considering each of the review criteria as required by statute and the representations made by the applicant, the Health Services Council recommends that this request for the changes in effective control be approved.

Approval and implementation of the applications will result in the termination of the existing hospital license to Landmark Medical Center and the existing rehabilitation hospital center license to Rehabilitation Hospital of Rhode Island and the issuance of a new hospital license to Landmark Medical Center and a new rehabilitation hospital center license to Rehabilitation Hospital of Rhode Island with the Foundation as the sole member of Prime Healthcare Services – Landmark, LLC.

VI. CONDITIONS OF APPROVAL

The Council recommends that approval of the instant applications shall be subject to the following conditions:

1. that the applications be implemented as approved;
2. that the applicant shall abide by those conditions outlined in the Attorney General's letter of November 14, 2017, to be incorporated by reference and be made part of the Council's decision of approval (the referenced letter is attached);
3. that the applicant shall comply with those previous Conditions of Approval as contained in the February 17, 2014 Amended Decision With Conditions;
4. that the facilities maintain an accreditation from a nationally recognized accrediting agency within two years of licensure;
5. that the applicant shall conduct national background checks on its employees; and
6. that data, including but not limited to, finances, utilization and demographic patient information, be furnished to the state agency, upon request.



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

November 14, 2017

Via Electronic and Regular Mail

Michael Dexter, Chief
Center for Health Systems Policy and Regulations
Rhode Island Department of Health
Three Capitol Hill
Providence, RI 02908

Re: Landmark Medical Center and the Rehabilitation Hospital of
Rhode Island (the "Hospitals")

Dear Mr. Dexter:

Thank you for your letter dated November 7, 2017 regarding the Change in Effective Control ("CEC") applications of the Hospitals, currently pending before the Health Services Council ("HSC"). Regarding the transfer of the Hospitals to the nonprofit Prime Healthcare Foundation, Inc. (the "Foundation"), the Department of Attorney General has reached certain agreements with the Foundation and Prime Healthcare Services, Inc. ("PHSP", and collectively, "Prime"), that will be further discussed herein.

First, following the Superior Court filing of the Petition of the Attorney General to Enforce its Hospital Conversions Act Decision and the Asset Purchase Agreement, PHSI and the Attorney General agreed to a Consent Order dated March 24, 2017. Therein PHSI agreed that following CEC approval, and the donation of the Hospitals to the Foundation, the five-year commitments previously made in the Asset Purchase Agreement with the Court-Appointed Special Master (the "APA") and the five-year conditions within the Attorney General's Hospital Conversions Act Decision (the "Decision"), would transfer to the Foundation. Since the transfer of the Hospitals to the Foundation has occurred without CEC approval, the Consent Judgment must be amended to account for responsibility for compliance with those obligations since December 31, 2016.

Michael Dexter, Chief
Center for Health Systems Policy and Regulations
Rhode Island Department of Health
November 14, 2017
Page Two

In addition, Prime has agreed to extend the Retainer Agreement with the Attorney General's monitoring expert, Affiliated Monitors, Inc. (the "Monitors") for an additional two (2) years through January 1, 2019. Accordingly, Prime will continue to report to the Monitors on applicable Decision conditions, and the Monitors will produce reports on compliance for an additional two (2) years, for a total monitoring period of five (5) years. Under this arrangement, Prime will continue to pay monitoring costs.

Concerning charitable assets of the now nonprofit Hospitals, Prime has consented to annual reporting, at a minimum, on any charitable assets, and disbursement of such assets, at Landmark. Prime has represented to the Attorney General that Landmark does not maintain charitable assets and has not received charitable contributions since December 31, 2016. Additionally, in response to CEC questions, Prime has said that the Foundation does not fundraise and does not contemplate a charitable giving program in Rhode Island. However, annual monitoring would enable the Attorney General to be informed if the Foundation changes its position on fundraising or receives contributions for the benefit of Landmark.

Finally, to confirm their commitment to the Hospitals, Prime has agreed to continue to operate Landmark Medical Center as an acute care facility with an open and accessible emergency room for an additional five (5) years following CEC approval. The original five (5) years required by the APA will expire on December 31, 2018, so their renewed commitment extends that five (5) years from the date of CEC approval. Recognizing concerns about dissolution as expressed in your November 7th letter, the Council may want to consider this commitment as a condition of approval.

Regards,



Katie Enright
Assistant Attorney General

KE/dm



Department of Health
Three Capitol Hill
Providence, RI 02908-5097
TTY: 711
www.health.ri.gov

VIA ELECTRONIC MAIL

November 7, 2017

Kathryn Enright, Esq.
Assistant Attorney General
Department of Attorney General
150 South Main Street
Providence, RI 02903

Dear Attorney Enright,

As you are aware, Prime Healthcare Services, Inc. ("Prime") appeared before the Health Services Council on Tuesday, October 31, 2017 to present their hospital conversions applications for the Changes in Effective Control of Landmark Medical Center and the Rehabilitation Hospital of Rhode Island (collectively, the "Hospitals"). The request is for Prime to receive formal approval from the Rhode Island Department of Health ("RIDOH") to donate the Hospitals to Prime Healthcare Foundation, Inc. (the "Foundation"), thus converting the Hospitals from for-profit to not-for-profit entities.

During this meeting, an expert engaged by RIDOH delivered a presentation on the possible impacts of the proposed donation. The expert's presentation indicated that upon dissolution, the Hospitals' assets will go to the Foundation and that donations made to the Hospitals are treated as if made to a branch or division of the Foundation. Based in part on these findings of the expert, members of Health Services Council had questions regarding the possible effects this transfer may have on the Hospitals, including:

1. Should the application be approved, if there is dissolution under the Foundation where do the assets go? How is the Rhode Island Attorney General involved, if at all?
2. Is it appropriate and/or permissible for donations made to the Hospitals to be swept up into the Foundation?

At this point, Prime is scheduled to appear again before the Health Services Council on November 14, 2017.

If you have any questions please contact (401) 222-2788.

Sincerely,

Michael K. Dexter
Chief
Center for Health Systems Policy and Regulations

STATE OF RHODE ISLAND
DEPARTMENT OF HEALTH

CONSENT AGREEMENT

WHEREAS, this matter is before the Rhode Island Department of Health ("RIDOH"), pursuant to the authority conferred upon the Director of Health (the "Director") under the provisions of R.I. General Laws § 23-17 and § 23-17.14, R23-17.14-HCA, the *Rules and Regulations Pertaining to Hospital Conversions* ("HCA Regulations"), R23-17-HOSP, the *Rules and Regulations for Licensing of Hospitals*, and R23-17-REHAB, the *Rules and Regulations for Licensing of Rehabilitation Hospital Centers*; and

WHEREAS, Section 1.10 of the HCA Regulations defines a Conversion as "any transfer by a person or persons of an ownership or membership interest or authority in a hospital, or the assets thereof, whether by purchase, merger, consolidation, lease, gift, joint venture, sale, or other disposition which results in a change of ownership or control or possession of twenty percent (20%) or greater of the members or voting rights or interests of the hospital or of the assets of the hospital or pursuant to which, by virtue of such transfer, a person, together with all persons affiliated with such person, holds or owns, in the aggregate, twenty percent (20%) or greater of the membership or voting rights or interests of the hospital or of the assets of the hospital, or the removal, addition or substitution of a partner which results in a new partner gaining or acquiring a controlling interest in the hospital, or any change in membership which results in a new person gaining or acquiring a controlling vote in the hospital"; and

