

# Legacy DMC

April 15, 2013

Ms. Katharyn Barron, Division Chief  
Consumer Protection Division and Charitable Trust Section  
Department of Attorney General  
State of Michigan

Dear Ms. Barron:

The purpose of this letter is to report Legacy DMC's status with respect to the requirements contained in Article 3 of the Monitoring and Compliance Agreement among the Department of Attorney General, Legacy DMC, VHS of Michigan, Inc. and Vanguard Health Systems, Inc. This agreement supplements the Purchase and Sales Agreement (PSA) and defines various requirements relating to the Post-Closing Covenants contained in the PSA. This letter also makes reference to the Enforcement Agreement among the Department of Attorney General, Legacy DMC, VHS of Michigan and Vanguard Health System, Inc. ("Enforcement Agreement").

## ARTICLE 3 – “Legacy DMC Monitoring Responsibilities”

This article contains five specific monitoring responsibilities (Items A through E) as discussed below:

**Item A** requires Legacy DMC to monitor VHS of Michigan's compliance with seven of the 20 Post-Closing Covenants contained in the PSA. The Enforcement Agreement adds an additional covenant – bringing to eight the total number of covenants being monitored by Legacy DMC. The attachment lists the 20 PSA Covenants and provides references to the related monitoring and reporting requirements contained in the agreements. Legacy DMC believes it has diligently monitored compliance with the Covenants. VHS of Michigan's Annual Report for 2012, which will be provided to your office with our comments in a separate letter, provides its update to the status of 15 commitments at the end of 2012.

**Item B** identifies certain reports and other information that VHS of Michigan is required to provide to Legacy DMC so that it can carry out its monitoring obligations; it also provides for a Confidentiality Agreement. The status of the three specific elements is as follows:

- i. Exhibit 2 of the Monitoring Agreement requires annual submission of 18 reports; all have been received. VHS of Michigan has classified the reports as confidential. The Department of Health Management and Policy at the University of Michigan assisted Legacy DMC by referencing the content of these reports to specific Covenants. Several reports are of limited value. Based on this information, Legacy DMC will propose an amendment to Exhibit 2 to add reports that will provide more significant and useful information.

ii. VHS of Michigan is required to provide additional "ordinary course of business" information if requested. There have been numerous such requests. The process for responding to requests continues to be slow and bureaucratic. Legacy DMC will be requesting additional information in 2013 to understand the effect of cost savings actions being implemented by VHS of Michigan as a result of reduced governmental funding due to sequestration.

iii. VHS of Michigan requested an agreement to keep "proprietary and commercially sensitive information" confidential as provided in this item. A Confidentiality Agreement was completed in November 2011 after lengthy negotiations. Currently, Mr. Conrad Mallett serves as the "DMC Officer" responsible for determining confidentiality. VHS of Michigan's 2012 Report classified information useful in understanding indigent and uncompensated care as confidential. Legacy DMC continues to encourage VHS of Michigan to provide more public information to ensure appropriate recognition for its important role in providing health care to the indigent.

**Item C** requires Legacy DMC to establish a public complaint-intake procedure, to review all complaints and to investigate complaints, if appropriate. Legacy DMC has complied with this requirement.

Legacy DMC has established a telephone hotline and an email and postal address. The hotline is administered by a third-party servicer, which provides personal response service during standard business hours and automated logging for follow-up for all other time periods. The same servicer reviews all email and standard mail. Every contact is logged, and Legacy DMC reviews all contacts.

The hotline notification appears in approximately 75 locations throughout the DMC hospitals. It appears in all emergency rooms and all patient notice boards where VHS of Michigan displays its "800" telephone numbers for requesting financial support and submitting patient billing complaints.

During 2012, the 31 calls and three letters received through the hotline included no complaints relating to charitable care; other complaints were referred to appropriate hospital departments and other correspondence was appropriately re-directed. Legacy DMC also reviews billing complaints logged with VHS of Michigan's ombudsman; for these cases, the patient outcomes were based on the merits of the claim.

