

September 4, 2018

VIA EMAIL: jharrod@ncdoj.gov

Jennifer T. Harrod, Esq.
Special Deputy Attorney General
Consumer Protection Division
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001

Re: Potential acquisition of Mission Health System by HCA

Dear Ms. Harrod:

As you know, on August 30, 2018, Mission Health System, Inc. and its affiliates (“Mission”) entered into an Asset Purchase Agreement (“Purchase Agreement”) with affiliates of HCA Healthcare, Inc. (“HCA”).

We believe the residents of Western North Carolina would greatly benefit from the proposed transaction, for these reasons:

- (1) HCA -- the nation’s largest non-governmental healthcare provider -- will continue Mission’s 130-year tradition of providing high-quality healthcare services to the people of Western North Carolina, while providing a significant infusion of capital along with scale and experience that Mission lacks;
- (2) the recently created Dogwood Health Trust (the “Trust”), whose purpose is to “dramatically improve the health and well-being of all people and communities of Western North Carolina,” will receive the approximately \$1.5 billion in proceeds from the purchase along with remaining cash and investments after paying off its debt; the Trust believes it should be able to distribute at least \$75 million of that annually to fulfill its charitable purposes; and
- (3) unlike Mission, HCA will pay taxes to assist Western North Carolina and state government — HCA’s current estimate is \$15-17 million in property and sales taxes. For all of these reasons, we believe that approval by your office of the Purchase Agreement is in the public interest.

This letter provides some basic information on HCA, the Trust and the Purchase Agreement.

HCA

Mission believes HCA is the best option available to Mission to preserve the availability, affordability and accessibility of healthcare services in Western North Carolina. HCA brings to Western North Carolina residents a number of advantages. The first is HCA's commitment to patient care. Its leaders today stand strongly by HCA's founder Dr. Thomas F. Frist, Jr.'s original mission: "put patients first." HCA's approximately 38,000 active medical staff physicians, 87,000 nurses and 249,000 employees are dedicated every day to fulfilling that mission.

Second, HCA has robust charity care policies that will be applied to all qualifying patients in the facilities it acquires from Mission. We believe these policies are more generous in most respects than those currently in effect at Mission. Overall, in 2017, HCA's cost of delivering uncompensated care was approximately \$3 billion.

Third is HCA's scale. In 2017, HCA provided care in connection with about 2 million inpatient admissions and 8.6 million ER visits — about 6% of all such admissions and visits in the country. HCA uses its scale to (i) support its facilities and clinicians with clinical leadership, clinical playbooks, knowledge center support, consultation, performance improvement teams, clinical data, and dashboards; and (ii) provide back office services to its facilities in a cost-effective manner.

Finally, in 2017, HCA generated \$46 billion in annual revenues and has a strong balance sheet, both of which give it significant access to the capital markets. That makes it possible to provide HCA's healthcare facilities with the capital funding they need to keep up with the latest developments in medical equipment, IT services, etc. HCA's current level of capital spending, company-wide, is approximately \$3.5 billion a year. Under the Purchase Agreement, HCA currently expects to make about \$428 million in capital expenditures in the five years after the Closing relating to the Mission system. Current plans are that this will include a new 220-bed tower on Mission's Memorial campus in Asheville, a new behavioral hospital in Asheville and a new acute care hospital in Franklin.

Dogwood Health Trust

Beyond securing important healthcare services, one of the most significant benefits of the Purchase Agreement to the residents of Western North Carolina is the birth of the Trust. Upon the closing of the transaction (the "Closing"), the Trust will receive the proceeds from the sale, of about \$1.5 billion, together with an estimated additional \$100-\$200 million in Mission's existing funds. That will make the Trust one of the largest private foundations in the state and potentially the largest per capita foundation in America. As stated above, its charitable purpose, set forth in its Articles, is "*to dramatically improve the health and well-being of all people and communities of Western North Carolina.*"

While Mission is well aware of the many core, intractable problems that impact an individual's health status -- widely referred to as the "social determinants of health" — it has struggled for many years to contribute just \$1-2 million dollars per year to organizations

tackling these problems. These problems are simply beyond the reach of any typical healthcare system like Mission, not to mention most rural communities and nonprofit organizations acting alone. And that's where the Trust can be a catalyst for making meaningful differences in the lives of Western North Carolinians.