WHEREAS, pursuant to RIGL § 23-17.14-5 and Section 2.0 of the HCA Regulations, any hospital conversion shall require prior review and approval from RIDOH in accordance with the provisions of Chapter 23-17.14 of the Rhode Island General Laws, as amended, and the HCA Regulations; and

WHEREAS, pursuant to Section 6.1 Review of Other Conversions of the HCA Regulations, RIDOH shall review all proposed conversions involving a for-profit hospital as the acquiree and a not-for-profit corporation as the acquiror in accordance with the provisions for change of effective control pursuant to sections 23-17-14.3 and 23-17-14.4 of the Rhode Island General Laws, as amended; and

WHEREAS, pursuant to RIGL § 23-17-6, a license issued under the provisions of this section shall be the property of the state and loaned to the licensee and each license shall be issued only for the premises and persons named in the application, and shall not be transferable or assignable except with the written approval of the licensing agency; and

WHEREAS, pursuant to RIGL § 23-17-6, any change in owner, operator, or lessee of a licensed health care facility, shall require prior review by the Health Services Council and approval of the licensing agency as a condition precedent to the transfer, assignment, or issuance of a new license; and

WHEREAS, pursuant to RIGL § 23-17-14.3, in conducting reviews of the application for a license in the case of a proposed change in the owner, operator, or lessee of any licensed health care facility, the Health Services Council shall specifically consider:

(1) The character, commitment, competence, and standing in the community of the proposed owners, operators, or directors of the health care facility;

(2) In cases of initial licensure or of proposed change in owner, operator, or lessee, the extent to which the facility will provide or will continue to provide, without material effect on its viability at the time of initial licensure or of change of owner, operator, or lessee, safe and adequate treatment for individuals receiving the health care facility's services;

(3) The extent to which the facility will provide or will continue to provide safe and adequate treatment for individuals receiving the health care facility's services; and

(4) The extent to which the facility will provide or will continue to provide appropriate access with respect to traditionally underserved populations and in consideration of the proposed continuation or termination of health care services by the health care facility; and

WHEREAS, pursuant to RIGL § 23-17.14-30, if any person knowingly violates or fails to comply with any provision of the Hospital Conversion Act or willingly or knowingly gives false or incorrect information:

(1) The director or attorney general may, after notice and opportunity for a prompt and fair hearing to the applicant or licensee, deny, suspend, or revoke a license, or in lieu of suspension or revocation of the license, may order the licensee to admit no additional persons to the facility, to provide health services to no additional persons through the facility, or to take corrective action necessary to secure compliance under this chapter; or

(2) The superior court, after notice and opportunity for a prompt and fair hearing, may impose a fine of not more than one million dollars (\$1,000,000) or impose a prison term of not more than five (5) years; and

WHEREAS, pursuant to RIGL § 23-17-17, any person establishing, conducting, managing, or operating any health care facility without a license shall be fined not more than five thousand (\$5,000) or imprisoned not more than one year or both, in the discretion of the court, for each offense, which RIDOH's approved practice is to consider each day as an offense; and

WHEREAS, Prime Healthcare Services – Landmark, LLC ("Prime-Landmark"), a Delaware limited liability company, is the sole owner and operator of Landmark Medical Center ("LMC"), an acute care hospital located at 115 Cass Avenue in Woonsocket with a Hospital License granted by

RIDOH, HOS0013 and Rehabilitation Hospital of Rhode Island ("RHRI"), a rehabilitation hospital center located at 116 Eddie Dowling Highway, North Smithfield, with a Rehabilitation Hospital Center License granted by RIDOH, RHC02103 ("collectively, the "Hospitals"); and

WHEREAS, Prime Healthcare Foundation, Inc. ("Prime Foundation") is a Delaware non-stock charitable corporation; and

WHEREAS, Prime Healthcare Management II, Inc. ("Prime Management II") is a California corporation and a wholly owned subsidiary of The Reddy Family Trust; and

WHEREAS, Prime Healthcare Services, Inc. ("Prime Healthcare Services") is a California business corporation and a wholly owned subsidiary of Prime Healthcare Holdings, Inc., itself a subsidiary of KASP Trust No. 1, KASP Trust No. 2, and KASP Trust No. 3, each with 1/3 ownership interest respectively; and

WHEREAS, On December 31, 2016, Prime Foundation, Prime Management II, Prime-Landmark, and Prime Healthcare Services (collectively referred to as "Prime"), submitted the Applications to RIDOH for processing as Change in Effective Control applications, as required under the Hospital Conversion Act and HCA Regulations ("Pending Applications"); and

WHEREAS, the purpose of the Pending Applications is for Prime Healthcare Services to seek approval from RIDOH to donate Prime-Landmark to Prime Foundation, and thus, Prime-Landmark would change from a for-profit entity to a subsidiary of Prime Foundation and a charitable entity (the "Transaction") through the Membership Interest Transfer, Donation and Conveyance Agreement between Prime Healthcare Services and Prime Foundation on December 31, 2016 ("Agreement"); and

WHEREAS, on January 3, 2017, RIDOH requested and, on January 5, 2017, Prime provided confirmation that the Transaction had not yet taken place and represented a "possible retroactive transaction" for IRS tax purposes dependent upon RIDOH approval; and

WHEREAS, on February 14, 2017, RIDOH issued written deficiencies in respect to the initial submission of the Pending Applications and on March 17, 2017 Prime replied to the deficiencies with a resubmission of the Pending Applications; and

WHEREAS, on March 28, 2017, in response to the March 17, 2017 resubmission, RIDOH issued a second set of written deficiencies via email to Prime and on April 11, 2017, Prime replied to the second set of deficiencies with a resubmission of the Pending Applications; and

WHEREAS, upon review of the April 11, 2017 resubmission and in reliance of Prime's representation in the January 5, 2017 email that the Transaction had not yet occurred, RIDOH determined the Pending Applications were acceptable in form and the formal review initiated on April 15, 2017; and

WHEREAS, on April 25, 2017, pursuant to RIGL 23-17.14-13, in order to effectuate the purposes of the Hospital Conversion Act, RIDOH engaged an expert; and

WHEREAS, on May 16, 2017, Prime appeared before the Health Services Council to provide an initial presentation of the Pending Applications; and

WHEREAS, on May 23, 2017, RIDOH sent supplemental questions to Prime based on the expert's review with respect to the Transaction, Applications and Prime's presentation before the Council, with a response deadline of June 6, 2017; and

WHEREAS, on June 6, 2017, Prime requested an extension to respond to the May 23, 2017 supplemental questions; and

WHEREAS, on June 13, 2017, RIDOH received Prime's responses to the May 23, 2017 supplemental questions which raised questions as to whether the Transaction had already occurred on December 31, 2016; and

WHEREAS, as a result of those responses, on June 29, 2017, RIDOH advised Prime that it questioned whether the Transaction and, therefore, the change in effective control and conversion of Prime-Landmark and the Hospitals had occurred prior to Prime obtaining approval of the Pending Applications from RIDOH and suspended review of the Pending Applications; and