Legacy DMC also requested and received assurance from staff doctors at Detroit Receiving and Sinai-Grace Hospitals attesting to the continuing commitment at these hospitals to serving indigent patients. Inquiries to a major neighboring hospital produced no evidence of "patient-shifting". VHS of Michigan reported increased costs for both charity care and uncompensated care in 2012.

Ms. Katharyn Barron  
April 15, 2013  
Page 3

Increased costs, the lack of complaints, and the statements of the staff doctors support the view that VHS of Michigan is providing patient treatment that is consistent with the charitable care policy that it implemented in January 2011.

Legacy DMC is evaluating additional complaint intake approaches to address concerns that indigent patients may be unable or unwilling to utilize the current process to report problems. This may include patient surveys or outreach to agencies that service the indigent.

**Item D** requires Legacy DMC staff to report monthly to the Legacy DMC Board of Trustees regarding VHS of Michigan's compliance with the Post-Closing Covenants. During 2012, the Legacy DMC Board met five times. Compliance issues were discussed at each meeting, particularly on four critical commitments: the two relating to capital spending, charitable care, and the commitment to maintain hospitals and specific lines of service.

VHS of Michigan's Chief Administrative Officer, Mr. Conrad Mallett, attended two Board meetings to report on the progress of the capital investment program, which continues to experience spending delays, and to answer questions relating to policies, procedures and practices relating to charitable care.


During 2013, Legacy DMC's Board of Trustees plans to meet quarterly to review updated information on the four key commitments. Legacy DMC staff will alert the Trustees of material changes or serious compliance issues that arise during interim months.


**Item E** requires Legacy DMC to produce a written report annually and make it available to the public on a website. The 2012 report has been completed and will be available to the public on the website of the Detroit Wayne County Health Authority.

**Conclusion**

Legacy DMC believes the requirements of Article 3 (as modified) have been met for 2012, the second year of the agreement. In 2013, Legacy DMC will work with VHS of Michigan to improve communication and effectiveness as noted in Items B and C above.

Sincerely,

  
Joe Walsh  
President

  
Richard Widgren  
Chair

Cc: Mr. Keith Pitts  
Mr. Joseph Mullany

# POST CLOSING COVENANTS

(15 Vanguard Reporting Requirements Underlined)

Section	PSA Commitments	Monitoring References		
12.1	Buyer Advisory Board, Hospital Advisory Board			
12.2	<u>Indigent and Low Income Care</u>	E	M	Q
12.3	<u>Commitment to Maintain Hospitals and Core Services</u>	E	M	Q
12.4	<u>Capital Expenditures</u>	E	M	Q
12.5	<u>The Warrant</u>	E		
12.6	Retention of Medical Staff			
12.7	<u>No Sale of Hospitals</u>	E	M	Q
12.8	<u>Commitment to Education</u>			
12.9	<u>Commitment to Research</u>			
12.10	<u>Karmanos Center</u>			
12.11	<u>Health and Wellness Initiatives</u>			
12.12	<u>Supplier Diversity Program</u>			
12.13	<u>Project Genesis</u>			
12.14	<u>Detroit-based Systems</u>	E	M	
12.15	<u>National Support Centers</u>	E	M	
12.16	<u>Naming Conventions</u>			
12.17	<u>Annual Reporting Requirements</u>	E	M	
12.18	Post-Closing Assistance to Seller			
12.19	Renaissance Sub-zone			
12.20	Donor-restricted Funds			

**Purchase and Sale Agreement** – Article 12 identifies 20 Post Closing Covenants

**E – Enforcement Agreement** – supplemental agreement among Vanguard, DMC and Attorney General (AG) where parties recognize enforcement right by AG to certain remedies beyond those specified in the PSA (identified by “E” above). PSA remedies for any disagreement are primarily mediation/arbitration.

**M – Monitoring Agreement** – supplemental agreement among Vanguard, DMC and AG specifying responsibilities for Monitoring certain covenants (identified by “M” above) and information necessary to support Monitoring, as well as requiring identification of any potential conflict of interest and defining aspects of Legacy Board structure and operation.

**Q – Interim Quarterly Status Report** – Legacy DMC and VHS-M have agreed to certain Interim Quarterly Status Reports (identified by “Q” above), in part to carry out Monitoring Agreement responsibilities.