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December 6, 2019

Via Federal Express and E-Mail

Diane.Quinlan@doj.nh.gov

Diane Murphy Quinlan
Assistant Director of Charitable Trusts
Department of Justice
33 Capital Street
Concord, New Hampshire 03301

**RE: Notice of Proposed Transaction to Sell Charitable Assets of Frisbie Memorial Hospital to FMH Health Services, LLC
PUBLIC COPY**

Dear Ms. Quinlan:

On behalf of Frisbie Memorial Hospital ("FMH"), we are submitting additional information in response to the requests set forth in your letter dated November 6, 2019 regarding the notice of proposed transaction to sell the charitable assets of FMH to FMH Health Services, LLC ("FHS") which is attached hereto as Attachment A.

This packet is to be considered the **public copy**. A confidential copy is being submitted under separate cover. This packet contains confidential commercial, financial, and/or proprietary information that is protected from misappropriation under RSA §350-B and exempt from disclosure under RSA §91-A:5, IV. Accordingly, FMH respectfully requests that the confidential information be afforded confidential treatment pursuant to all applicable provisions of law. Should the Department receive any request for the materials described above, FMH respectfully requires that (i) FMH be notified in advance of any proposed disclosure by the Department and (ii) FMH be given a reasonable opportunity to seek a protective order or take other action to prevent or limit any such disclosure.

We appreciate your consideration of the transaction. The parties are available to respond to any questions and/or meet to review the materials submitted.

Sincerely,

Laurie T. Cohen
Partner

Enclosures

ATTACHMENT A**Frisbie Memorial Hospital and Frisbie Foundation
December 6, 2019****1. Please provide copies of the minutes of Board meetings of FMH and Frisbie Foundation that are related to the transaction and that have not previously been provided.**

Enclosed are the minutes of a joint meeting of the boards of directors of Frisbie Memorial Hospital (“FMH”) and Frisbie Hospital Foundation (the “Foundation”) held on October 17, 2019. See Exhibit 1.

2. The Due Diligence Summary refers to a Prism Healthcare Partners presentation to the Board of Directors of FMH in 2018. Please provide copies of the presentation made to the Board of Directors.

Enclosed is the presentation prepared by Prism Healthcare Partners and delivered to the board of directors of FMH (the “Frisbie Board”) on April 26, 2018. See Exhibit 2.

3. Describe the “existing synergies in tertiary services” that Frisbie and HCA share. See Due Diligence Summary, page 2.

FMH and HCA Portsmouth Regional Hospital (“PRH”) have worked together in several meaningful ways over the years. For example, the hospitals have collaborated to decrease the amount of time that it takes for patients with a STEMI (heart attack) to receive cardiac interventions. Working with FMH’s paramedics, EMS patients and hospital patients are able to be rapidly transported to PRH (unless a patient requests transport to another local hospital) for advanced cardiac care. This collaboration has resulted in a reduction in the time it takes for patients to get occluded heart vessels opened, and ultimately leads to better patient outcomes.

Additionally, FMH and PRH have an agreement in place to provide for the transfer of patients to PRH for advanced trauma care. FMH also has collaborated with PRH to educate clinicians on a specialized treatment for a specific type of stroke. These initiatives have enabled FMH to ensure that its patients have timely access to tertiary care services.

4. Describe how HCA’s proposal “comprehensively addressed Frisbie’s perception of the needs of its patients, employees, organization, and the greater Rochester community.” See Due Diligence Summary, page 2.

In selecting a potential strategic partner, the Frisbie Board considered several factors: (a) the partner’s experience in the health care industry and demonstrated commitment to New Hampshire, (b) the partner’s willingness to commit to the operations of the hospital located at 11 Whitehall Road, Rochester, New Hampshire currently known as Frisbie Memorial Hospital (the “Hospital”) and key service lines so that the community continued to have accessible and affordable health care, and (c) the partner’s willingness to make commitments for key capital projects. HCA has a strong reputation and extensive health care experience as well as a commitment to New Hampshire as evidenced by its operations of PRH and Parkland Medical Center. HCA was also willing to make a commitment to continuing the operations of the

Hospital and key service lines while also investing in several high priority capital projects. In selecting HCA, the Frisbie Board also sought to monetize FMH's and the Foundation's charitable assets so that it could establish an endowment that would continue to support the health and well-being of the greater Rochester community.

5. Beyond the information listed in Exhibit 4 to the Notice, describe how and when the Board of Trustees of FMH provided reasonable public notice and reasonable and timely opportunity for the community to inform the deliberations of the Board of Trustees regarding the proposed transaction. See RSA 7:19-b, II(g).

Over many months, prior to the FMH's execution of the Asset Purchase Agreement, individual members of the Frisbie Board, in the course of operating their businesses, participating in other community organizations or attending community events, met informally with community members to discuss and share details regarding the proposed transaction with FHS. As listed in the Notice, a formal presentation was made at the Rotary on January 29, 2019 by Jocelyn Caple, MD, CEO, who was accompanied by Brian Hughes. (See the attached Rotary newsletter) Frisbie Board Members Ron Poulin, Jeanette Poulin, William Cormier, Jocelyn Caple and Brian Hughes are all members of the Rotary and report that there were additional informal discussions about the transaction with other Rotary members which occurred at subsequent Rotary meetings.

Frisbie Board member Julie Reynolds RN, MS, Chief Executive Officer of Cornerstone VNA ("CVNA") also reached out within her organization to share information with the CVNA board of directors at its September 19, 2019 meeting regarding the transaction with FHS. She also discussed the transaction with CVNA's management team on August 27, 2019 and at a larger staff meeting on September 30, 2019. Collectively, this included almost 200 persons who live and/or work in the Rochester community. The Frisbie Board reported that the collective responses to their discussions with community members and business leaders has been positive and community members and business leaders expressed support for the Frisbie Board's efforts to ensure the continued operation of the Hospital.

Lastly, in addition to the information listed in Exhibit 4 to the Notice, FMH has also recently posted information on its website setting forth a timeline of its actions, an executive summary of the transaction and a link to the notice of proposed acquisition filed with the New Hampshire Attorney General.

6. Describe how FMH or the Foundation will ensure that any proceeds of the transaction are "devoted to charitable purposes consistent with the charitable objects of the health care charitable trust and the needs of the community which it serves." See RSA 7:19-b, II(e).

At this time, FMH anticipates that the Foundation will receive the sales proceeds and as the Seller Representative will manage the disposition of any remaining FMH assets and undertake the wind down of FMH's and its affiliates' respective operations. Following the approval of the transaction, the Foundation will be renamed and repurposed. Specifically, the new purpose of the Foundation will be to improve the health and well-being and reduce the burden of illness of persons residing in Strafford County, New Hampshire and immediately surrounding communities primarily by awarding grants, making program-related investments

and providing other financial assistance to health and social service related programs, organizations and projects benefitting the residents of Strafford County, New Hampshire and immediately surrounding communities in a charitable manner within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended and the rules and regulations promulgated thereunder. The Foundation will also be expected to satisfy any obligations of FMH, the Foundation, Granite State Lab, LLC, and Seacoast Business and Health Clinic, Inc. (collectively, the “Sellers”) pursuant to the Asset Purchase Agreement among FMH Health Services (“FHS”) and the Sellers (the “APA”).

Alternatively, FMH and the Foundation may seek to establish a donor advised fund or otherwise align with another existing New Hampshire foundation to administer the sale proceeds and any additional proceeds from the disposition of the FMH assets excluded pursuant to the APA. This option will necessarily require that such foundation enter into an agreement with FMH and FHS that will set forth the terms and conditions pursuant to which such foundation will administer the proceeds and, to the extent required, make such proceeds available to satisfy the Sellers’ obligations under the APA.

7. The Asset Purchase Agreement (“APA”) at section 7.21(d) provides that the Foundation shall verify the eligibility of the proposed recipients of distribution in accordance with the terms and conditions of the Agreement. Describe the applicable “terms and conditions” and explain who or what entities would be eligible for grants from the Foundation.

The grant agreements referenced in Section 7.21(d) of the APA will allow the Foundation to maintain a record of its grant making and distributions and will similarly allow the Foundation to have a contractual commitment from the recipients as to how the recipients will use those funds consistent with the purposes of the Foundation.