WHEREAS, on July 7, 2017, a meeting was held between representatives of Prime and representatives of RIDOH, at which Prime represented that the Transaction had not yet occurred. In response RIDOH requested Prime provide a detailed letter of how each of the documents contained in the record is consistent with Prime's position that the Transaction has not yet occurred and will not occur until RIDOH approval is received, as well as, individual statements signed and notarized by each of the members of the Board of Directors of Prime Healthcare Services and Board of Directors of Prime Foundation affirming that the December 8, 2016 Unanimous Consents of the respective Boards did not reflect that, in fact, the donation occurred on December 31, 2016; and

WHEREAS, on July 13, 2017, Prime Foundation submitted a letter to RIDOH and, on July 14, 2017 and July 25, 2017, Prime Healthcare Services submitted letters to RIDOH, all letters stating there had been no change to the operations of Prime-Landmark. Furthermore, Prime's July 25, 2017 letter recognized that RIDOH approval is required prior to operating LMC and RHRI as non-profit hospitals; and

WHEREAS, upon review of the July 13, 2017, July 14, 2017 and July 25, 2017 letters, RIDOH found the letters did not provide sufficient clarity to resolve the status of the Transaction, and thus on August 2, 2017, RIDOH sent a letter to Prime that identified with specificity each document

that was in the record that was referred to in general at the July 7, 2017 meeting and that Prime needed to reconcile with its position that the Transaction had not yet occurred and would not occur until RIDOH approval is received, as well as, the following documents: Governing Board Minutes of the LMC meeting of April 20, 2017; Governing Board Minutes of the RHRI meeting of April 20, 2017; Governing Board Agendas for the July 2017 quarterly meetings of LMC and RHRI; agendas, minutes and resolutions of all meetings of Prime Healthcare Services and Prime Foundation that were held in 2017 to date; and audited financial statements of Prime Healthcare Services for 2016; and

WHEREAS, during the July and August 2017 communications, the 2016 audited financials for the Prime Foundation ("Prime Foundation Financials") became available. Prime provided the Prime Foundation Financials to RIDOH which showed the transfer of the Hospitals to the Foundation occurred in December 2016; and

WHEREAS, Prime did not provide a written response to RIDOH's August 2, 2017 letter and on August 25, 2017, a meeting was held between representatives of Prime and representatives of RIDOH, during which Prime acknowledged the closing of the Transaction contemplated by the Agreement had actually occurred on December 31, 2016, thereby triggering the change in effective control of Prime-Landmark, prior to review and approval by RIDOH and, thus, they could not provide a response to the August 2, 2017 letter; and

WHEREAS, on September 8, 2017, a telephone conference was held between representatives of Prime and RIDOH; and

WHEREAS, Prime herein confirms that the Transaction occurred on December 31, 2016 and thus Prime-Landmark became a wholly owned subsidiary of Prime Foundation on December 31, 2016; and

WHEREAS, throughout these proceedings Prime has represented that, despite that the Transaction occurred on December 31, 2016, Prime has not changed any operations at LMC and RHRI; and

WHEREAS, the occurrence of the Transaction prior to review and approval by RIDOH is a violation of RIGL § 23-17.14-5, RIGL § 23-17-4, and RIGL § 23-17-6; and

WHEREAS, pursuant to RIGL § 23-17.14-30, Prime's violation of RIGL § 23-17.14-5 regarding the HCA Application of Landmark Medical Center allows a fine of up to one million dollars (\$1,000,000); and

WHEREAS, pursuant to RIGL § 23-17.14-30, Prime's violation of RIGL § 23-17.14-5 regarding the HCA Application of Rehabilitation Hospital of Rhode Island allows a fine of up to one million dollars (\$1,000,000); and

WHEREAS, pursuant to RIGL § 23-17-17, Prime's violation of RIGL § 23-17-4 and RIGL § 23-17-6 by Prime regarding the Hospital License of Landmark Medical Center is subject to a fine of not more than five thousand dollars (\$5,000) per day for a total of 300 days, as of October 27, 2017, for a total possible fine of approximately one million five hundred thousand dollars (\$1,500,000); and

WHEREAS, pursuant to RIGL § 23-17-17, Prime's violation of RIGL § 23-17-4 and RIGL § 23-17-6 by Prime regarding the Hospital License of Rehabilitation Hospital of Rhode Island is subject to a fine not more than five thousand dollars (\$5,000) per day for a total of 300 days, as of October 27, 2017, for a total possible fine of approximately one million five hundred thousand dollars (\$1,500,000); and

WHEREAS, pursuant to RIGL § 23-17.14-30 and RIGL § 23-17-17, Prime's violations of RIGL § 23-17.14-5, RIGL § 23-17-4, and RIGL § 23-17-6 for the Hospital Licenses of LMC and RHRI allow a total possible fine of five million dollars (\$5,000,000).

NOW, THEREFORE, to avoid disruption of the care to Rhode Island residents receiving services, RIDOH has agreed to maintain in full force and effect the Hospital Licenses of LMC and RHRI from the date hereof through completion of the Application review and approval process, subject to both Hospitals otherwise remaining in full compliance with Rhode Island state law and regulations. Furthermore, in consideration of the contribution that Prime has made to Woonsocket and the State of Rhode Island by acquiring the Hospitals, both as to the positive economic impact and, as evidenced by statements submitted by the Rhode Island Department of Health Center for Health Facilities Regulation at the May 13, 2017 Health Services Council meeting, Prime's operation of the Hospitals in accordance with the standards of care and in compliance with all applicable licensing regulations and in consideration of the mutual promises contained in this Agreement, and for other good and value consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Prime shall pay a fine in the amount of one million dollars (\$1,000,000). Of the total fine, Prime shall pay five hundred thousand dollars (\$500,000), payable to the Rhode Island General Treasurer, within a reasonable period of time, but no later than (3) weeks from the execution of this agreement. Of the total fine, Prime shall pay five hundred thousand dollars (\$500,000), payable to the City of Woonsocket, within a reasonable period of time, but no later than three (3) weeks from the execution of this Consent Agreement, to be used for one or more public health purposes to benefit the residents of Woonsocket (and the surrounding area) in a manner consistent with one or more of

RIDOH's and the State's priorities, i.e., addressing social and environmental determinants of health, eliminating health disparities, and ensuring health care access to vulnerable populations.

2. Prime, pursuant to RIGL § 23-17.14-28 (d), shall comply with Conditions 20 and 21 of the February 17, 2014 Amended Decision With Conditions of the Hospital Conversion Application of Prime through a report by an Independent Third Party to be determined by RIDOH. The entire cost of the report shall be borne by Prime through an Escrow Agreement with an escrow amount to be determined by RIDOH. Prime shall fully cooperate with all requests for information by the Independent Third Party.

3. Prime shall continue to seek review and approval by the Health Services Council and approval by RIDOH for the Pending Applications. RIDOH will make its best efforts to provide the expert's report to Prime by October 26, 2017, the expert having stated to RIDOH that she can produce a report with the information provided. The Health Services Council will hear the Pending Applications during the next regularly scheduled meeting. RIDOH and Prime will take all reasonable steps necessary to complete the Application approval process in a timely fashion.

4. In the event Prime does not receive approval for the Pending Applications after review by the Health Services Council and decision by RIDOH, then Prime will implement a reversal of the Transaction and thus Prime-Landmark will revert from a subsidiary of Prime Foundation and a charitable entity to a subsidiary of Prime Healthcare Services and a for-profit entity within thirty (30) days after all appeal rights are satisfied.

