



February 28, 2020

VIA CERTIFIED MAIL

Mr. Mark S. O'Halla
President and Chief Executive Officer
Prisma Health
300 East McBee Avenue
Suite 300
Greenville, SC 29601

Re: Review of the Certificate of Public Advantage ("COPA") held by Prisma Health – Midlands (Formerly the Palmetto Health Alliance) and update to the conditions as set forth therein.

Dear Mr. O'Halla:

In December 2019, your organization submitted to the South Carolina Department of Health and Environmental Control ("Department") notice of a proposed transaction wherein Prisma Health – Midlands ("PHM") would acquire certain assets currently owned by LifePoint Health ("LPNT")¹ in the Richland County, Fairfield County, and Kershaw County market area. The Department received additional documentation from PHM in support of this transaction in February 2020. Pursuant to S.C. Code Regs. 61-31, § 508, the Department determined that the proposed changes resulting from the transaction might materially impact the benefits or disadvantages to the community to be served. The Department therefore undertook another review of the COPA.

As a result of that review, and having given substantial consideration to all information provided by PHM to the Department regarding the proposed transaction, the Department has determined that the ongoing conditions of the COPA shall be amended as follows to provide for the addition of the LPNT assets:

1. PHM will provide a full report to the Department every other year which will include, at a minimum, responses to the questions in Regulation 61-31, Health Care Cooperative Agreements, Section 502 (B); the previous fiscal year's independent audited financial

¹ To include Providence Health (HTL-0928), Providence Health – Northeast (HTL-0929), KershawHealth (HTL-0101), and a freestanding emergency department in Fairfield County operating under HTL-0929.

statements; and information which will enable the Department to evaluate each of the conditions listed below. In years when a full report is not required, PHM will provide the Department an abbreviated report which will include, at a minimum, an annual audited financial statement plus a description of the programs and services PHM provides through its Community Outreach Programs as described in Condition 2, as well as the required reporting as described in Conditions 17 and 19. All reports, full and abbreviated, may require additional information the Department feels is necessary to adequately evaluate PHM's compliance with the COPA and the COPA conditions. These annual reports are due to the Department no later than 120 days after the end of each fiscal year. In addition, PHM will provide a revised three (3) year forecasted financial statement, which may be based upon its most recently Board approved budget and Board accepted audited financial report, and which projects three (3) years forward from the end of the most recent fiscal year. PHM will also make available to the Department all of its managed care contracts for inspection, if necessary, which will be considered proprietary and not subject to disclosure.

2. PHM will provide fifteen percent (15%) of its "excess revenues over expenses" to fund public health initiatives and community outreach programs. Efforts funded with this money, as a community benefit, will be evaluated each year as a part of the information required in Condition Number 1. The evaluation will be based on the benefits, changes, and/or accomplishments that occur because of the activities and services provided by the programs and for which the program is held accountable. The evaluation will consider whether these programs are reaching populations that might otherwise not receive such services without the Certificate of Public Advantage.
3. For twenty-four (24) months following the date of closing of the transaction, PHM will report major operational savings that can be documented as they relate to the acquisition of the LPNT assets. Costs used to document the above savings must be specific to the acquisition, that is, savings that occurred because of the acquisition and not savings that would have been realized even if the acquisition had not occurred.
4. PHM will provide access to competing licensed facilities for those services not offered by such facility in the core service area upon non-discriminatory terms and conditions to any competing licensed facility that requests such access. For services not offered by competing licensed facilities in the core service area, PHM will give them terms and conditions equal to the average of the amount which would be received from patients insured by any of PHM's commercial payers. That PHM will continue this access for which it is the sole provider until such time as a competing licensed facility offers the service, and will terminate only in the event that South Carolina repeals its Certificate of Need laws or that such laws otherwise cease to be applicable. Additionally, PHM must make available to the Department, upon

request, names of any facilities, to include terms and conditions, to which services have been offered.

5. PHM will continue a relationship substantially similar to the relationship set forth in the affiliation agreement between Prisma Richland Hospital and the University of South Carolina School of Medicine and continue to support medical education. If a clinical service is determined to be located at only one PHM facility, the medical, graduate medical, and allied health education programs will have access to that clinical service at the facility in which the service is to be located, to the extent that is necessary to complete the education and training as required by the program.
6. Should PHM change controlling interest by purchase, lease, assignment, management contract, transfer or comparable arrangement, the new operating entity as a condition of the change will adhere to all the conditions of this approval and all representations put forth in the Certificate of Public Advantage application and subsequent submissions.
7. As part of the information required in Condition Number 1, "generally accepted accounting principles" consistently applied, but excluding extraordinary revenue and expenses, losses on extinguishments of debt and the impact of any mark to market adjustments on derivative instruments, will be used to calculate net of revenues over expenses in the annual report for determining the 15% public health commitment and that such financial statements will be certified by an independent auditor. However, should any of these other items result in cash gains or losses, they may be included in net revenues over expenses.
8. Neither PHM, nor any of their affiliates, may enter into a contract that by its terms precludes third party payers from contracting with other hospitals in the core service area identified by the Sponsoring Organizations. This does not prevent third party payers from unilaterally choosing not to contract with a hospital that is competitive.

