

**Report on DLP Marquette Holding Company, LLC  
Compliance with Asset Purchase Agreement Covenants**

April 30, 2017

Pursuant to:

**Monitoring, Compliance and Enforcement Agreement**



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**Report on DLP  
Marquette Holding  
Company, LLC  
Compliance with Asset  
Purchase Agreement**

**April 30, 2017**

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## I. Overview and Background

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### Compliance Monitoring Overview

1. This Compliance Monitoring Report represents Stout Risius Ross, Inc.'s ("SRR") assessment of whether DLP Marquette Holding Company, LLC ("DLP Marquette") is in compliance with specific provisions of the Asset Purchase Agreement ("APA") that DLP executed in acquiring substantially all of the assets of Marquette General Hospital, Inc. d/b/a Marquette General Health System ("MGH"). Upon completion of all testing procedures, SRR will assess DLP Marquette's compliance with each of its APA commitments as detailed in the Monitoring, Compliance and Enforcement Agreement (the "Monitoring Agreement").

### Background of SRR's Monitoring of Marquette

2. In early 2012, DLP Marquette submitted a bid to acquire substantially all of the assets of the non-profit Marquette General Hospital Inc. (the "Transaction"). In connection with its review of the Transaction, the Michigan Department of Attorney General (the "AG") entered into the Monitoring Agreement with DLP Marquette and SRR. The Monitoring Agreement is intended to increase the transparency of the Transaction by authorizing the AG and SRR to collect information and report on DLP Marquette's compliance with specific provisions of the APA. This includes monitoring DLP Marquette's compliance with APA commitments regarding indigent care, capital expenditures, physician recruitment expenditures, services offered to the community, and restrictions on sale or closure of the hospital ("APA Commitments").





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## II. Compliance with Specific APA Commitments

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3. In early 2017, SRR requested information and documents relevant to DLP Marquette's compliance with the APA Commitments subject to monitoring. SRR reviewed the information DLP Marquette submitted, requested clarification of certain aspects of the information, and reviewed DLP Marquette's responses to those subsequent requests. SRR's review of this information will indicate whether DLP Marquette is currently in compliance with the APA Commitments, which contain ongoing provisions.
4. In connection with our analysis, we have made such reviews, analyses, and inquiries as we have deemed necessary and appropriate under the circumstances. The principal sources of information used in performing our analysis included, but were not limited to:
  - The APA dated June 28, 2012;
  - The revised Monitoring, Compliance and Enforcement Agreement – September 2014;
  - DLP Marquette's Financial Assistance Policy (100-087);
  - Financial assistance application files;
  - Financial assistance expenditure reports;
  - The Foundation Proceeds Certificate dated August 31, 2012;
  - Capital expenditure listings and related invoices;
  - Summary of expenditures resulting from physician recruitment activities and related payroll records, invoices, agreements and general ledger reports;
  - DLP Marquette charge reports and performed procedures listings;
  - A review of available information regarding the services offered to the community;
  - LifePoint Health, Inc.'s Annual Report.
5. We address DLP Marquette's compliance with each of the specific APA Commitments below:

### Indigent Care

6. Section 9.9 of the APA includes a commitment by DLP Marquette to institute and maintain the indigent care policy in effect at the hospital immediately prior to the acquisition. This commitment includes a provision allowing for changes to the Policy necessary to comply with applicable Legal Requirements and the implications of healthcare reform legislation.
7. In 2016, DLP Marquette updated its Financial Assistance Policy in order to comply with new regulations outlined in Internal Revenue Code section 501(r) established by the Affordable Care Act. Based on our review of the updated 2016 financial assistance policy and discussions with DLP Marquette, SRR has determined that the changes to the policy were made in order to comply with the new healthcare reform legislation, and access to financial assistance is consistent with the pre-acquisition policy.