5. This Agreement will terminate automatically and immediately, without any further action on the part of the parties, upon the parties' performance of their respective obligations as set forth herein.

6. Entire Agreement, Amendments and Waivers. This Agreement contains the entire agreement (including representations, warranties and covenants) among the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations, discussions, arrangements or understandings with respect thereto. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by each of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

7. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein, is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable portion were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the fullest extent permitted by law.

8. Notices. Except as may otherwise expressly be provided herein, any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served, given or delivered upon the earlier of (a) personal delivery to the addresses set forth below, (b) in the case of facsimile transmission, immediately upon confirmation of completion of transmission, (c) in the case of mailed notice, seven (7) days after deposit in the mail, with proper postage for registered or certified mail, return receipt requested, prepaid, or (d) in the case of notice

by Federal Express or other reputable overnight courier service, two (2) business days after delivery
to such courier service, addressed to the party to be notified as follows:

If to: **Prime Healthcare Foundation, Inc./ Prime Healthcare Services, Inc.**

Prem Reddy, MD
President
Prime Healthcare Foundation, Inc./ Prime Healthcare Services, Inc.
3300 E. Guasti Rd.
Ontario, CA 91761

Michael Souza
Chief Executive Officer
Landmark Medical Center/ Rehabilitation Hospital of Rhode Island
115 Cass Avenue
Woonsocket, RI 02895

With a copy to:
Cynthia J. Warren, Esq.
Cameron & Mittleman LLP
301 Promenade Street
Providence, RI 02908

If to: **Rhode Island Department of Health**

Sandra M. Powell
Associate Director
Division of Policy, Information & Communications
Rhode Island Department of Health
3 Capitol Hill, Room 410
Providence, Rhode Island 02908

Michael K. Dexter
Chief
Center for Health Systems Policy and Regulations
Rhode Island Department of Health
3 Capitol Hill, Room 410
Providence, Rhode Island 02908

With a copy to:
Stephen Morris, Esq.
Deputy Chief Legal Counsel
Rhode Island Department of Health
3 Capitol Hill
Providence, Rhode Island 02908

or to such other address or telecopy number as may be designated in writing by any party from time to time in accordance herewith.

9. Successors. This Agreement shall be binding upon, and inure to the benefit of the heirs, executors, successors and permitted assignees of the parties hereto, and no other person shall have any right, benefit or obligations hereunder.

10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be construed as an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties, by their agents duly authorized, have executed this

Consent Agreement effective _____, 2017

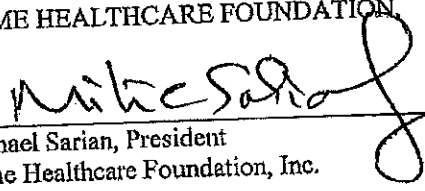
PRIME HEALTHCARE SERVICES --
LANDMARK LLC

RHODE ISLAND DEPARTMENT OF
HEALTH

By: _____
Michael Souza
Chief Executive Officer, Landmark Medical
Center and Rehabilitation Hospital of Rhode
Island

By: _____
Michael K. Dexter
Chief, Center for Health Systems Policy and
Regulations

PRIME HEALTHCARE FOUNDATION
INC.

By: 
Michael Sarian, President
Prime Healthcare Foundation, Inc.

PRIME HEALTHCARE SERVICES, INC.

By: 
Michael Heather, Chief Financial Officer
Prime Healthcare Services, Inc.

or to such other address or telecopy number as may be designated in writing by any party from time to time in accordance herewith.

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10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be construed as an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties, by their agents duly authorized, have executed this Consent Agreement effective October 30, 2017.

PRIME HEALTHCARE SERVICES -
LANDMARK LLC

By: _____
Michael Souza
Chief Executive Officer, Landmark Medical
Center and Rehabilitation Hospital of Rhode
Island

RHODE ISLAND DEPARTMENT OF
HEALTH

By: Michael K. Dexter 10/30/17
Michael K. Dexter
Chief, Center for Health Systems Policy and
Regulations

PRIME HEALTHCARE FOUNDATION
INC.

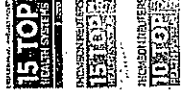
By: Michael Sarian
Michael Sarian, President
Prime Healthcare Foundation, Inc.

PRIME HEALTHCARE SERVICES, INC.

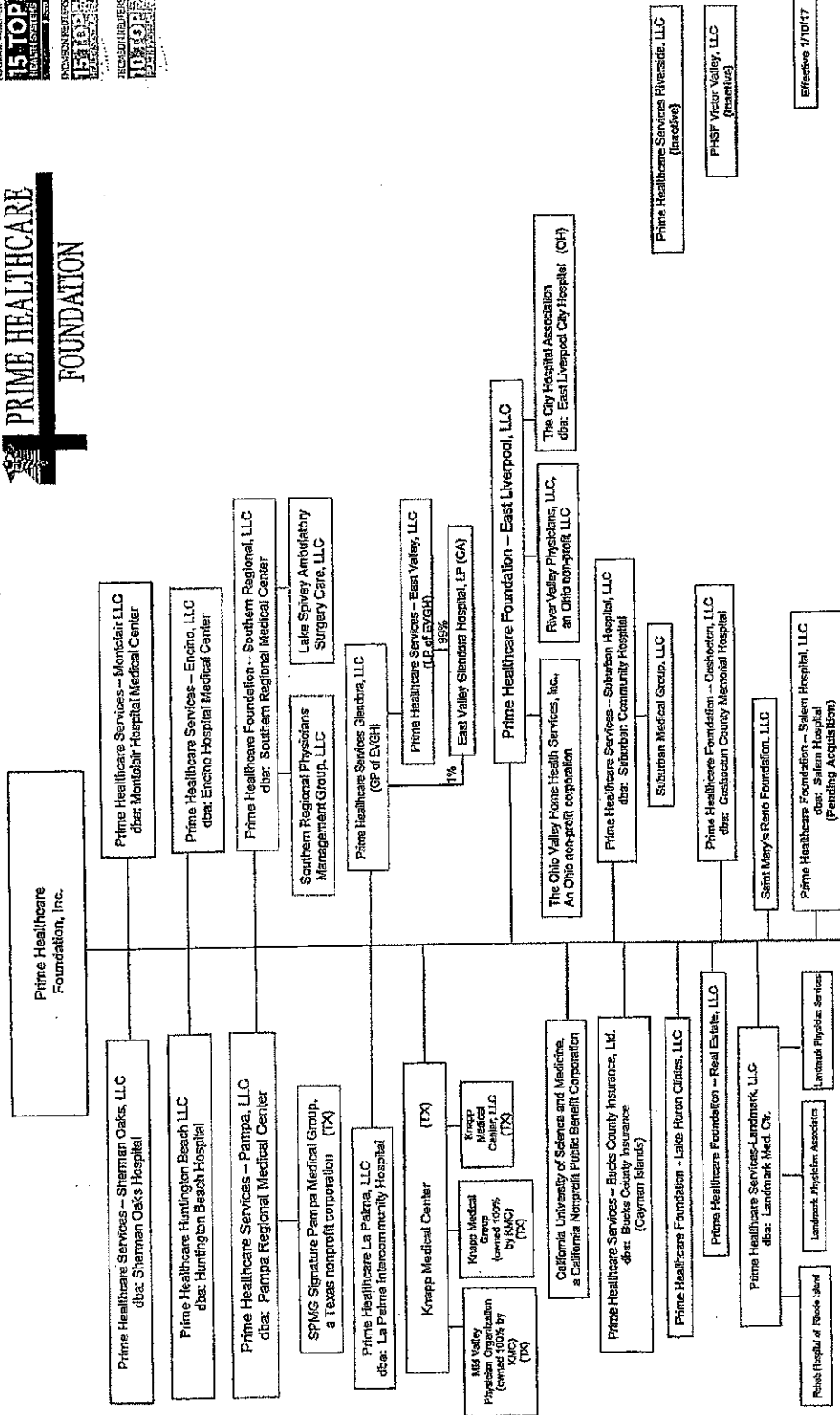
By: Michael Heather
Michael Heather, Chief Financial Officer
Prime Healthcare Services, Inc.