The “terms and conditions” also refer to Section 7.3(b) of the APA, which ensures that the proceeds from the transaction that are available for use by the Foundation are not used in contravention of the restrictive covenants set forth in the APA. In accordance with Section 7.3(b) of the APA, during the Restricted Period (beginning as of the Effective Time and ending on the 5th anniversary), the Foundation would be restricted from providing financial support to any person that engages in any activities considered competitive with FHS and its affiliates (defined in the APA as “Restricted Business”) in the “Restricted Area” which is defined in the APA as Strafford County, New Hampshire; Carroll County, New Hampshire; Rockingham County, New Hampshire; Belknap County, New Hampshire; York County, Maine; and Oxford County, Maine.

Section 7.3(b) of the APA allows the Foundation to use or make distributions for the purpose of organizing, acquiring or investing in, or providing financial support or grants to, (a) any facility or other organization that principally sponsors programs that provide services that address population wellness or one or more of the social determinants of health or (b) a program, the principal purpose of which is to provide services that address population wellness or one of the social determinants of health, sponsored by any facility or other organization, provided that the activity is limited to such program. For example, grants may be made to organizations that support the recovery community, such as SOS Recovery Community Organization in Rochester.

8. Describe what, if any, services are included in the definition of “Restricted Business” (APA 1.1, APA 7.3(b)) that FMH currently does not offer.

The following lines of business are NOT currently offered by any FMH facility:

1. Long term acute care hospital
2. Specialty hospitals
3. Outpatient radiation oncology centers, gamma-knife centers and cyber-knife centers
4. Burn clinic
5. Neonatal intensive care facilities
6. Nursing facilities

9. Identify the inpatient and outpatient mental health services offered by FMH, including the number of beds and professional staff, for each year from FY2016 through FY2019.

FMH has offered the following inpatient and outpatient mental health services for each year from FY 2016 through FY 2019:

Geropsychiatry: Outpatient practice (medication management/psychotherapy); Inpatient Unit: 20 bed locked inpatient unit for adults age 65 and older; 3 Psychiatrists/2 NPs/ 2 Licensed Social Workers provide therapy.

Primary Care: Licensed clinical social workers and therapists provide psychotherapy services and integrated care; 5-6 therapists are embedded in the primary care practices.

Peer Support Services: Emergency department-based on call support and inpatient support by certified support staff.

10. If FHS discontinues a service line (e.g., labor and delivery) consistent with the terms of the APA (APA 7.11), will the APA prevent the Foundation from funding such a service line in the area served by FHS?

Yes, if FHS were to discontinue a service line, the APA would prevent the Foundation from funding such a service line in the Restricted Area during the five year period following the Effective Time, as set forth in Section 7.3(b) of the APA.

11. The APA requires that the Foundation, among other things, appoint members of the Board of FHS (APA 7.10), determine if certain contingencies apply (APA 7.11), and provide certain required notices (APA 10.3, 10.4). Will the Foundation hire staff to assist in fulfilling its obligations under the Agreement, and if so, what will be the qualifications?

The Frisbie Board and the board of directors of the Foundation understand that the parties have post-closing obligations that will need to be fulfilled and monitored. There is no expectation to hire staff but rather the Foundation will seek to contract for wind down and on-going management services. Such contractors will support and assist the Foundation in carrying out its duties.

12. Explain why the Foundation’s right to nominate three directors to the FHS board of directors expires ten years from the Closing Date. APA 7.10(b)

Section 7.10(b) of the APA grants the Foundation the right to appoint three individuals to the Hospital’s board of trustees. In addition to other responsibilities, the Hospital’s board of trustees will be responsible for assuring that the Hospital and its medical staff provide quality medical care that meets the needs of the community. In seeking the right to appoint three individuals to the Hospital’s board of trustees, the Frisbie Board wanted to ensure that there would be local representation on the Hospital’s board of trustees for a reasonable transition period. After the ten-year period, it was thought that FHS should be fully integrated into the community and the need to preserve this role for the Foundation would no longer be necessary. As noted in Section 7.10(b) of the APA, following the expiration of such ten (10) year period, FHS will continue to appoint at least three voting members to the Hospital’s board of trustees who principally reside or work in Strafford County.

13. Explain whether FMH has experienced a “Financial Loss” as defined in APA 1.1 for any of the services described in APA 7.11(a) in the last 5 years. If so, describe the services and the years of the losses.

FMH, on the whole, has experienced operating losses in each of the last three fiscal years. During these periods, each of the five service lines listed in Section 7.11(a) of the APA (the “Frisbie Hospital Services”) provided a positive contribution margin to the profitability of the operations of the Hospital. FMH is unable to calculate whether any Frisbie Hospital Service experienced a “Financial Loss” (as defined in the APA) because FMH does not use the method for allocating indirect costs that is required under the APA to determine whether a “Financial Loss” occurred as described on Schedule 1C to the APA. Using FMH’s standard method for allocating indirect costs, FMH estimates that it would not have experienced a “Financial Loss” with respect to inpatient surgical services, but that FMH would have experienced a “Financial Loss” with respect to the following four Frisbie Hospital Services:

- emergency department services
- inpatient medical services
- behavioral health services
- labor and delivery services

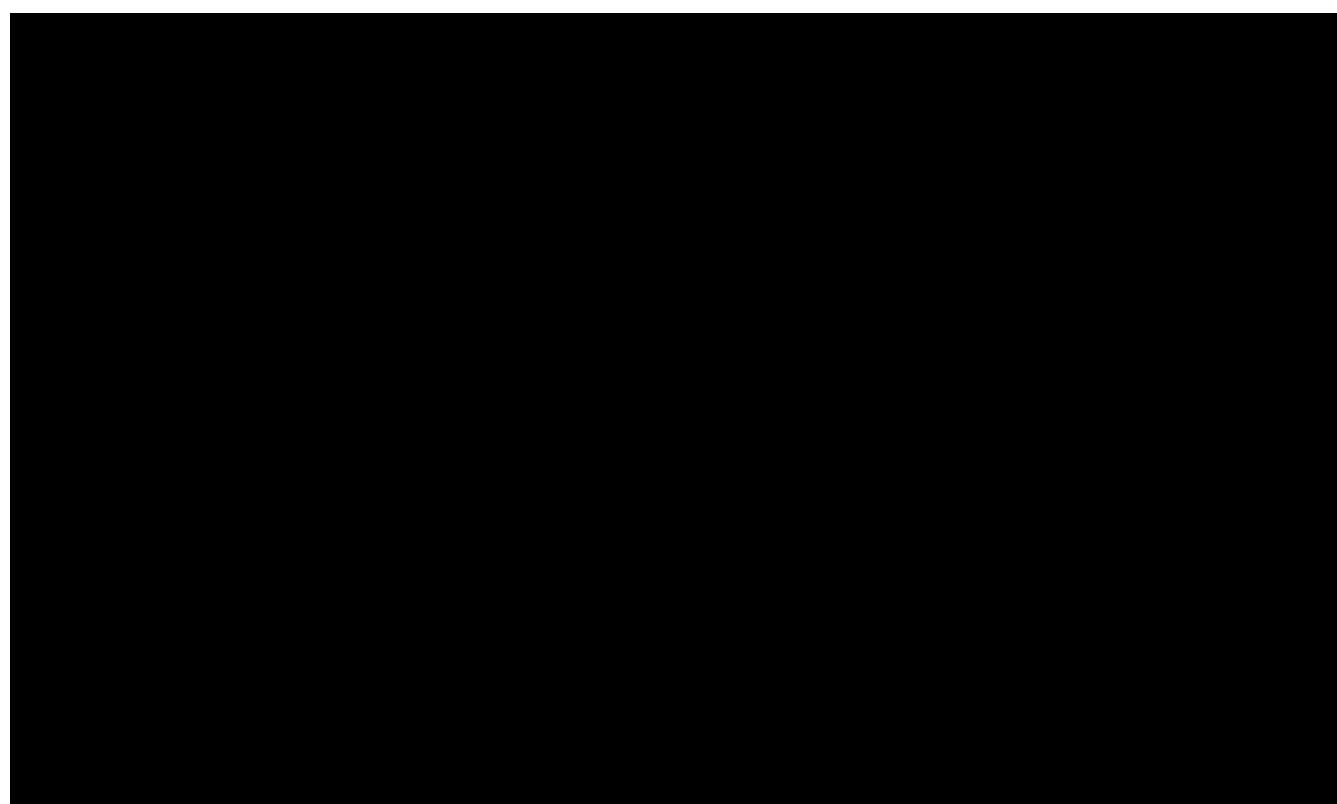
FHS anticipates that the overall performance of the four Frisbie Hospital Services identified above will improve following the closing of the transaction through economies of scale and other operational advantages that the Hospital will benefit from becoming part of the HCA healthcare system.