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8. As part of the indigent care assessment, SRR has also reviewed DLP Marquette's adherence to the policy guidelines in its handling of financial assistance applicants. Based on our testing of a random representative sample of financial assistance applicants and discussions with DLP Marquette personnel, we have determined that DLP Marquette is operating in compliance with its financial assistance policy.
9. Additionally, DLP Marquette has historically reported on its annual charity care under the aforementioned policies and guidelines. Through our review of this information, SRR has determined that DLP Marquette's financial assistance expenditures for 2016 are reduced from its pre-acquisition levels. Based on discussions with DLP Marquette personnel and our review of supporting documentation, the reduced expenditure is the result of changes enacted through the Affordable Care Act which expanded Medicaid access in Michigan, increasing coverage for members of the community. This led to a reduced need for the hospital to provide direct financial assistance to individuals, although access to financial assistance remained consistent with pre-acquisition practices.

### Capital Commitment

10. The APA included a commitment that DLP Marquette would spend or commit to spend the specified minimum amount of \$300 million in capital improvements or related expenditures, with \$180 million of that to be spent within the first five years following the APA Closing. As of year-end 2016, Marquette has not yet reach its 5-year expenditure commitment. However, DLP Marquette has reported substantial investments in its infrastructure through projects undertaken or planned, including a new 265 bed hospital and medical office complex, and thus appears to be on track with its Capital Plan to meet its APA commitment regarding capital expenditures.
11. In its Compliance Certificate filed with the AG, DLP Marquette represented that it has spent \$44,405,846 in 2016 toward its capital commitment, for a running total of \$104,174,556. These include a \$4,202,144 capital expenditure addition relating to the acquisition of land for its new hospital, as well as, a \$503,772 addition relating to costs to construct a catheterization laboratory. Through testing of a random selection of capital expenditures and discussions with DLP Marquette personnel, SRR has confirmed DLP Marquette's reported level of capital expenditure through the year-ended 2016.
12. Under Section 9.18 of APA, DLP Marquette is entitled to adjust the required expenditure commitments by up to \$28,282,000. This adjustment may be made from either the Physicians Recruitment Commitment or Capital Commitment based on the Purchase Price Adjustment Agreement.
13. Based on reported expenditures, DLP Marquette is behind on its 5-year capital commitment when analyzed on an average yearly basis. However, due to the significant expenditures planned for 2017, it appears that DLP Marquette will comply with their five-year and full-term capital expenditure commitments. As the initial 5-year deadline has not yet been reached, SRR cannot draw a conclusory opinion until the 2017 testing year. Therefore, this Report highlights significant expenditures and demonstrates investment toward the overall commitment by DLP



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Marquette during 2016 and planned in 2017, but does not assess whether the spending commitments have yet been fully satisfied.

#### Physician Recruitment Commitment

14. The APA included a commitment that DLP Marquette would spend or commit to spend the specified minimum amount of \$50 million in physician recruitment or related expenditures in accordance with Schedule 9.11, in order to address community needs and increase the level of services offered at the hospital. \$30 million of which is to be spent within the first five years following the APA Closing.
15. SRR notes per Exhibit B - *Physician Recruiting Expenditures* to DLP Marquette's 2016 MCE Compliance Certificate, DLP Marquette reported 2016 net expenditures of \$7,891,182. Upon review of the documents provided in support of these expenditures, as well as discussions with Marquette personnel, it was determined that \$135,647 of eligible expenditures had not been captured in the 2016 reporting period. SRR confirmed that DLP Marquette's actual level of physician recruitment expenditure through the year-ended 2016 is \$8,026,829, bringing the cumulative total expenditure on Physician Recruitment to \$23,210,283.
16. Under Section 9.18 of APA, DLP Marquette is entitled to adjust the required expenditure commitments by up to \$28,282,000. This adjustment may be made from either the Physicians Recruitment Commitment or Capital Commitment based on the Purchase Price Adjustment Agreement. If DLP elects to apply this adjustment to the Physician Recruitment commitment, it will have satisfied both the 5-year and full-term commitment this year.
17. Based on reported expenditures, DLP Marquette appears to be on track to comply with their five-year and full-term physician recruitment expenditure commitments, however, as none of the initial deadlines have been reached, SRR cannot draw a conclusory opinion until those testing years. Therefore, this Report does not assess whether any of the spending commitments have been fully satisfied.