CURRENT ORGANIZATIONAL CHARTS

POST-CONVERSION ORGANIZATIONAL CHARTS



PRIME HEALTHCARE FOUNDATION



All entities are DE entities unless otherwise noted.

**DONATION OF PRIME
HEALTHCARE SERVICE-
LANDMARK
HOSPITALS TO PRIME
FOUNDATION – LEGAL REVIEW**

Presented to: RIDOH Date: October 31, 2017

**KROKIDAS & BLUESTEIN
ATTORNEYS**



Jennifer Gallop, Esq.
Partner

Krokidas & Bluestein LLP

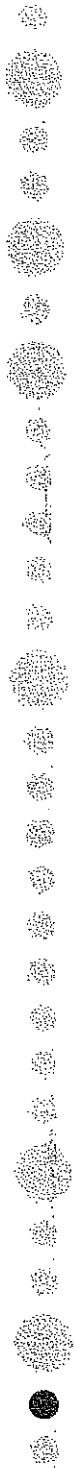
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Applicant Parties

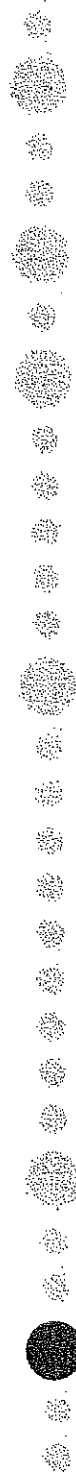
- For-Profit Entities:
 - Donor: Prime Healthcare Services, Inc. (PHSI)
 - Licensee: Prime Healthcare Services- Landmark LLC (Hospital LLC)
 - Owner/Operator of the "Hospitals":
 - Landmark Medical Center
 - Rehabilitation Hospital of Rhode Island
 - Manager: Prime Healthcare Management, Inc.
- Non-Profit Entities:
 - Recipient: Prime Healthcare Foundation, Inc. (Foundation)
 - Licensee: Same Hospital LLC, but converted to non-profit
 - New Manager: Prime Healthcare Management II, Inc. (identical?)



Overall Scope of Legal Consultation

4

- Legal engagement limited to corporate/transaction review of information received through June 2017 regarding the following questions:
 - Does (i) the form of the proposed transaction as a charitable contribution, and (ii) the proposed organization and governance structure of the Hospitals under Foundation's ownership post-transaction, materially impact --
 - (a) the current business posture of the Hospitals, and/or
 - (b) the "character, commitment, competence and standing in the community" of the Hospitals' operator?
- No review of state/local tax; RI/ national operations



Summary of Conclusions

5

- I. The proposed transaction appears to have a neutral/positive impact on Hospitals' operations.
- II. Considering related identity of the Applicants and the required tax exemption compliance, the proposed transaction should not adversely affect character, commitment, competence and standing in the community.
- These conclusions are with the following provisos and assumptions:
 - Exception for unknown, undocumented or unclear information (examples herein)
 - Exception for unknown and/or unquantifiable risks to the Foundation (i.e. tax exemption compliance; unfunded successor liability); and

Form of Proposed Transaction

6

- Type of Conveyance: Membership Interest Transfer, Charitable Contribution and Conveyance Agreement (hereinafter the “Donation Agreement”)
- Allocation of Risks & Benefits: Indemnification; Assignment & Assumption Agreement

Donation Agreement

7

- PHSI contribution of 100% membership interest in Hospital LLC “free and clear of all liens, encumbrances and liabilities”; no new capital investment or financing
- Hospitals/Hospital Assets remain intact for transfer
- Applicant’s used independent Qualified Fair Market Valuation of Membership Interest (\$77.7M; booked at \$65M)
- With Foundation as its new sole member, Hospital LLC becomes non-profit disregarded entity



Non-Profit Hospital LLC: What is a Single-Member LLC Disregarded Entity?

8

- LLC wholly-owned and controlled by 501(c)(3)/tax-exempt organization (i.e. Sole Member)
- For federal tax purposes: If LLC does not make election to be treated as a corporation, and Prime has stated it has not:
 - it is disregarded as an entity separate from the parent charitable organization/owner -- the LLC's activities are treated as a branch/division of the owner and no form 1023 or form 990 is filed for the LLC;
 - the income, assets and operations of the disregarded entity are treated as the owner's for tax and information reporting purposes, except for employment and certain excise taxes;

What is a Single-Member LLC

Cnt'd

Disregarded Entity?

9

- contributions to the disregarded entity are tax deductible and treated as if made to a branch/division of the parent charitable organization/owner (the "donee"); and
 - Note: Foundation states no intention to solicit donations to the Hospitals but that wishes of occasional donors will be honored;
 - any federal tax liabilities (e.g. excess benefits, loss of exempt status, but not employment and excise taxes) pertaining to the disregarded entity likely assessed to owner.
- From a state law perspective, the disregarded entity LLC is treated as a separate entity, providing protection to the owner from LLC's liabilities.

Assignment & Assumption Agreement

- All for-profit Hospital LLC's accrued and unpaid liabilities (inc. accounts payable, accrued payroll, accrued paid time-off, accrued payroll taxes, third party expenses, current portion of long term debt, other liabilities, retrofit costs transferred to/assumed by PHSI at closing)
- Representations, Warranties and Covenants of PHSI and for-profit Hospital LLC for the period prior to Donation (including indemnification) survive 2 years
- Non-profit Hospital LLC remains responsible for for-profit Hospital LLC liabilities that:
 - (1) predate Donation but arise after the 2 yr survival period expires; or
 - (2) do not qualify for indemnification
- Non-profit Hospital LLC liabilities do not flow automatically to Foundation

PHSI & Role of Dr. Reddy

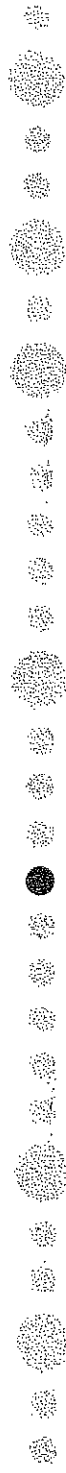
11

- President PHSI, Sole Member of Hospital LLC
- Director of PHSI
- Grantor of KASP Trusts, sole shareholder of Prime Healthcare Holdings, Inc., sole shareholder of PHSI

Role of For-Profit Hospital LLC

Under PHSI

- Hospital LLC is owner/licensed operator of the Hospitals
- Hospital LLC Governing Board does not overlap with PHSI board
- PHSI appoints Hospital LLC Governing Board Chair
- Hospital LLC Governing Board minutes evidence some active local governance, subject to PHSI for major decisions
- Note: Board requested more involvement in hospital operations, more than quarterly meetings, communications
 - Internal invites and more documentation were suggested



Applicant Approval/Implementation Process for Donation - Questions

13

- PHSI made determination to donate Hospitals without consulting Hospital Governing Board
- No documentation of grounds/criteria for decision
- Applicants filed with RIDOH in advance of notifying Hospital LLC Governing Board
- Transaction documents reflect retroactive Effective Date of donation; no information other than 2016 financial statements re any activities preceding RIDOH approval:
 - Escrow of documents; liabilities assigned; regulatory filings re change of ownership (e.g. Medicare/Medicaid/IRS); current flow of funds (inc. any current subsidization of hospitals); new financing; Foundation contracting
 - From when does indemnification period commence?