14. The Asset Purchase Agreement requires that the Advisory Board monitor FHS's commitments relating to hospital services, including capital commitments (APA 7.12) and uninsured and charity care (APA 7.13), and review FHS's annual compliance report (APA 7.10(a), 7.14). Will the Advisory Board hire staff to assist in its monitoring responsibilities?

There is no plan for the Advisory Board to hire staff.

15. How will the employment agreements and physician employment contracts described in APA Schedule 4.19(a) be affected by the transaction? If the agreements and contracts are not assumed by HCA/FHS, what is the total amount of liabilities as a result of termination of these contracts?

The employment agreements and physician employment contracts are listed on Schedule 4.19(a) because they meet one of the requirements of 4.19(a)(i)–(xxii) and, therefore, constitute a “Material Contract” for purposes of the APA. Schedule 2.1(h) lists those contracts that FHS has indicated it will be assuming as of the date of the APA. FHS will assume certain physician employment agreements currently not listed on Schedule 2.1(h), provided that certain amendments to such agreements are entered into prior to closing of the transaction.



16. The Foundation meeting minutes of September 26, 2019 refer to the resignation of Lisa Stanley from the Foundation. Please provide the reason(s) that Ms. Stanley gave for her resignation and a copy of any letters or documentation from Ms. Stanley regarding the reason for her resignation.

Ms. Stanley submitted her letter of resignation shortly after the Frisbie Board and the Foundation board approved the APA. She initially questioned FMH's need to pursue a strategic partnership and had urged the Frisbie Board to delay the decision (see board minutes from August 2018). Although she continued to participate and engage with other Frisbie Board members in discussions and deliberations regarding the transaction with HCA, in the end she indicated she was unable to support the decision to move forward with the sale and elected to resign. Attached as Exhibit 16 is Ms. Stanley's notice of resignation.

17. Describe any deliberations among FMH and/or Foundation directors concerning the lack of a termination clause that would give FMH or the Foundation the opportunity to reverse the transaction after the Closing Date.

In considering the transaction with FHS, the Frisbie Board determined that if FHS is unable to sustain the operations of the Hospital that neither the Frisbie Board nor the Foundation would have resources available to repurchase the Hospital and/or resume operation of a stand-alone hospital.

18. Discuss the implementation by FMH of specific actions, programs, resources, impact, and evaluation to address the first three priority needs identified in the 2019 Frisbie Memorial Hospital Community Health Needs Assessment (mental illness prevention and treatment; substance misuse prevention and treatment; and access to affordable health care and prescription medications).

Over the past several years, FMH has been exceedingly resource strapped from both a financial and a personnel standpoint and has, therefore, not been able to respond to the community needs assessment in the manner to which it has strived in the past.

1. In the realm of mental illness prevention and treatment, FMH continues to maintain the 20 bed inpatient geropsychiatry unit as well as an outpatient service for geropsychiatry as detailed in the response to Question #9. FMH also provides social workers in its ambulatory practices as noted in the response to Question #9, and provides behavioral health services in the emergency department. FMH has historically provided these programs, and FMH has been committed to maintaining them, but FMH has not been able to increase services in this area in response to the 2019 needs assessment.

2. With regard to substance misuse prevention and treatment, for several years, FMH has offered a medication assisted treatment program (MAT - Saboxone) which was championed by several FMH providers. Unfortunately, these providers chose to leave the organization over the past year. Since that time, FMH's MAT program has struggled with lack of provider leadership. Meanwhile, the ROAD to a Better Life MAT program has grown in capacity and offers a much more robust program than FMH ever had in the past. Recognizing the greater capacity and enhanced programming at ROAD to a Better Life MAT (they offer peer counseling groups and other wrap-around services), FMH will be referring new, acute patients to this program. <https://roadtoabetterlifenh.com/locations/>

3. Although FMH prides itself on being an affordable health care option for its community and provides financial assistance to many members of the community, FMH has not

been able to address directly the burden of the high cost of prescription medication for members of its community.

19. Provide a list of current population health management programs, accountable care organizations, and joint purchasing collaboratives in which FMH participates. How will those arrangements change, if at all, after the Closing Date?

FMH participates in population health management programs with Benevera Health.

FMH does not participate in any accountable care organizations.

With regard to joint purchasing collaboratives, FMH participates with Yankee Alliance. This arrangement will not be continued by FHS.

20. Create a pro forma Estimated Closing Statement as called for in APA 2.6, assuming that the Closing Date took place on October 31, 2019.

Please see Exhibit 20 for the pro forma Estimated Closing Statement.

21. Provide copies of the Articles of Agreement and by-laws for FHS.

Please see Exhibit 21.

22. Provide copies of all uninsured, charity care, and financial assistance policies for Portsmouth Regional Hospital, a hospital affiliated with HCA, and compare those policies with those proposed for FHS.

Please see Exhibit 22. The uninsured, charity care, and financial assistance policies for PRH are the same as those to be utilized by FHS at the Hospital. The uninsured and charity care policy that will be maintained will result in increased benefit to the community, as this policy will result in greater charity care coverage for those members of the community who historically may have been ineligible for charity care assistance at the Hospital. In particular, with respect to charity care, full write-offs are given to patients with annual incomes of less than 250% of Federal Poverty Guidelines (the “FPG”). Patients with annual household incomes of up to 400% of the FPG have their balances capped on a sliding scale, not to exceed 4% of their income. These charity benefits are available to all patients regardless of their insurance coverage. With respect to uninsured discounts, the policies offer most patients with no insurance an uninsured write-off for non-elective services. This discount is typically similar to a managed care contracted discount. Additionally, FHS would allow patients to establish interest-free payment arrangements for up to 60 months. These payment plans can be as low as \$25 per month. Finally, the patient liability protection policy extends the limit on patient liability for families above 400% of the FPG and generally applies after existing programs are processed (after charity or uninsured). The patient liability policy caps patient liabilities at 10% of annual household income for those between 400%–600% of the FPG, 12% for between 600%–800%, and 800%+ are capped at 15%.

23. For the years 2016, 2017, and 2018, provide cost data related to Portsmouth Regional Hospital's charity care policies, including any direct contributions to charity care programs. Charity care should be reported in terms of costs, not charges, for providing care to uninsured patients who qualify for free or discounted care as well as for underinsured patients who qualify for discounted or forgiven charges for amounts that are the patient's responsibility.

The cost data below represents the official filing of the Annual Medicaid Uncompensated Care Cost Data Request Form provided to the State of New Hampshire. The filing for each year (2016 – 2018) is based on DHHS instructions/methodology and data represents cost reports two years prior to the current state fiscal year end. (e.g. 2018 is March 1, 2015 through February 29, 2016):

2016 Filing: \$9,572,971

2017 Filing: \$11,584,335

2018 Filing: \$13,174,368

24. Describe Portsmouth Regional Hospital's efforts in 2016, 2017, and 2018 to address its local community's health needs (comparable to "community benefits" as defined in RSA 7:32-d).

PRH has addressed its community health needs in a number of ways from 2016–2018:

1. PRH has been a contributor to Families First (South Eastern New Hampshire's Federally Qualified Health Center) for many years. The contributions and sponsorships to Families First help in a number of needed areas, including, but not limited to, the Dental Clinic and Mobile Health Services (Van). These contributions have ranged from \$96,050 to \$130,000 annually to Families First.
2. PRH has expanded its mental health programs to ensure access to both inpatient and outpatient services. In 2015, 8 additional inpatient behavioral health beds were added to the hospital's license. In 2016, PRH became a licensed Designated Receiving Facility in order to ensure Seacoast residents needing involuntary admissions could be accommodated. In 2017, PRH expanded its services to include an outpatient partial treatment program located in Hampton, NH. In 2018, ECT services were launched at PRH.
3. In 2017, PRH became a verified Level II trauma center, ensuring access to trauma services on the Seacoast. A part of verification includes a robust trauma prevention program for the community. The program included the hiring of a prevention and outreach coordinator, who has helped host prevention seminars on the importance of seatbelt safety, helmet safety for both motorized and non-motorized services and clinics for senior citizens related to falls. In addition, PRH's community needs assessment showed a need for orthopedic trauma services. PRH financially supported the recruitment of a fellowship trained orthopedic surgeon to the community, ensuring orthopedic trauma patients could stay in the state for care.

