

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

May 14, 2018

Pursuant to:

Monitoring, Compliance and Enforcement Agreement



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

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I. Overview and Background

Compliance Monitoring Overview

1. This Compliance Monitoring Report represents Stout Risius Ross, LLC's (the "Monitor" or "Stout") 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, the Monitor 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 Stout's Monitoring of DLP 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 Stout. The Monitoring Agreement is intended to increase the transparency of the Transaction by authorizing the AG and the Monitor 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").



II. Compliance with Specific APA Commitments

3. In early 2018, the Monitor requested information and documents relevant to DLP Marquette's compliance with the APA Commitments subject to monitoring. The Monitor reviewed the information DLP Marquette submitted, requested clarification of certain aspects of the information, and reviewed DLP Marquette's responses to those subsequent requests. The Monitor'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 financial assistance policy and discussions with DLP Marquette, the Monitor 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.



8. As part of the indigent care assessment, the Monitor 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 following 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, the Monitor has determined that DLP Marquette's financial assistance expenditures for 2017 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 August 31, 2017, which constituted the end of Marquette's 5-year expenditure commitment period, the hospital spent approximately \$169.8 million, \$10.2 million short of the \$180 million commitment. However, over the next four months, Marquette spent another \$67.7 million, thereby exceeding the 5-year commitment amount of \$180 million. A majority of these expenditures resulted from Marquette's investment in a new 265-bed hospital and medical office complex.¹ Based on the Monitor's review of Marquette's Capital Plan, the hospital appears to be on track to meet its full-term APA commitment regarding capital expenditures.
11. In its Compliance Certificate filed with the AG, DLP Marquette represented that it has spent \$133,323,346 in 2017 toward its capital commitment, for a running total of \$237,497,903. These include \$124 million in capital expenditures relating to the construction of the new hospital facility, \$1.2 million to update the catheterization laboratory, as well as \$577,000 for new mammography equipment. Through testing of a random selection of capital expenditures and discussions with hospital personnel, the Monitor has confirmed DLP Marquette's reported level of capital expenditure through the year-ended 2017.
12. Based on the Monitor's review of the reported expenditures, DLP Marquette has satisfied its 5-year capital commitment of \$180 million. Additionally, based on the planned expenditures on the new hospital building, it appears that DLP Marquette is on-track to comply with their full-term capital expenditure APA Commitment of \$300 million.

¹ Additional information about Marquette's new hospital facility can be found at <http://www.mgh.org/about-us/new-marquette-hospital>.



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Physician Recruitment Commitment

13. 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.
14. The Monitor notes that, per Exhibit B - *Physician Recruiting Expenditures* to DLP Marquette's 2017 MCE Compliance Certificate, DLP Marquette reported 2017 net expenditures of \$7,415,368. However, upon review of the supporting documentation, the Monitor has determined that DLP Marquette spent \$8,238,055 during the 2017 Reporting Period, bringing the cumulative total expenditure on Physician Recruitment to \$31,448,338. Based on the Monitor's review of the reported physician recruitment expenditures, DLP Marquette has satisfied the five-year physician recruitment expenditure APA Commitment of \$30 million.
15. 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 to either the Physicians Recruitment Commitment or Capital Commitment based on the Purchase Price Adjustment Agreement. If DLP Marquette elects to apply this adjustment to the Physician Recruitment commitment, bringing the total commitment to \$21,718,000, it will have satisfied both the 5-year and full-term APA Commitment.
16. As the full-term deadline has not yet been reached, the Monitor cannot yet draw a conclusory opinion, therefore, this Report does not assess whether the full-term spending commitment has been fully satisfied.

Continuation of Service

17. 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.
18. Based on our review of DLP Marquette's reported procedures performed and related charges for the six-year period from 2012 through 2017, new physician recruitment and continued recruitment efforts, as well as the publicly available information regarding its services offered to the community, among other documentation, the Monitor has determined that DLP Marquette has continued to provide the Core Services delineated on Schedule 9.15 in accordance with the terms of the APA. The Hospital continues to offer and perform certain services, in part, through locum tenens practitioners while it seeks full-time replacements.
19. Along with providing the specified Core Services, DLP Marquette has implemented certain Core Service enhancements in 2017 including the expansion of the cardiovascular surgical team and two new cardiac catheterization labs, and improved service offerings in radiology, including expanded coverage and increased consistency for referring physicians.



20. As a result of these efforts, the Monitor has concluded that DLP Marquette is in compliance with this APA Commitment for the 2017 monitoring period.
21. Based on discussions with DLP Marquette and Superior Health Foundation, and review of related documentation, in 2017 the two entities met to discuss the hospital's progress toward its APA Commitments, including Continuation of Services efforts and changes in medical staff and related recruitment efforts. They have jointly developed on-going assessment criterion and review procedures which the two entities are in the process of finalizing and implementing.

Restrictions on Sale of Hospital

22. Based on the Monitor's review of LifePoint Health, Inc.'s Form 10-K and Advisory Board Meeting Minutes, 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 2017.
23. On 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 Marquette home health and hospice Ancillary Facilities and related services to the Joint Venture. All home health and hospice agencies continue to operate under their previous names, and there were no material changes in staff, location, contact information or referral processes. Operationally, LHC Group oversees day-to-day management of the Joint Venture's assets, while 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% governance over the Joint Venture.²
24. Under the terms of the APA, DLP Marquette is not restricted from transferring its home health and hospice Ancillary Facilities. As noted above, these services are still being provided to the community by DLP Marquette through the newly formed Joint Venture affiliate. Based on the Monitors review of the Contribution Agreement, this transaction does not impact DLP Marquette's compliance with this APA Commitment.

² Additional information about the Home Health and Hospice Joint Venture can be found at <http://www.lifepointhealth.net/news/2017/01/04/lhc-group-and-lifepoint-health-collaborate-to-enhance-home-health-and-hospice-services-nationwide>.



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III. Assumptions and Limiting Conditions

25. 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. The Monitor's conclusions are based on the information received from DLP Marquette personnel through the date of this report.
26. No one that worked on this engagement has any known financial interest in DLP Marquette or the outcome of the monitoring. Further, the Monitor's compensation is neither based nor contingent on the results of the analysis.
27. The Monitor'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.

A handwritten signature in black ink, reading "Joshua E. Swedlow", written over a horizontal line.

Joshua E. Swedlow
Manager
Stout Risius Ross, LLC