Who is Prime Foundation (Delaware Non-Profit Corporation)

14

- Since 2009, Foundation acquired 13 hospitals in CA, OH, TX, GA and PA through donation and acquisition, and medical school
 - Note: Financials refer to Foundation as CA Corporation
- Ongoing federal prosecution regarding billing practices
- No OIG Corporate Integrity Agreement
- No other material compliance issues or settlements reported by Applicants
- Appears Foundation will play a comparable role to PHSI with respect to the Hospitals, except:
 - Foundation activities regulated as a tax-exempt, charitable organization
 - Foundation also has outside charitable interests
- Appears Hospitals will interact with New Manager vis a vis the Foundation similarly to current Manager

Dr. Reddy Also Plays Significant Foundation Role Within Legal Limits

15

- Although he does not control the Foundation per se, Dr. Reddy plays an influential role:
 - CEO (in addition to Michael Sarian who is listed as "President/CEO", a Manager employee serving as an officer)
 - Reserved powers as Sole Member under both governance documents and Delaware law
- Dr. Reddy's role is limited by fiduciary/tax law requirements:
 - Board must operate in furtherance of exempt purposes, and earnings may not inure, directly or indirectly, to benefit of any private individual or entity
 - Unclear if Delaware has any enforcement of public charities laws (e.g. regarding transfers of assets particularly in other states)
- Not a director; there is also no director overlap of Foundation directors with PHSI's directors

Dr. Reddy's Rights as Foundation's Sole Member under Governance Documents

16

- Member entitled to appoint up to 20% of Foundation Directors.
- 1 of 4 (25%) directors is an interested party/employee of New Manager and serves as chair
 - Note: Foundation refers to 4/5 community directors, but fifth also is manager employee
 - Under Delaware Law, a member who appoints directors also has the powers describe on next slide.
- Dr. Reddy is Chair Emeritus
- 80% of Foundation Directors elected by the Member-appointed director
- Member-Appointed Directors may only be removed by Member
- Quorum is majority of full board (i.e. 3/4 directors currently)
- 3 directors appointed by Member-appointed director could constitute quorum.
- Vote is by majority of quorum (i.e. 2/3), provided that majority includes directors who are members (of which there are none)
- Foundation states will amend bylaws to remove this requirement
- Officers are current Manager Secretary and CFO and may influence board

DE Non-Profit Law -- Member Powers

17

- Except as provided below, under DE law, Member / Director rights and powers are generally determined by the governing documents. However, Members will always have the following:
 - Power to adopt, amend or repeal by-laws
 - Rights to review corporate books and records (subject to form and manner requirements)
 - Right to sue to enforce rights
 - Where Members have the power to elect directors (as Dr. Reddy does), those Members will also have the power to approve:
 - Mergers
 - Sales of All/Substantially All Assets
 - Dissolution

NOTE: Directors hold rights to amend the Certificate of Organization, except as otherwise provided in the governing documents. In this case, under the Foundation's Certificate of Organization, the Member must consent to amendments to the 4th and 7th articles of the Certificate (i.e. appointment of directors, authority to amend the certificate of organization and bylaws concerning member).

Impact of Donation on Hospital LLC

Governance

18

Per Certificate of Formation (CF) & Amended and Restated Operating Agreement Provisions (as well as Hospital Governing Body bylaws)

- Foundation becomes Hospital LLC's Sole Member; Hospital LLC becomes disregarded entity of the Foundation
- Hospital LLC operates exclusively for charitable purposes (IRS 501(c)(3) (and certain laws applicable to public charities operating in RI (RIGL Section 44-3-3(a)(12)))
- Hospital LLC also operates for benefit of Foundation/Member (CF, 1.3, 5.2)
- Member must be tax-exempt and 100% owner (CF, 2.1, 2.2, 7.3)
- Upon dissolution, Hospital LLC assets go to Foundation (CF, 8.2) -- not RI Charity
- Hospital LLC may not merge with or convert to for-profit (CF, 1.3)
- Assets may only be transferred in exchange for FMV (CF)

Impact of Donation on Hospital LLC

Governance

Cnt'd

19

- Hospital LLC is managed by Foundation/Member (4.1); Member can delegate to Hospital LLC officers (of which there are none besides President(?))
- Foundation/Member has reserved authority for Major Decisions (4.3) (see also 6.7 of Hospital bylaws).
- Foundation may authorize distribution of Hospital LLC net revenues to itself as Member (5.2).
 - Foundation comingles all of its hospitals' revenues
 - It uses revenues exclusively for Foundation hospitals but may be used for any Foundation hospital (not limited to RI hospitals).
- Foundation may subsidize hospitals (not documented), but Member has no personal liability (8.2,10.1)

Hospital Governance Documents Not Impacted Except re Hospital LLC Status

20

- Souza remains President/CEO & Chair
- Same Hospital LLC Governing Board members continue to serve
- Hospital LLC Governing Board Bylaws unchanged except for Foundation as sole member. Still reflects:
 - Broad CEO responsibilities delineated (2.3): Payer contracting, strategic plan and development of budget and capital plan
 - Note: Applicant uses "dashboards" not budgets, so documentation does not reflect all practices. Note also that Medicare Conditions of Participation (CoPs) require budgets.
 - Hospital CEO "selected by" (confer with Member) and reports to (but is not discharged by) Governing Board (2.1, 3.8(i)). Parent interviews candidates (likely become Foundation (or New Manager) role).
- Note: Hospital Policies, procedures, practices not reviewed

Hospital Governance Not Impacted

Except re Hospital LLC Status – Cnt'd

21

- Local Hospital Board Governance Continues:
 - Directors appointed by Member (3.2): Unclear if meet requirement of 25% community members (2/11?)
 - May be removed by Member after 2/3 vote of Member's directors or of Governing Board
 - Major areas of responsibility (2.1): Management and control of operations, including legal compliance re facility health and safety, overseeing credentialing, quality and risk management, review of financial performance, strategic planning.
 - Specific Duties (3.8): Extensive duties similar to those of CEO, appointment and replacement of CEO, CFO, CMO and CNO after conferring with Member. (Also refers to budgets (which do not exist).)
 - Quorum (6.6): Majority (even if directors depart during meeting)
 - Voting (6.7): Majority of those present, with certain Member votes required
- Powers Reserved to Member (but Member may consult Governing Board) (6.7)
 - Election of Governing Board, removal of CEO, approval of capital and operating budgets (which do not exist), approval of financing and expenditures