4. PRH has hosted an annual free colonoscopy screening clinic (including years 2016–2018) to ensure patients uninsured or underinsured had access to vital care.
5. PRH has recruited specialists to the community that were shown to be a deficit in access within the community needs analysis. These specialty recruitments include, Neurology, Primary Care, Orthopedic Trauma (noted above), Endocrine NP, Pulmonology, Plastic Surgery, Interventional Radiology, Vascular Surgery and Psychiatry.
6. PRH began investment in its pursuit of a Graduate Medical Education Program in the year 2018. The program will launch in July 2020 and will ultimately train and educate 91 residents and approximately 50 medical students a year. There will be four core programs; Family Medicine, Internal Medicine, Psychiatry, and Transitional. These four specialties are shown to have deficits within not only the primary service area, but the State of New Hampshire.

See community donations/contributions noted above in the response to Question #23.

25. Describe any plans for the integration of services between FHS and Portsmouth Regional Hospital, including services relating to mental health and substance use disorder.

PRH and FHS will integrate services that help ensure patients stay in the local FHS community as well as in the State of New Hampshire. The integration of the transfer center will be completed at the Hospital to ensure access to the Hospital and PRH. In addition, PRH's Behavioral Health Clinical Social Work team will extend its central intake to the Hospital.

PRH, as a Level II Trauma Center, will help support the Hospital's pursuit of Level III trauma and support the back end functions necessary to launch the program.

PRH also plans to deploy specialty services to the Hospital's service area to ensure access to fellowship-trained colorectal, bariatric, and breast general surgeons. In addition, PRH will deploy neurosurgery, cardiac/vascular, and orthopedic services to the Hospital's primary service area to ensure patients have local access points and can stay at the Hospital for care.

PRH will also work with the Hospital to develop an outpatient partial hospitalization program in Rochester.

26. The Statement of FHS Regarding Fulfillment of Frisbie Memorial Hospital Charitable Objects describe how the Foundation will continue the charitable objects of FMH through operation of the hospital, continuation of certain service lines, and construction of certain capital improvements. What, if anything else, will FHS do for the "improvement of health and well-being of persons residing in Strafford County" and the surrounding communities?

In addition to the Statement of FHS Regarding Fulfillment of Frisbie Memorial Hospital's Charitable Objects and the commitments made by FHS in the APA, as part of the HCA organization, the Hospital would receive the benefits of being part of a national healthcare provider, including industry leading practices, unmatched scale, and financial resources to enhance the Hospital's high quality care delivery in the community, all of which would allow the

Hospital to provide high quality health care that will improve the health and well-being of persons residing in Strafford County and surrounding communities.

One of the key opportunities for the Hospital is to participate in joint medical staff planning efforts with PRH and Parkland Medical Center. A coordinated approach will enable the three hospitals to pursue specialists that could be shared across markets. This can benefit the Hospital and the Rochester community as there may be opportunities to rotate specialists through the market. Further, partnering with PRH and Parkland Medical Center would provide existing physicians with a network of peers to consult across the market. HCA has national service line expertise and teams that the Hospital leaders can access in cardiology, orthopedic, pediatrics, oncology, neuroscience, psychiatry, and acute care rehabilitation.

The Hospital would also be able to access the HCA telemedicine program, which currently focuses on telestroke and telepsych coverage in the emergency department. Access to these services will enable the Hospital to quickly access high quality providers, treat more patients locally and improve throughput in the emergency department.

The Hospital will also have access to HCA's physician services group recruiting that has a team of 120 individuals dedicated to identifying and recruiting new providers (physicians and advanced practitioners) to HCA hospitals.

The communities served by the Hospital will benefit from the investments made by PRH with respect to a graduate medical education program that will launch in July 2020, as this program will train physicians who are likely to practice in the Portsmouth or Rochester area following their training.

Finally, given HCA's investments in clinical data, technology, and informatics capabilities, HCA is positioned for a transaction to value-based care and a focus on population health. Known across industries as "big data," HCA has significantly invested in both people and technology to leverage its massive amounts of data captured across the enterprise and this data is used to inform the clinical decision making process and meet vastly expanding reporting requirements.

27. Why is FHS imposing certain requirements upon the Foundation as to the use of the Foundation's Distributions through the tenth year after the Closing Date (APA 7.21(a))?

FHS has imposed those requirements in the APA to ensure that a sufficient amount of funds is available to satisfy any indemnity claims made by FHS during that ten year period. These restrictions are also consistent with the Foundation's desire to create an endowed fund, which aligns with its vision for a fund that will benefit the greater Rochester community for decades.

28. Why does FHS retain the right to consent to any charitable organization that may replace the Foundation (APA 7.21(h))?

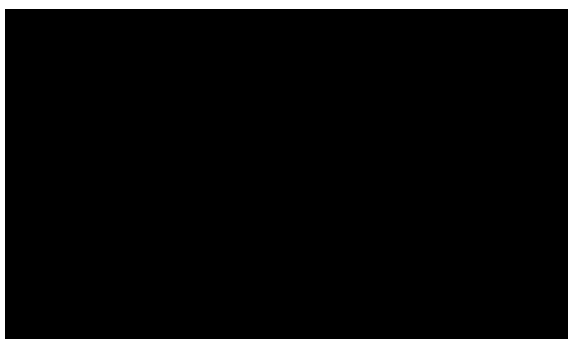
Both FHS and FMH have a vested interest in ensuring that any charitable organization that would replace the Foundation is willing to follow the parties' agreements set forth in the APA as to the use of the proceeds.

29. Is FHS committed to remaining enrolled in and in good standing with respect to Medicare and Medicaid? If so, for how long? Where does the commitment appear in the APA?

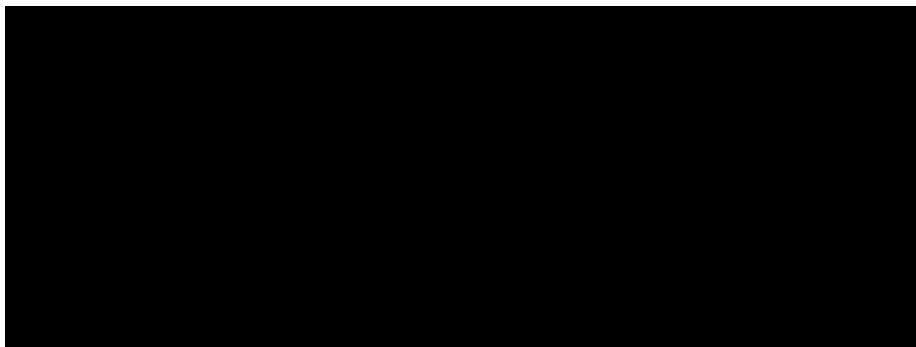
The APA does not contain a commitment of FHS to maintain the Hospital's enrollment in Medicare or Medicaid. Nevertheless, at this time there is no intent by FHS to allow the Hospital's enrollment in Medicare and Medicaid to expire or otherwise withdraw from participation in either reimbursement program.

30. Explain Portsmouth Regional Hospital's participation in Medicare and Medicaid programs. In which Medicare and Medicaid insurance plans does Portsmouth participate?

Managed Medicare:



Managed Medicaid:



31. The APA indicates that 3 members of the Board of Trustees of FHS will be from the Strafford County area. (APA 7.10(b)). What would be the total number of members of the Board of Trustees?

FHS currently anticipates that the total number of individuals on the Hospital's board of trustees will be between nine and twelve.

32. Is FHS or HCA contemplating discontinuing any service lines currently offered at FMH in the ten years following the Closing Date?

No, FHS has no intent to discontinue any service lines currently offered at the Hospital in the ten year period following the Closing Date.

33. Please explain whether the APA permits FHS to terminate any or all of the services currently offered at FMH 12 months or more after the “Effective Time” if it determines that the service or services no longer are “financially viable.” (APA 1.1, APA 7.11(b)).

The APA permits FHS to discontinue emergency department services, inpatient surgical services, inpatient medical services, behavioral health services, or labor and delivery services upon the occurrence of a Contingency (as such term is defined in the APA) with respect to such service, which includes that particular service no longer being financially viable (as more specifically described in the APA) for a period of at least twelve (12) consecutive months any time after the one year anniversary of the Effective Time.

34. Provide examples of “a change in the needs of the communities” that will constitute a “contingency” under APA 1.1 and APA 7.11(b).

The purpose of the “change in the needs of the communities” portion of the definition of Contingency in the APA is to address a situation in which a change in the healthcare needs of the community changes so significantly that it materially reduces the need for the service in the community. An example of this change would be if after the closing of the transaction, the population of the Greater Rochester area aged or experienced a material shift in demographics such that births were reduced to a level reasonably necessitating a termination of the provision of labor and delivery services at the Hospital.