#### Continuation of Service

18. The APA included a commitment that DLP Marquette would continue to provide and enhance the Core Services offered by Marquette General Hospital to the community prior to the acquisition throughout the Commitment Period.
19. Based on our review of DLP Marquette's reported procedures performed and related charges for the five-year period from 2012 through 2016, new physician recruitment and continued recruitment efforts, as well as the publicly available information regarding its services offered to the community among other documentation, SRR has determined that DLP Marquette has continued to provide the Core Services delineated on Schedule 9.15 in accordance with the APA. SRR notes that DLP Marquette has lost physicians from the hospital due to attrition, impacting certain Core Service areas. However, the hospital continues to offer and perform those services through locum tenens practitioners while it seeks full-time replacements.





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20. Along with providing the specified Core Services, DLP Marquette has implemented a number of Core Service enhancements including new equipment, new physicians, expanded capabilities and new service offerings. These improvements span across nearly every Core Service area, including expanded surgical capabilities in cardiology, new procedure offerings in gastroenterology, improved patient satisfaction and expanded procedure offerings in neurosurgery and neurology, new instruments and diagnostics machines improving laboratory and pathology services, and many others.
21. As a result of these efforts, DLP Marquette is in compliance with this APA Commitment for the 2016 monitoring period. In addition, based on discussions with DLP personnel, beginning in 2017, DLP Marquette will meet regularly with Superior Health Foundation to discuss the progress toward its APA Commitments, including Continuation of Services efforts and changes in medical staff.

#### Restrictions on Sale of Hospital

22. Based on SRR's review of LifePoint Health, Inc.'s Form 10-K and Advisory Board Meeting Minutes, it is apparent that LifePoint continued to retain ownership and operation of the Marquette General Hospital assets through its wholly-owned Duke LifePoint Healthcare affiliate, and therefore is compliant regarding the restriction on the sale of assets of the hospital for 2016.
23. Subsequent to the current review period, effective April 1, 2017, DLP/LifePoint and LHC Group, Inc. entered into a Joint Venture to enhance home health and hospice services in the community and across the country. DLP/LifePoint contributed the home health and hospice services to the Joint Venture. All home health and hospice agencies will continue to operate under their existing names, and there will be no changes in staff, location, contact information or referral processes. Operationally, LHC Group will oversee day-to-day management of the joint venture's assets. The organizations have signed an agreement to share ownership and governance of the new joint venture. DLP/LifePoint has retained a material ownership position in the agencies and 50% of the governance over the joint venture.





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### III. Assumptions and Limiting Conditions

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24. We have not been requested to assess, and our Report does not in any manner address DLP Marquette's compliance with any portion or covenant of the APA, except as specifically set forth herein. Furthermore, no opinion, counsel or interpretation is intended in matters that require legal, regulatory, accounting, insurance, tax or other similar professional advice. SRR's conclusions are based on the information received from DLP Marquette personnel through the date of this report.
25. No one that worked on this engagement has any known financial interest in DLP Marquette or the outcome of the monitoring. Further, Stout Risius Ross, Inc.'s compensation is neither based nor contingent on the results of the analysis.
26. SRR's conclusions are applicable for the stated date and purpose only, and may not be appropriate for any other date or purpose. This report is solely for use in the cited monitoring, for the purpose stated herein, and is not to be referred to or distributed, in whole or in part, without prior written consent.

Jeffrey J. Mordaunt  
Managing Director  
Stout Risius Ross, Inc.