New Management of Hospitals - Prime Healthcare Services II

22

- Reddy Family Trust sole shareholder
- Dr. Reddy President/CEO and sole director
- Management Staff: Prem Reddy and the 5 employees, some of whom serve as Foundation officers
- Single Management Agreement for all Foundation-owned hospitals
 - No joint liability; no cross default of hospitals
- Term of 5 years commencing eff. Date and ending 11/2021. This would be under 5 years for Hospital LLC (6.1)
- Termination (unlikely -- related party): 6.2 missing language.
 - Note: High standard for Manager breach. Cure periods for breach are mutual, but uncapped for duration (6.2 a(ii) and b(i))
- Mutual indemnification
 - ii. Note: obligation is potentially diluted. (8.5)

New Management of Hospitals - Prime Healthcare Services II Cnt'd

23

- Manager Compensation:
 - Fee is 6% (5.1) of net patient revenues (v. 7.5% plus profit sharing for for-profit hospital manager)
 - Fee subject to FMV and excess benefit transaction requirements (11).
 - Manager may also collect:
 - Allocated corporate services (5.2), but not overhead (5.4)
 - Additional overhead (5.4)
 - Payment of Fee can be deferred for specified circumstances, with interest. (5.1, 7)
- Manager spends available hospital funds (which Foundation may subsidize). (1.10)

New Management - Considerations

24

- Management Agreement document may not describe actual operations/delineation of responsibilities in full
- Standard management services delegated to Manager (1.6) (accounting and finance, contracts leases and purchases, billings and collections, legal/risk management, compliance, licensing/accreditation).
 - Manager continues to provides centralized services on an as needed basis, except for undocumented related party agreements (i.e. Bio Med, Billing, insurance)
 - Board minutes reflect banking, payroll, materials management and HIM by Manager.
- As there are no Budgets, Manager not specifically limited as being within pre-approved operating or capital board approved budget or plans
 - Unclear how strategic planning, oversight, and project development and implementation take place without budget process
- Manager owns all policies and procedures provided during Term (9)
- Manager may subcontract without notice (1.7)
- Other services as needed per Exhibit C (any?) appear to be items handled by hospital management/staff

New Management – Considerations

Cnt'd

25

- Reserve power for “Major Decisions” at Hospital local board level (1.4)
- Manager’s Reasonable judgement in absence of hospital direction (1.6)
- For avoidance of doubt, Manager role is limited in areas reserved to Hospital Boards. (1.12)
- Gray Areas:
 - Hospital Board bylaws appear to encompass areas that have been delegated to Manager, but per responses, Manager only provides services as needed.
 - Manager given much authority e.g. re contracting, but Governing Board gives CEO authority of contracting. (Hospital approval required under 1.7)
- Hospitals do not have regular monthly meetings with Manager; individuals meet and speak as needed. (2.0)
- Other undocumented related party arrangements are stated to be same

Comparisons with Other Foundation

Transactions

26

- PHSI states it has no criteria for Donation by PHSI of Hospitals to & Acquisition by Foundation
- PSHI describes this transaction as comparable to other similar transactions
- As of June 13, 2017, Foundation has not sold any of its hospitals

Financial Resources of Foundation Available for Hospitals

27

Transaction's Impact on Financial Viability of Applicant Hospitals including
re Access of Underserved to Charitable Care

- Stronger Indicators that PHSI:
 - Current Ratio of Foundation (total current assets/total current liabilities) 1.96
 - PHSI indicators likely weaker -- assumes accrued liabilities of donated hospitals.
 - Days Cash on Hand 101; Aging of Payables 33.5
- Hospital LLC released from PHSI financing (except for items that survive); joins Foundation financing (note: unable to compare terms of new financing)
- No other debt or known liabilities not being assumed
- Other than USDOJ FCA Prosecution & Kaiser arbitration - No knowledge of compliance settlements or major litigation -- and PHSI role.
- No notice that charity care commitment has not been honored
- Foundation receives charitable donations (e.g. related parties) and makes significant grants
- Hospitals benefit from tax exemption (340B; loan repayment(?); grants)



Conclusions I - Operations

28

- I. The proposed transaction appears to have a neutral/positive impact on the operations of the Hospitals as indicated by the following: The Foundation –
- is continuing the existing commitment to maintain all Hospitals' services through December 31, 2018, and performance improvement plan
 - Appears to have comparable or stronger financial resources than PHSI.
 - Payer contracts remain intact
 - In addition to its various hospital subsidiary assets, Foundation historically has received cash donations (e.g. from related parties)
 - stated it will subsidize Hospitals' capital needs & operating losses as PHSI has done, though not legally bound to do so

Conclusions I

- Will be insulated from certain known and unknown liabilities:
- Known liabilities of Hospitals (e.g. accounts payable) assumed by PHSI at transfer.
 - The Foundation/Hospitals also not required to repay PHSI's approx. \$2.6M in subsidies to Hospitals through 2016
- Note, however:
 - Foundation is not released from unknown liabilities that arise out of actions prior to change of ownership (e.g. government investigations)
 - PHSI provides only 2 years of indemnification for Foundation for unknown liabilities of Hospitals at transfer
 - Sufficient reserves (e.g. for USDOJ FCA prosecution)?
- Estimated expenses for management and undocumented related party services to be paid under Foundation/New Manager less than existing expenses
- No profit sharing with Manager

Conclusion II- Status in Community

II. Within the scope of my engagement, considering the relatedness of the Applicants, and the fact that tax exemption compliance would be required, the proposed transaction does not adversely affect character, commitment, competence and standing in the community.

This is demonstrated by the following:

- Management and control over Hospitals will be substantially similar to current operations except that Foundation will be sole member rather than PHSI as sole shareholder, and there are additional restraints pertaining to 501(c)(3) status:
- Dr. Reddy's role with Foundation is limited by tax laws, and also by independent board members.
- PHSI and New Manager are related parties to Foundation

Conclusions II

Cnt'd

- Ongoing compliance with IRS requirements prevents Foundation from entering into transactions (e.g. with for-profit entities and related parties) that could result in private benefit, private inurement and/or excess benefits to disqualified persons, and conflicts of interest
 - Note: Related party agreements undocumented.
- Manager's employees appointed by Foundation directors as the Foundation's officers. They are non-voting, but note:
 - Foundation Secretary and CFO are the same as the New Manager secretary and CFO
 - Foundation bylaws do not prohibit officers from serving as directors
- Hospital LLC Governing Board, the governing body of each of the Hospitals, does not change
 - Note: Governing board only meets quarterly in coordination with other hospitals system-wide, as required by PHSI.
- Management: New and Prior Management Agreement and management personnel substantially similar



Conclusions II

Cnt'd

- The nature and structure of the proposed donation transaction in and of itself should not have an adverse impact on the governance and operations of Hospitals or their character commitment, competence and standing in the community as compared with the status quo.
- Foundation ownership may have positive impact due to public charity status, assuming regulatory compliance.
- Foundation structure and operations have track record and positive financial indicators.
- Unable to predict impact on the Foundation of future growth (via addition of hospitals) and unanticipated liabilities.

Conclusions II

Cnt'd

- Lack of observing/documenting clearly and in full the relationships of owner/manager/hospital governing board make it difficult to evaluate the nature of the current and future relationships as well as legal risk:
 - (i) minutes and votes documenting evaluation and considered approval of the proposed donation transaction by PHSI board or on timely basis by hospital boards
 - (ii) Management agreement v. Hospital bylaws
 - (iii) lack of documentation of related party arrangements
 - (iv) lack of budget process/strategic planning and related policies and procedures
- Certainty and predictability could enhance compliance and strengthen local governance

Possible Areas of Recommendations

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- Amendments to governance documents
- Confirmation re sufficient community board representation/involvement
- Clarification of documents pertaining to operations
- Future notice of changes in tax exempt status, governance, management, related party arrangements and key policies
- Steps to retain Hospital assets in RI, including upon dissolution

Questions?