35. How will it be determined that a “contingency” has occurred due to failure to achieve or maintain a sufficient level of safety and quality in accordance with APA 1.1 and APA 7.11(b).

While the determination of a Contingency due to the failure to achieve or maintain a sufficient level of safety and quality would be a facts and circumstances test based, in part, on CMS core measures and standard safety and quality metrics, the determination is one that would initially be made by FHS. Any dispute between the parties as to whether a “Contingency” has occurred will be resolved in accordance with the dispute resolution procedures set forth in the APA and described in the response to Question #36.

36. Explain how the Seller Representative/the Foundation will have access to sufficient information and documentation to be in a position to verify or dispute the occurrence of a “contingency” in accordance with APA 7.11(b).

As set forth in Section 7.11(b) of the APA, if FHS makes a determination that a Contingency has occurred, written notice will be delivered to the Seller Representative and such written notice will describe the Contingency in reasonable detail along with the calculations supporting FHS’ determination. If the Seller Representative disputes the occurrence of a Contingency, the APA sets forth a dispute process in which the parties have a 30 day period to resolve the issue. If the parties are unable to resolve the dispute and the dispute relates to a calculation of actual or projected Financial Loss (as such term is defined in the APA), then the dispute would be submitted to Deloitte & Touche LLP for resolution. If the parties are unable to resolve the dispute and the dispute relates to any other element of a Contingency, then the matter would be submitted for arbitration among the parties in accordance with Section 13.3 of the

APA. If either of those dispute resolution processes were pursued, both would require the production of information and documents by all parties to assist Deloitte & Touche LLP or the arbitrators, as applicable, in resolving the dispute.

37. Explain how the “psych pod” described in paragraph 7.12 will be used and staffed and how this will benefit the community.

HCA has constructed a similar psych pod at PRH and is experienced in the design, construction, and operation of the psych pod that will be constructed at the Hospital. FHS currently anticipates that the psych pod at the Hospital will be used and staffed as follows:

The psych pod will be a section of the emergency department that will be developed to provide a safe, secure area for the evaluation of patients presenting to the emergency department with behavioral health complaints. The “psych pod” will be an area that has patient care rooms specially designed to be ligature safe and will be an area that will allow the behavioral health patients to be in a secure area of the emergency department. Currently at the Hospital, the behavioral health patients are in rooms that are in the middle of the emergency department, which is not optimal for the behavioral health patient in crisis or the care of the other patients in the department. This area will also utilize video monitoring to enhance the safety of the behavioral health patients. Because the space will come from existing emergency department space, staffing additions will be evaluated based on industry benchmarks. Additional security staffing requirements above current staffing will be evaluated based on the final design and patient flow.

38. Provide the estimated costs associated with constructing the psych pod described in 7.12 and describe what the construction entails.

While FHS has not developed the specific plans, designs, or specifications in connection with the construction of the psych pod, FHS currently anticipates that the psych pod will be an expandable area encompassing a total of 5 rooms. The primary pod would be 3 rooms; one room will be an emergency department exam room that will be made psych safe (anti-ligature equipment, shatter proof window, 2 way doors), this room will retain the capacity to be an emergency treatment room. Two of the rooms would be built out of existing space: these rooms would be psych safe rooms with anti-ligature equipment, two way doors and furniture (beds, chairs) that are designed for a behavioral health unit. These rooms would be for behavioral health patients only; they would not be piped for medical gases. These three rooms would be in a secure area that will be monitored with a camera system by security.

As there are often times when the Hospital has more than three patients waiting for beds or evaluation, there is a desire to have the ability to provide flexibility. The plan may include the flexibility to add two additional emergency department exam rooms that would have psych safe retrofitting (anti-ligature equipment, shatter proof window, 2 way doors). However, while the rooms would be a safe place for the behavioral health patient, they would also still be able to be used as normal emergency department exam rooms. This area would also be able to be secured and it would have the same camera and audio security. When in the secured mode, the psych pod could either be a two bed section and a three bed section or five total beds. The ability to

have two different secured sections would allow for the ability to separate pediatrics from adults or to separate patients whose crisis leads to violent behavior.

As noted above, while FHS has not developed the specific plans, designs, or specifications in connection with the construction of the psych pod, FHS did commit in Section 7.12(a) of the APA to spend not less than ██████████ in the construction of the psych pod. FHS anticipates that the psych pod will be similar to the psych pod at PRH.

39. Provide the status of discussions regarding the “investment guidelines” to be established in accordance with APA 8.16.

The development of the “investment guidelines” by the parties is in process and will be finalized prior to closing. A copy of the investment guidelines will be provided when finalized.

40. APA Schedule 4.14 lists the resignations of 7 primary care physicians and APRNs, 7 physician specialists, and 3 hospitalists since January 1, 2019. Describe the reasons the medical staff members gave for their resignations and provide copies of any documentation related to their resignation, including any written letters of resignation. Please explain whether FHS intends to hire replacements for any or all of those positions.

See attached as Exhibit 40 for the letters of resignation for the 7 primary care physicians and APRNs, 7 physician specialists, and 3 hospitalists as well as three additional letters of resignations. Also attached is a summary of subsequent recruitments by FMH to replace some of these providers. Since the date of those respective resignations, FMH has either been able to fill such vacancies or has been in the process of actively recruiting replacements as noted in Exhibit 40. FHS intends to have a fully staffed 24-hour hospitalist program and intends to support the cardiology, obstetrics/gynecology, and primary care services in a manner that ensures the appropriate physician coverage in those specialties.

41. The letter from Dr. Jocelyn Caple dated January 23, 2019 (Notice Exhibit 3) addressed to “Colleagues” contains several representations:

- (a) **Frisbie will join with HCA “in order to grow, strengthen and position Frisbie for continued success.” Explain how the transaction will help to “grow” and “strengthen” FMH.**

Please see the response to Question #26.

- (b) **“HCA...commits to providing charity care equal to or exceeding our current levels.” Explain whether HCA has made this commitment in writing, and if so, provide a copy of the documentation of the commitment.**

In Section 7.13 of the APA, FHS agreed to implement and maintain at the Hospital charity care and uninsured discount policies for a period of five years following the Effective Time. The parties reviewed and determined that these charity care and uninsured discount policies would result in increased benefit to the community, as the charity care policies will result in greater charity care coverage for those members of the community who historically may

have been ineligible for charity care assistance at the Hospital, and the uninsured discount policies offer most patient with no insurance an uninsured write-off for non-elective services.

(c) “Frisbie would continue to be a leading employer in Rochester and environs, supporting continued economic vitality in the region, attracting new talent and providing our homegrown talent with local development and career opportunities.” Explain how HCA will attract new talent and provide existing talent with “local development and career opportunities.”

As a part of HCA, the Hospital will have access to candidates nationally and locally, and offer their current colleagues enhanced opportunity for job movement within the local area and across the U.S., plus development resources to help them create a vibrant career.

- A. Attracting new talent – HCA has a robust nationwide recruiting network, with dedicated recruiters within each of its divisions. The division recruiting team fills vacancies with local talent, and conducts national searches for leadership and specialized roles.
- B. Education and training – HCA is committed to offering a wide variety of functional and leadership learning opportunities that will be available to employees of the Hospital.

- a. HealthStream, an online training and education platform with thousands of courses in clinical and leadership disciplines customized for HCA colleagues.
- b. Clinical education – The HCA Healthcare Center for Clinical Advancement, a centralized team, coordinates development and delivery of continuing education on-site and online.
- c. Certification support – Detailed in the response to Question #41(d).
- d. HCA Healthcare Leadership Institute – The nationally recognized HCA Healthcare Leadership Institute offers a wide variety of personal and leadership development options such as Charge Nurse certification, plus selection-based leadership programs developed in conjunction with Harvard Business Publishing and other best-in-class partners that prepare colleagues for advancement: the year-long Executive Development Program and Director Development Program, CNO and CFO development programs, the Physician Leadership Academy and Executive Transitions support. Many current HCA Healthcare executives and alumni have advanced their careers through these programs.

C. Career mobility – In addition to career opportunities within the Hospital, Hospital colleagues will have options to transfer to other New Hampshire hospitals in the HCA family, plus physician offices, surgery centers and other care locations. HCA colleagues have online access to job postings within and beyond their hospital.

(d) Describe the “many benefits” that HCA will offer employees that are not currently offered to Frisbie employees.