However, it must be the decision of the payer and not be required as a condition of a contract with PHM or its affiliate. This does not include exclusive contracts with third party payers that may be in effect on this date or their renewals as provided for in the existing contract.

In addition, PHM will negotiate with managed care payers in good faith and in a fair and equitable manner. This does not require PHM to contract with every payer regardless of terms, or that contracted prices must be the same for all payers. The Department will, as a part of its ongoing monitoring process, investigate consistent complaints from employers and managed care payers to ensure compliance with this condition and will take appropriate regulatory action when necessary.

9. Except to the extent required by vendors, suppliers or Group Purchasing Organizations (“GPOs”), neither PHM, nor its subsidiaries, shall condition any contracts with suppliers, vendors, or GPOs that preclude or limit such suppliers, vendors, or group purchasing organizations to contract with other providers in the core service area identified by the PHM.
10. The Department may amend these conditions to include, but not be limited to, the lowering of prices should unexpected events lead to abnormally high margins from operations.
11. PHM will adhere to the commitments it has outlined in its "Summary of System Commitments and Proposed DHEC Monitoring" in its application and all other representations made in the Certificate of Public Advantage application and all of its subsequent submissions, to the extent that they are consistent with the conditions of this approval, and that may not be specifically described in these conditions.
12. PHM will pay to the Department an annual monitoring fee to cover the actual cost of audits and monitoring. This fee will be used by the Department in whatever manner solely for the purpose of monitoring these conditions.
13. Prior to the final execution of the Asset Purchase Agreement (“APA”) by and between PHM and LPNT regarding those assets outlined the December 2019 and February 2020 submissions to the Department by PHM, PHM shall submit to the Department evidence that the Board of PHM is aware of the transaction.
14. PHM will conduct a comprehensive study of access to emergency, urgent, and/or extended primary care services within the northern City of Columbia or other disadvantaged area of Richland County. Based upon this study, PHM will develop a plan to address those issues identified in the study for presentation to, and input from, the Department. Such a study will be completed within eighteen (18) months of the closing date of the transaction.
15. Within twenty-four (24) months of the closing date of the transaction, PHM will begin provision of primary care, and/or extended-hours primary care, and/or urgent care services to the Lower Richland community.
16. Prior to closing or permanently reducing the number of licensed facilities or beds held by PHM, PHM shall submit to the Department a specific plan for the transfer of those services, beds, patients, medical professionals, and/or other staff affected by such a change. This requirement shall be in addition to those requirements set forth in S.C. Code 44-7-110 *et seq.*, and the *South Carolina Health Plan*.

17. All acquired facilities will be subject to the charity care policy of PHM. The current charity care policy in force at the time of submission will be included in PHM's annual COPA report. In the event PHM determines to close a licensed general hospital, PHM will provide the Department with a plan that addresses how indigent care patients will be accommodated.
18. PHM will maintain Level 1 trauma services and serve as a Regional Perinatal Center for at least five (5) years following the date of closing of the transaction, subject to no material change in program requirements, state law or regulations, and federal law or regulations. Further, PHM will commit to operating no less than seven (7) emergency departments, unless otherwise approved to do so by the Department, for at least five (5) years following the date of closing of the transaction.
19. In addition to the requirements set forth in the *Health Care Cooperation Act*, S.C. Code Ann. Sections 44-7-500 through 44-7-590, the *Health Care Cooperative Agreements Regulation*, S.C. Code Ann. Regs. 61-31, and these Conditions, PHM shall notify the Department through its annual COPA report of any acquisitions or dispossessions related to physician practices, surgical centers, imaging centers, radiation therapy facilities, or substance use and treatment facilities.
20. These Conditions will be evaluated for necessity and compliance on an annual basis. Those Conditions that contain specified time periods will be evaluated at the end of that specified time period for compliance, and PHM and the Department may mutually agree to adjust the specified time period.

Your continued cooperation and compliance is greatly appreciated. Please do not hesitate to contact me with any questions you might have.

Very Respectfully,



Louis Eubank, Chief
Bureau of Healthcare Planning & Construction

cc: Malcolm Isley (via email)
Liz Crum, Esquire (via email)