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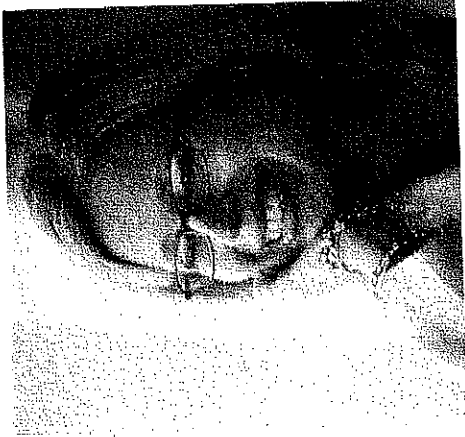
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**DONATION OF PRIME
HEALTHCARE SERVICE-
LANDMARK
HOSPITALS TO PRIME
FOUNDATION – LEGAL REVIEW
OF APPLICANT RESPONSES TO
RIDOH’S NOVEMBER 3, 2017
QUESTIONS**

KROKIDAS ■ BLUESTEIN
ATTORNEYS

Presented to: RIDOH

Date: November 14, 2017



Jennifer Gallop, Esq.
Partner

Krokidas & Bluestein LLP

Providing legal services in the areas of public, non-profit and for-profit general corporate law, health and social services law, education law, real estate development, finance and property management, public and private civil litigation, labor and employment law.

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Applicant Parties

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For-Profit Entities:

- Donor: Prime Healthcare Services, Inc. (PHSI)
- Licensee: Prime Healthcare Services- Landmark LLC (Hospital LLC)
 - Owner/Operator of the "Hospitals":
 - Landmark Medical Center
 - Rehabilitation Hospital of Rhode Island

Manager: Prime Healthcare Management, Inc.

Non-Profit Entities:

- Recipient: Prime Healthcare Foundation, Inc. (Foundation)
- Licensee: Same Hospital LLC, but converted to non-profit
- New Manager: Prime Healthcare Management II, Inc.

General Comments & Conclusions re Responses

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- Applicant did not or did not fully answer some questions
- Some responses create conflicts with prior information provided by the Applicants
- Note that Applicants did not update their responses to the original application and previous responses (e.g. information about identity of new directors) except where specifically asked
- Applicants stated it had no plans to clarify any ambiguities or contradictions between the management agreement and governance documents

Governance

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- Foundation:
 - Dr. Reddy no longer CEO. Michael Sarian is President/CEO, and is an employee of management companies
 - Two new directors listed
 - Applicant states all directors are approved by Member, inconsistent with Section 3.2 of Bylaws limiting Member role to 20%
 - Draft correction of Section 3.13 Quorum Provision

- Hospital LLC Governing Board:
 - Applicant states that AGO has approved plan 10/27/17 to bring board composition into compliance with 25% community representative requirement
 - New directors will participate in January 2018

Governance Cnt'd

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- Foundation is a Delaware Corporation
 - No public charity requirements in Delaware
 - Files California exempt organization annual information return (Form 199; not reviewed)
 - If Foundation lost tax exemption, so would Hospital LLC
- Manager employees are not prohibited from serving as directors for either Foundation or Hospital LLC Governing Board.
- Governing Board Meetings
 - No details of changes regarding board request for more regular and extensive involvement – only a sample board agenda which is comparable to prior ones

Manager & Related Parties

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- Management Agreement:
 - New manager does not differ in terms of governance, operations or relationship with Hospital LLC Governing Board
 - To be evaluated prior to November 2021 termination
- Related Parties:
 - Copy of unsigned 2015 Bio-Med Services (medical asset management). Will it be assigned or remain in place with new rates?
 - Hospital Business Services, Inc. arrangement that is referenced in financials was not provided
 - Insurance Policies: Confirm notation in policy that Foundation coverage for the Hospitals extends back to 1988 (endorsement 1, pg 38), i.e. to cover Hospital operations prior to transfer to PHSI and to Foundation (or just to Foundation if PHSI has tail in place)

Liabilities Retained by PHSI

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- \$27M PHSI DOJ Reserve: Nothing appears to be allocated for Foundation to address potential liability of Hospitals; Foundation has no reserves.
- PHSI will not extend indemnification period to 4 years
- Schedule 12 -- Liabilities Retained:
 - Not totaled
 - Unclear what are the entries pertaining to other PHSI hospital transfers. Does PHSA direct Hospitals to transfer funds to other affiliate hospitals? Will Foundation operate this way?

Subsidization by Foundation

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- Foundation has subsidized hospitals, and used charitable contributions/investments to do so
- Foundation has not committed in writing to subsidize the Hospitals
- Applicant states that Foundation has not made assessments on its hospitals (but see Exhibit 12).

Budget

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- Applicant stated CMS has not identified issues with dashboard method to date
- Planning is undertaken jointly between Hospital LLC Governing Board and Manager
 - Project lists are developed, reviewed and expenses tracked instead of operating budget as a planning tool
 - No current project list provided/reviewed

Financing Liability

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- PHSI has no specific hospital donation criteria; donations must be approved by lenders
- Hospitals already released from PHSI financing
- Hospitals already subject to Foundation financing
- Foundation Hospitals are jointly and severally liable up to \$160M
- No comparison between the two financings was provided

Hospital Assets

- Applicant commits that Hospitals be maintained through at least 2018
- Unclear how much of the \$45M capital commitment remains. The sum of \$18M is confirmed.
- Neither PHSI nor Foundation has ever closed a hospital
- Upon sale or closure of hospital, Applicant states that “Hospital assets” would remain in Rhode Island but “proceeds from sale” would flow to Prime Foundation.
- This is subject to the AGO.

Updated Hospital & Foundation

Financials

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- Applicant believes hospitals were overvalued in their appraisal
- Hospitals and physician organization operate at a loss
 - Days cash on hand is low unless related party fees are deferred
- Tax exemption should positively impact the Hospitals' balance sheet (current ratio), dashboard measures (days cash on hand) and income statement (net income)
 - But note that 340B program benefits may be deferred and diminished due to proposed federal cuts; and
 - No estimate was given of the value to Hospitals of allowing its clinicians to qualify for loan forgiveness
- Foundation's overall viability remains evident in updated financials

Implementation

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- If approved, Applicants will make regulatory filings with retroactive date, explaining that delay was due to awaiting regulatory approval from RIDOH
- If not approved, Applicants did not say how they would disentangle steps already taken:
 - Other than cash flow (which was redirected), only the changes to financing and insurance appear to have been implemented after the cash flow was reversed
 - No new carrier contracts will be required
 - Expiring contracts will be addressed

Conclusion

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- The proposed transaction appears to have a neutral/positive impact on the Hospitals' operations.
- This conclusion still has the following provisos and assumptions:
 - Exception for new or remaining unknown, undocumented or unclear information; and
 - Exception for unknown and/or unquantifiable risks to the Foundation (i.e. tax exemption compliance; unfunded successor liability)

Questions?

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