Among the many benefits that HCA colleagues enjoy, several not currently made available by FMH to FMH employees include:

- A. Retirement Funding – FMH discontinued employer funding to its 403(b) Plan in 2018. As part of HCA, employees will be able to contribute to the HCA sponsored 401(k) and receive a 100% annual match ranging from 3% to 9% of pay based on their years of vesting service. Service at FMH will be recognized for all regular full-time, part-time and PRN status employees in calculating the employer match and awarding vesting service credit under the HCA plan.
- B. Workforce Development benefits - HCA is investing up to \$300 million in a suite of “Workforce Development” programs:
 - a. Clinical certifications support - Offers test fee reimbursement, bonuses and pre-paid vouchers to employees for achieving specific nationally recognized certifications beyond those required for their current position. This helps prepare colleagues in fields like Nursing to advance their careers as they improve their ability to deliver specialized care.
 - b. Paid Family Leave – Eligible employees can take up to 14 calendar days per year of paid family leave to care for a family member with a serious health condition as defined by the Family & Medical Leave Act, or bond with a new child, in addition to other programs.
 - c. Tuition Reimbursement - FMH currently offers up to \$1,900 for part-time and \$2,700 for full-time employees annually. HCA will offer reimbursement up to \$5,250 each calendar year for higher education expenses incurred by part-time and full-time employees for pre-approved courses at accredited schools.
 - d. Education advising - Provides free one-on-one sessions and webinars with former college admissions and finance officers plus free online resources to help eligible participants plan, apply and pay for college.
 - e. Student loan repayment assistance - Offers monthly benefits of \$150 (full-time) or \$75 (part-time) to help eligible employees repay their own student loans for degrees they have already completed.
 - f. Financial coaching - Provides free and unlimited one-on-one sessions with a financial wellness coach who can help eligible employees evaluate loan repayment and refinancing plans and make the most of the HCA benefit program.
 - g. HCA Healthcare Scholars program - Offers merit-based higher education scholarships of up to \$5,000 to dependent children of eligible employees on a competitive basis, to ease the financial burden on families of outstanding students.
- C. Employee Stock Purchase Program – Offers eligible employees a 10% discount on purchasing HCA stock.

D. HCA Healthcare Hope Fund – Although not technically a “benefit”, the Hope Fund is an employee-run, employee-supported 501(c)(3) charity formalized in 2005 and governed by an independent Board of Directors comprised of employees from around the country. The goal of the HCA Healthcare Hope Fund is simple: to help HCA employees and their immediate families who are affected by financial hardship due to natural disaster, extended illness/injury, domestic violence, death of a loved one, and other special needs.

E. Special help for lower-wage colleagues:

- a. Employee Health Assistance Fund – Provides financial assistance to help eligible employees obtain medical coverage. Full-time and part-time benefits-eligible employees who demonstrate their gross annual total family income is less than or equal to 220% of the 2019 Federal Poverty Guidelines are eligible to receive a zero-cost medical plan deduction on their paycheck.
- b. Employee Retirement Assistance Contribution- Offers a company contribution to help fund the 401(k) plan accounts of eligible employees.

*Note that some of the programs listed above do not apply to employed physicians or residents (or may apply differently).

42. Describe whether and how FHS intends to address the top three community health needs as identified in the 2019 Frisbie Memorial Hospital Community Health Needs Assessment.

The three top community health needs identified in the 2019 Frisbie Memorial Hospital Community Health Needs Assessment were: mental illness prevention and treatment, substance misuse prevention and treatment, and access to affordable health care and prescription medications. Pursuant to the terms and conditions of the APA, FHS committed to (a) maintain behavioral health services and emergency department services at the Hospital for a period of 5 years following the closing of the transaction and agreed to construct a psych pod in the Hospital’s emergency room, and (b) implement and maintain uninsured and charity care policies for a period of 5 years after the closing of the transaction that will result in greater charity care coverage for those members of the community served by the Hospital who historically may have been ineligible for charity care assistance.

43. Describe how FMH’s implementation plan for addressing community health needs as identified in the 2019 Frisbie Memorial Hospital Community Health Needs Assessment will be affected by the transaction.

As noted in the response to Question #18, due to its limitations on resources, FMH has not been able to completely respond to the needs identified in the 2019 Frisbie Memorial Hospital Community Health Needs Assessment. The community health needs identified in that assessment will be positively affected by this transaction as noted in the response to Question #42 relating to the commitments made by FHS in the APA.

44. Explain in detail any instance between 2010 and the present in which HCA has claimed indemnification from a Seller Representative in an amount higher than the Seller Cap or equivalent. APA 10.1.

Since 2010, HCA has not made an indemnity claim against a seller in an amount in excess of the maximum cap on such seller's obligation to indemnify HCA for breaches of representations and warranties set forth in the definitive agreement relating to the transaction with such seller.

EXHIBIT 1



Joint Meeting
FMH Board of Trustees & Frisbie Foundation
MEETING MINUTES
October 17, 2019
Conference Call

- Present:** Brian Hughes, Jocelyn Caple, MD, Bill Cormier, Janette Poulin, Jim Jalbert, Julie Reynolds, John Hall, Mark Farrell, John Britton, MD Ron Poulin and Frank Jones.
- Excused:** Brian Szymanski, MD and Bill Kiley, MD.
- Guests:** Laurie Cohen of Nixon Peabody, Doug Johnson and Rob Kirsch of Stroudwater
- Staff:** Jim Hutchinson, Interim CFO, and Sherry Lord, Senior Executive Assistant.

EXHIBIT 2

Frisbie Memorial Hospital
Board of Trustees
April 26, 2018

1-302-202-1114 Code: 919490



**THE
PHOENIX
PROJECT**

Remainder of Presentation has been redacted

EXHIBIT 5

ROTARY CLUB OF ROCHESTER, NH NEWSLETTER

01/28/2019

Bulletin by: Jenn Marsh :



ATTENDANCE BOX SCORE

Guests and Visitors: John Polychrones, Julie Reynolds, Jim Hayes, Sarah Varney, Elizabeth Clemence

Birthdays: None

Club Anniversaries: None

Cheryl T showed up to win the \$203 raffle prize today! Congratulations

FINES- Ron Poulin

- TJ pad for the "bigtime fumble handoff" to Bob M.

-If you don't own any Patriot's gear you have pay today.

HAPPY MEMBERS / PSAS

- Bob M paid b/c his investment in UNH hockey tickets paid off this year.
- Lisa S paid a sad dollar b/c she won't be back from Atlanta for our next meeting – Go Pats.
- Gary B had a PSA for the Civil Air Patrol open house this Thursday.
- Jocelyn C gave \$5 for the Frisbie announcement and a huge thank you to the Trustees and Senior Team for all their hard work.
- Tom M was happy for John P as a potential new member.
- Kim S was happy for SHS student Leah Createua and her Gatorade Pay If Forward Award, her donation will go to Howie's FOD.
- Al J was happy to be upright and for his wife's care after knee surgery.
- Kerry gave a happy \$5 for 5 out of 6 grandchildren this weekend.
- TJ gave \$5 for his "handout" and is happy to be back.
- Christine H spent 2 weeks in Mexico and her daughter will be in her first NYC musical after moving there.

Announcements:

Wings and Wheels is looking for donations of things to do with wings and wheels for a raffle at the event.

The BOD voted to start the raffle off at \$100. The pot today was \$114 and John H. has Tom M. draw for him. He wasn't so lucky with the 2 of spades.

Speakers- Brian Hughes and Dr. Caple from Frisbie Memorial Hospital

Dr. Caple introduced the Trustees present: Bill C, Ron P, Jeanette P, John H and Lisa S all Rotarians. Also present was Trustee Julie Reynolds and VP or physician practices, TJ.

There was an announcement this week that Frisbie was partnering with HCA. Brian Hughes explained they hired consultants over a year ago to discuss their financial loss and the health care consolidation trends. Currently finances have stabilized and they could possibly break even next year. The concern is the sustainability with rising expenses in the coming years.

Frisbie used a request for proposal Z(RFP) process to highlight interested partners. Two of those interested parties presented to Frisbie and Brian said HCA stood out the entire process.

The letter of intent was signed in January and then they announced.

Continued on next page.....



Dr. Jocelyn Caple and Brian Hughes –Frisbie Hospital



Service Above Self

What this means for Rochester and Frisbie:

A foundation will be formed with the proceeds from the sale. HCA and Frisbie are working on those details now. This foundation will be independent from Frisbie.

The hospital land all becomes taxable bringing approximately 1.2 million back into Rochester. The Emergency Room will be updated to handle mental health and substance abuse as a part of the letter of intent.