A primary focus of the Trust will be addressing these social determinants of health in Western North Carolina. These activities will include programs focused on solving vexing problems - - social, economic and otherwise - that adversely impact the health and lives of the members of these communities including things like housing, transportation, education, food insecurity and more. In addition, its investments may include grants or programs designed to preserve access to quality health care for the underserved and uninsured.

The Trust will be endowed with the full value of Mission's net assets. Depending on its future asset growth from investments, the Trust will likely distribute between \$75 and \$100 million per year. That's an extraordinary amount of money by itself, but the Trust expects also to leverage its capacity and expertise and join with other foundations and entities, large and small, to dramatically improve the health and well-being of all people and communities of Western North Carolina.

The Trust is completely independent from HCA, both in its formation and operation. No employees, officers or directors of HCA are or will be employed by or serve as officers or directors of the Trust. That's critical because an additional purpose of the Trust is to enforce the promises described below that HCA has made to the citizens of Western North Carolina in the Purchase Agreement. Thanks to the proceeds from the transaction being transferred to it, it will have the wherewithal to fulfill this obligation.

The Trust's initial Board of Directors is currently comprised of nine (9) individuals from Yancey, Jackson, and Buncombe Counties and Qualla Boundary with numerous long-standing connections to Western North Carolina. Their names and addresses have been previously announced and are on the Trust's website, www.DogwoodHealthTrust.org. The current Trust board firmly believes, to most successfully fulfill its mission, it will require 12 to 15 board members residing throughout the region and possessing a wide range of skills and life experiences and the passion to serve the entire region. To that end, the Trust has posted an online application for board and committee membership on its website.

Recognizing the unprecedented opportunity that the Trust provides to Western North Carolina, the Trust Board has been consulting extensively with numerous national experts to obtain their advice and suggestions before making significant decisions that may be difficult or impossible to alter in the future. The Board has consulted frequently with Dr. Doug Easterling, a Professor at the Wake Forest University School of Medicine and the former Director of Research and Evaluation for the Colorado Trust. Dr. Easterling has been a prolific observer of health care conversion foundations. The Board has also consulted regularly with Gene Cochrane, former President of The Duke Endowment in Charlotte. He is currently serving as the Interim Chief Executive Officer of the Council on Foundations, a nonprofit leadership association of philanthropic grant-making organizations based in Arlington,

Virginia. The Board has also had significant conversations and interactions with the former President of the Robert Wood Johnson Foundation, the founding CEO of the California Healthcare Foundation, top executives at St. David's Foundation in Austin, Texas, and several other persons experienced with large charitable organizations.

Finally, the Trust Board has been working with Mission on a plan to preserve and enhance the philanthropic infrastructure of Western North Carolina in a way that both extends the legacy of Mission and extends the reach and impact of the Trust. Many of the Mission hospitals have existing 501(c)(3) foundations ("Legacy Foundations") that historically have supported the charitable activities of these hospitals. These Legacy Foundations (and their assets) are not part of the contemplated transaction between Mission and HCA and, once the proposed transaction is completed, the Legacy Foundations will no longer be supporting organizations of their local hospitals. Instead, they and their donors will focus on addressing the health care needs of their fellow residents – both independently and in collaboration with the Trust as potential future grant recipients.

As a tangible show of its commitment to this potential partnership and the opportunities it would present, the Mission Board recently authorized the expected disbursement of \$15 million to each of the Legacy Foundations out of the proceeds of the HCA transaction, with the first \$5 million to be paid to each Legacy Foundation at Closing. The balance will be paid on the first and second anniversaries of the sale, dependent only on each foundation's previous year's progress and commitment to improving the health and well-being of its citizens. These Legacy Foundations, along with countless other nonprofit organizations throughout the region, offer tremendous opportunities for collaboration with the Trust to serve their communities.

Further information about the Trust will be made available at an event scheduled for September 30, 2018 and in the days, months and years to come. In the meantime, the board of the Trust is both humbled and energized by the opportunity to make a meaningful difference in the lives and health of the people of this beautiful and diverse area of North Carolina.

The Purchase Agreement

Mission has negotiated strong provisions in the Purchase Agreement to protect the public health interests of the residents of Western North Carolina after the sale.