Timeline and next steps:

From letter of intent to agreement should be approximately 4 months

After agreements they need approvals from regulators and the Charitable Trust division of the State (conversations began already last week with the Charitable Trust division).

They are hoping to finalize in October but it could go to the end of 2019.

Community town halls will be held before the final agreement

Dr. Caple explained the amount of work that the Trustees and Senior Staff have put into this potential partnership and thanked them. She went on to explain they have held City Hall meetings with employees and that most of the next 6 months will be senior staff working on administrative tasks.

She explained two commitments that were in the LOI that will benefit Rochester and the surrounding communities. One was the new psych pod in the Emergency Room that Brian mentioned earlier and the other is that HCA agreed to stay committed to being a strong community hospital.

HCA also brings many things to the table for its employees and community:

They have a generous 401k which will match and honor years of service at Frisbie

Benefits of having a financially stronger hospital

Can do sign on bonuses that will help in these continued wage wars which allows for growth opportunities and keeping local talent.

Portsmouth is also a HCA partner and both can share the patient population allowing for more specialists.

The Trustees will have a final vote to approve the partnership but will then be replaced by an advisory board. The new advisory board will be made up of 50% HCA and 50% Frisbie.

Please reach out to Brian or Dr. Caple with any questions or concerns. Please also let them know of anything discussions that are happening that they might want to follow up on. They are looking to be as transparent as possible with the change and need the communities help to ensure everyone has correct information.

EXHIBIT 16

From: "Lisa Stanley" <lisastanley@mail.ttlc.net>
To: "Brian Hughes" <bhughes@HRCU.ORG>
Cc: J.Caple@fmhospital.com
Date: 09/26/2019 02:46 PM
Subject: FMH Board of Trustees

Chairman Hughes,

Please accept my resignation from the Board of Trustees of Frisbie Memorial Hospital and the Frisbie Foundation to be effective immediately following any vote(s) to amend the By-Laws of the organization(s) to allow for a reduction in the minimum size of the Board(s).

Thank you,
Lisa M. Stanley

This email is subject to certain disclaimers, which may be reviewed via the following link:
<http://apps01.prominic.net/A55CF6/MSOIndex.nsf/DisclaimerX.xsp>

EXHIBIT 20

Seller Net Sale Proceeds per APA definition

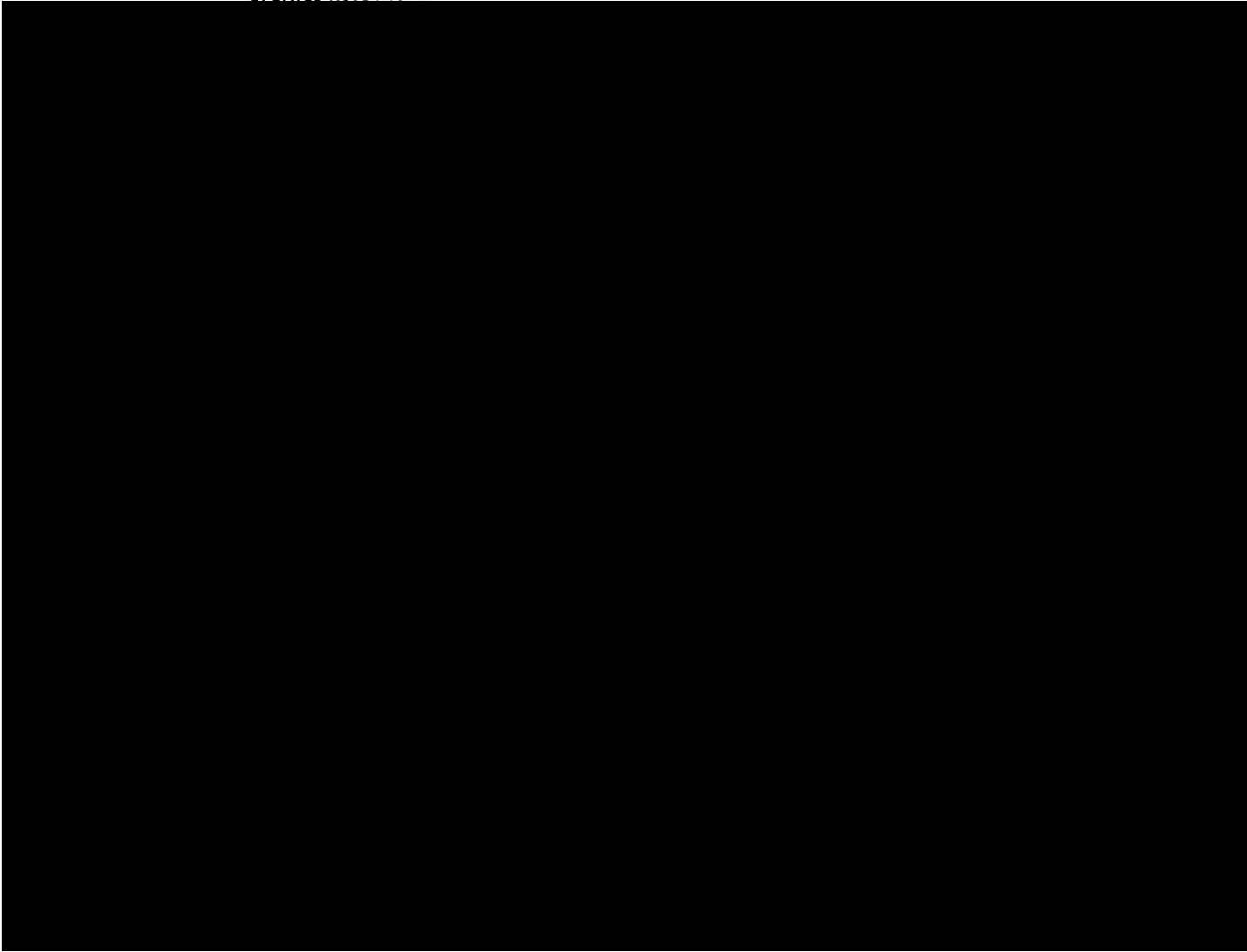
Frisbie Memorial Hospital

PUBLIC COPY

Estimated Seller Net Sale Proceeds for Section 2.6 Estimated Closing Statement

As of any date of determination / October 31, 2019

UPDATED November 19



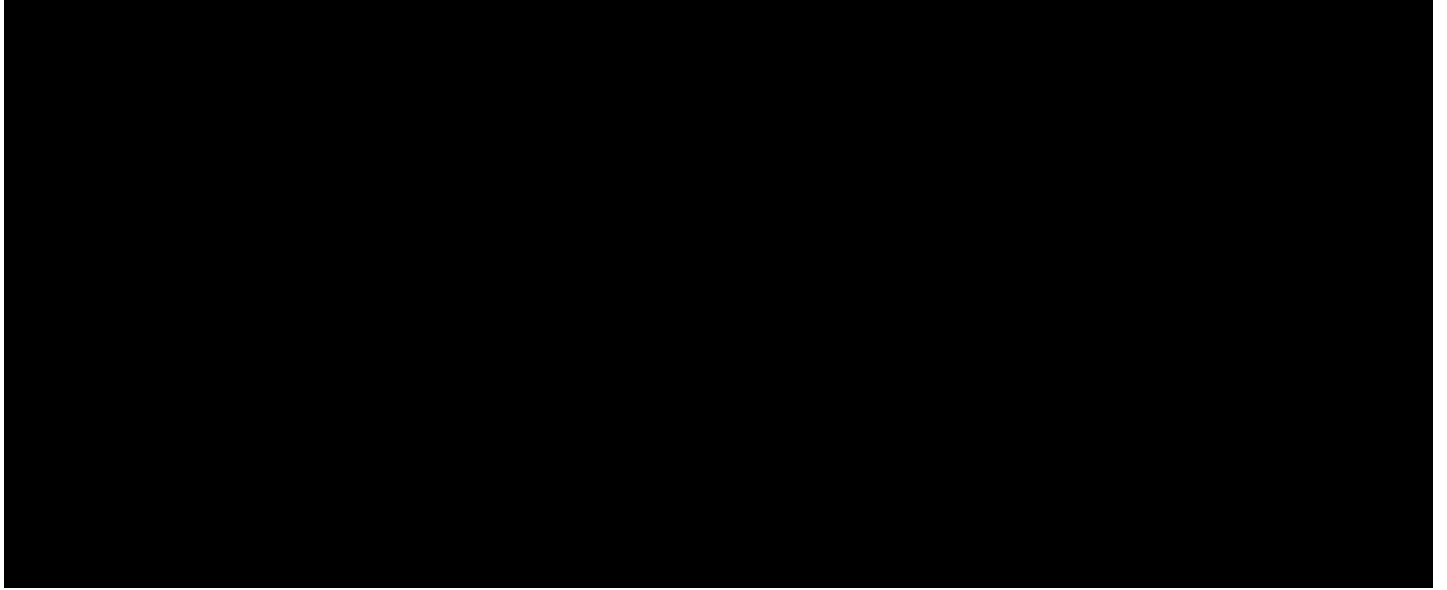
Frisbie Memorial Hospital
Proposed WindDown Budget
November 18, 2019

PUBLIC COPY

Pre - closing



Per Section 2.6 of APA
Frisbie Memorial Hospital



**Per Section 2.7 of APA
Frisbie Memorial Hospital
Closing Date Payments**

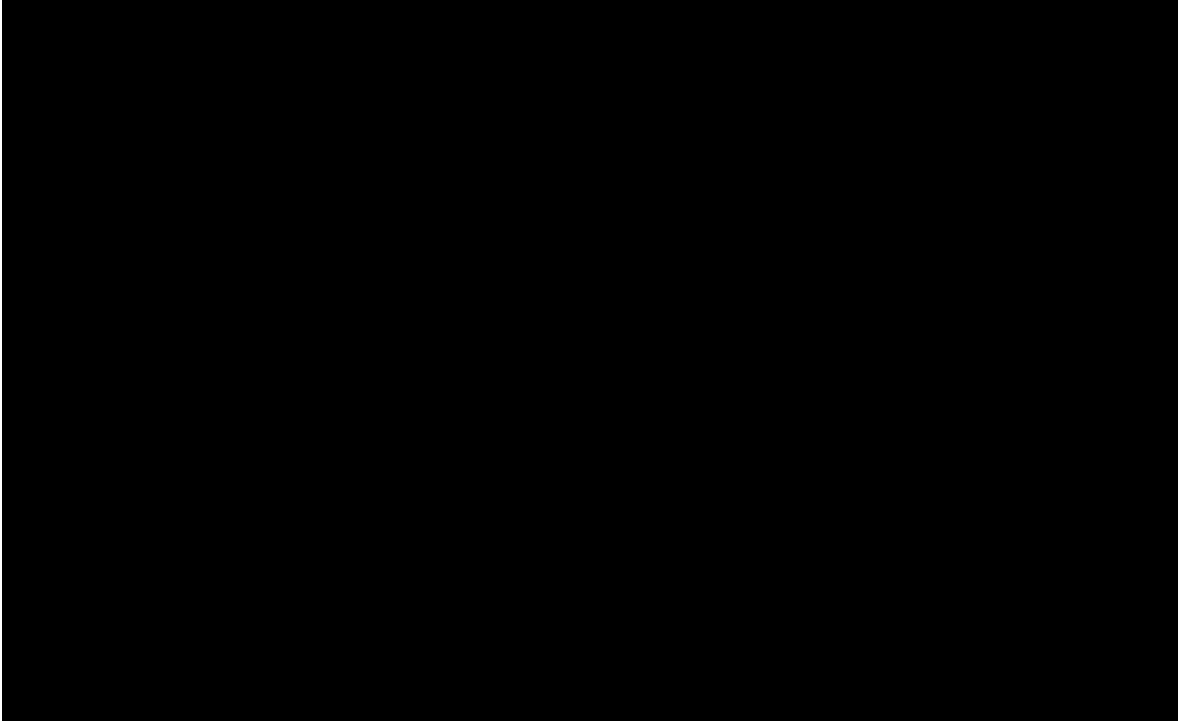
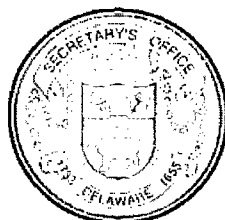



EXHIBIT 21

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "FMH HEALTH SERVICES, LLC", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF JULY, A.D. 2019, AT 1:46 O`CLOCK P.M.





Jeffrey W. Bullock, Secretary of State

CERTIFICATE OF FORMATION
OF
FMH HEALTH SERVICES, LLC

1. The name of the limited liability company is FMH Health Services, LLC

2. The address of its registered office in the State of Delaware is: Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation of FMH Health Services, LLC this 19th day of July, 2019.



Virginia Chase Crocker
Authorized Person

**OPERATING AGREEMENT
OF
FMH HEALTH SERVICES, LLC**

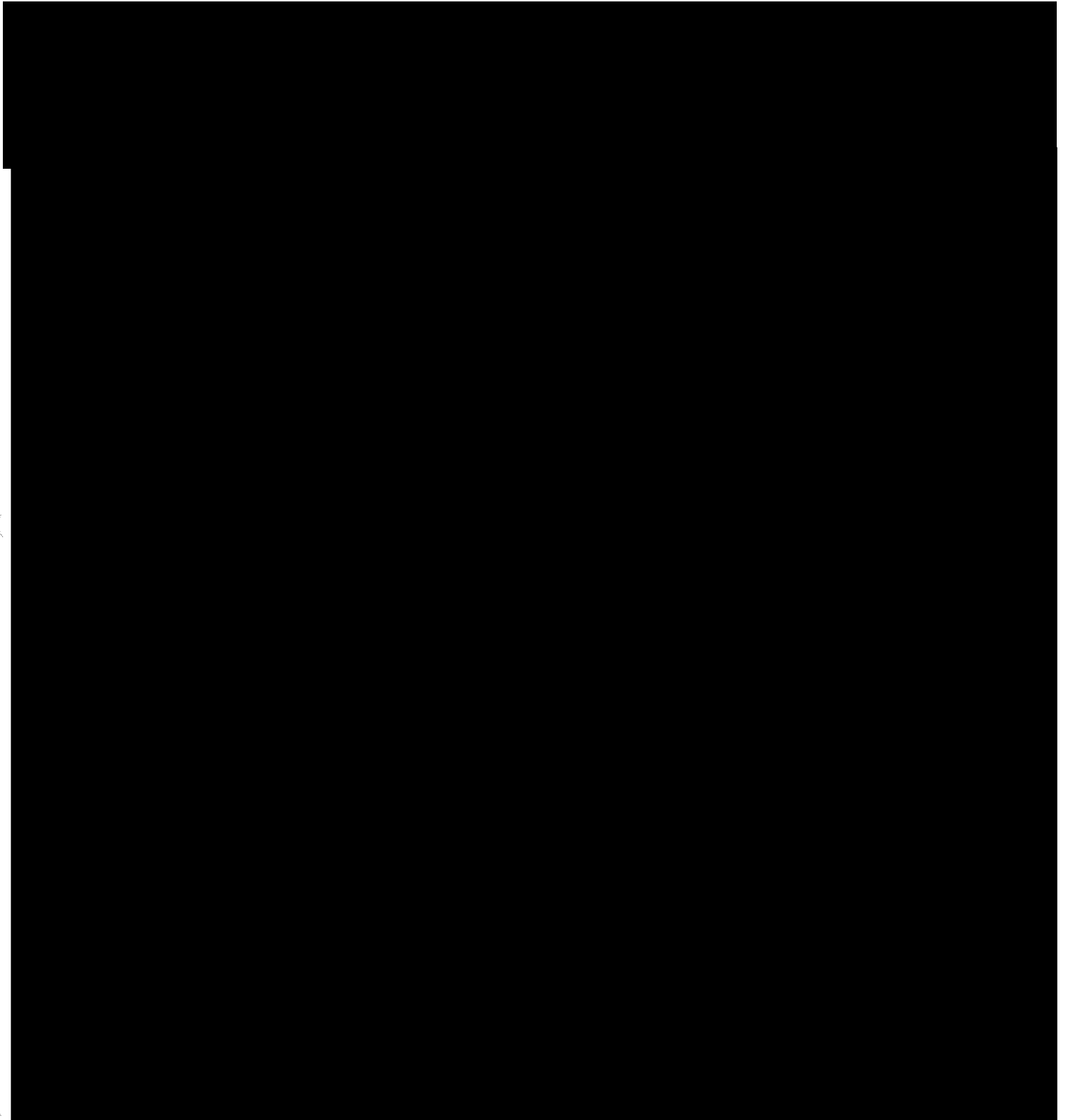


EXHIBIT 40



RE: Question #40 – APA Schedule 4.14 – Medical Staff Matters