First, the Purchase Agreement includes substantial restrictions on selling or closing facilities. These restrictions on facility sales or closures are long-term — at least 10 years, and even after that, HCA may only sell or close a protected facility in the event of a major event (defined as a "Contingency" in the Purchase Agreement). In addition, under Section 7.13(a) of the Purchaser Agreement, HCA may not eliminate any of a long list of clinical services at the Mission Memorial Campus and the CarePartners main campus for at least 10 years; and as with facility sale/closure, that restriction goes beyond that 10-year period unless a "Contingency" has occurred. Section 7.13(b) of the Purchase Agreement also provides a five-year protection for services at the other hospital facilities. As set forth in Section 7.13 of the Purchase Agreement, an advisory board tasked to oversee HCA's obligations for each hospital

must approve any changes in HCA's agreements with respect to that hospital, including the agreements relating to closure or sale of facilities and elimination of services described above. That must include the approval of a majority of community members on such board.

As mentioned briefly above, HCA has also agreed to adopt its nationwide policy on charity care for uninsured and underinsured earning under 400% of the federal poverty level at all of the Mission Hospitals. Based upon current government releases, for a family of four, 400% of the federal poverty level is about \$100,000 a year. Both parties believe that HCA's charity care policy is more generous than Mission's. Under the Purchase Agreement, HCA cannot unilaterally modify that policy for 10 years, unless the modification is more generous than the policy initially adopted. After 10 years, HCA must maintain charity care policies that are at least as generous as that maintained by the then largest North Carolina nonprofit healthcare system. HCA's charity care policy is attached as Exhibit C to the Purchase Agreement. Similar to all other HCA hospitals, after the Closing, a summary of HCA's Charity Care Policy will be posted on Mission's website.

In addition, while the Trust is subject to a limited non-compete, set forth in Section 7.3(b), Mission was able to restrict it to only the first five years. Moreover, even during that five year period, the Trust may support or acquire: (a) primary care physician and dental practices that provide non-ancillary services primarily to indigent and Medicaid patients; and (b) population wellness programs and services. The Trust believes that, before and after the non-compete expires, there will be more than enough noncompeting charitable uses of its funds to serve the residents of Western North Carolina.

HCA has also agreed to adopt Mission's current medical staff bylaws and not change physician leadership roles at the hospitals at Closing (Section 7.1(j) of the Purchase Agreement). HCA has also agreed to continue to provide each physician and other licensed professional providers with the same medical staff privileges as those provided by the hospitals to such physicians and providers immediately prior to the Closing, subject to HCA's medical staff policies and procedures (Section 7.1(f) of the Purchase Agreement).

Additionally, in Section 7.18 of the Purchase Agreement, HCA states that it "intends to expand graduate medical education at the facilities consistent with its ability to obtain appropriate financing for residents and fellows, especially in specialties that could serve the needs of Western North Carolina and the adjacent regions." HCA has extensive experience that will assist in meeting the needs of that program — it is one of the largest sponsors of graduate medical education in the U.S.

The Purchase Agreement also requires HCA to provide an annual report to the representative of the sellers (ultimately to be the Trust) and to the local advisory boards (to the extent applicable to their local hospital). The report will include a summary of HCA's compliance with its capital expenditure obligations and its other obligations under the Purchase Agreement including with respect to uninsured discounts and charity care policies.

Finally, HCA and Mission have taken steps to ensure continued investment in health care innovation in Western North Carolina. The parties have agreed in the Purchase Agreement to

establish an innovation fund, which will be funded with equal contributions from HCA and the Trust totaling \$50 million. The fund's purpose will be to invest and create innovative healthcare businesses that are located in, or provide services in, Western North Carolina.

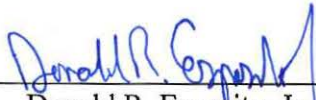
Both Mission and HCA strongly believe the sale to HCA and the resulting funding of the Trust will be of enormous benefit for Western North Carolina residents. We would be pleased to answer any questions you may have. If convenient for you, perhaps we could meet at your offices, during the week of September 10, to discuss further this important transaction.

Best regards,

MISSION HEALTH

HCA

By:



Donald R. Esposito, Jr., JD
Senior Vice President & General Counsel

By:



Chadd M. Tierney, Esq.
Vice President – Legal Development

cc: Haynes Lea, Esq., Robinson Bradshaw (via email)
J. Dickson Phillips III, Robinson Bradshaw (via email)
Robert Saunders, Esq., Brooks Pierce (via email)
Ed Turlington, Esq., Brooks Pierce (via email)
Bart Walker, Esq., McGuire Woods (via email)