

Statement of Work (SOW)

Background

In January 2019, HCA Healthcare (HCA) purchased Mission Hospital System including all Mission-affiliated hospitals and clinics memorialized through the Amended and Restated Asset Purchase Agreement (APA). As part of the sale, HCA made 15 primary commitments that are designed to guarantee healthcare in Western North Carolina. To monitor and enforce those commitments, the APA established the role of the Independent Monitor (IM). The IM is selected and paid for by Dogwood Health Trust (Dogwood) who is the Seller Representative. The IM advises Dogwood on HCA's compliance with its commitments and performs other duties as described below and as detailed in the APA.

Annual Cycle Timeline and Key Terms are included in Exhibit A.

Qualifications

The Independent Monitor will have the following qualifications and background experience:

Required:

- The individual or one of the key individuals responsible for the engagement has at least twelve years of management-level experience with an acute care hospital with at least 150 beds or a hospital system that owned or operated one or more acute care hospitals with at least 150 beds, including substantial experience as chief executive officer, chief financial officer, or chief operating officer
- The person referenced in the previous bullet has never been an officer, director, employee, consultant or other representative of Mission Health System or HCA, or any of their respective affiliates
- No person providing substantive work on the engagement shall have ever been an officer, director, employee, consultant or other representative of Mission Health System or HCA, or any of their respective affiliates within the previous five (5) years
- Ability to connect, engage, and communicate with people from various backgrounds, including rural populations, throughout Western North Carolina (WNC)
- Demonstrable experience in presenting complex topics and facilitating community conversations on such topics
- Experience conducting compliance investigations (healthcare settings preferred)
- Experience understanding complex legal documents, a working knowledge of the compliance related provisions of the Asset Purchase Agreement between Mission Health System and HCA will be important to this role
- Individual with medical acumen or a network of sub-professionals with medical acumen to assist with compliance investigations
- Experience interfacing with the media
- Strong project management skills

- High quality writing skills

Duties

The IM role has four primary categories of responsibilities:

1. Annual Report Evaluation

The IM will advise Dogwood on HCA's Annual Report, specifically highlighting any areas of potential non-compliance. The IM's Annual Report Evaluation work includes the following:

- Receiving and reviewing HCA's Annual Report and communicating with HCA any errors or deficiencies in the Annual Report
- Preparing and submitting requests for information and data related to HCA's continuing commitments under the APA
- Analyzing data and supporting documentation to evaluate HCA's Annual Report
- Interfacing with HCA and Dogwood regarding questions related to HCA's Annual Report
- Participating in annual site visits to Mission Facilities and Local Hospital Facilities (as defined below) and providing summaries of observations
- Developing confidential reports, presentations, and materials for Dogwood in support of Annual Report evaluation, including historical review of data and trends
- Participating and presenting at meetings with Dogwood staff members, Committee members, or Board of Directors, as requested
- Reviewing and providing feedback on correspondence to the North Carolina Attorney General's Office (AGO) and HCA regarding matters of potential noncompliance
- Reviewing and providing feedback on Dogwood's annual public compliance report

2. Community Engagement and Education

The IM holds an important role in educating the community regarding HCA's commitments in WNC and gathering information to assist in its compliance monitoring role. The IM will develop, revise as appropriate, and implement a community engagement and outreach plan, which includes at a minimum the following:

- Maintaining a comprehensive website with resources related to the APA, the IM role, HCA's commitments, as well as a feedback tool for the community to share information (please note the difference in your fixed fee if you maintain this website versus Dogwood)
- Developing and disseminating resources for the community, when a need is identified, to build understanding around topics (e.g., quality of care resources, timelines, or infographics)
- During the first year of the IM's engagement (spring of 2024), hosting, promoting, and organizing 6 in-person information sessions in Buncombe, Highland/Cashiers, Macon, McDowell and Mitchell and Transylvania
- Hosting, promoting and organizing bi-annual informal gatherings at local libraries

- or community centers and/or virtual sessions to engage community members and gather information regarding potential compliance related concerns
- Meeting with interested public groups, public officials, individuals, the Advisory Board, and Local Advisory Boards during the Annual Report evaluation cycle
- Interviewing individuals who wish to share feedback related to experiences with Mission/HCA
- Organizing, evaluating and responding to community feedback received by phone, in-person, email, or web portal
- Sharing community feedback with HCA and/or the AGO, where applicable, to seek resolution for community member issues
- Providing a log of community feedback with summaries to Dogwood on a monthly basis and more frequently if necessary or when requested
- Responding to inquiries from the media in consultation with Dogwood

3. AGO Engagement

The North Carolina Attorney General's Office (AGO) played an important role in the crafting of the APA and continues to review compliance on an annual and as-needed basis. The IM will communicate with the AGO, in consultation with Dogwood, which includes the following:

- Meeting quarterly with the AGO, or on a cadence as requested by Dogwood (at least two of these meetings will be in-person)
- Responding to queries from the AGO in consultation with Dogwood
- Collaborating with Dogwood regarding the agenda for AGO meetings and prepare materials as directed by Dogwood (e.g., complaint log, slides on work being undertaken in coming quarter)
- Preparing meeting notes for each AGO meeting, which will then be shared with the public

4. Continuous Compliance Evaluation and Other Activities

Outside of the Annual Report evaluation, HCA is required to be in continuous compliance with the commitments. The IM will be responsible for monitoring HCA's continuance compliance and advising Dogwood if it believes there is evidence of potential non-compliance outside of the Annual Reporting Cycle. Such compliance oversight includes:

- Monitoring newsfeeds and community feedback for potential noncompliance and coordinate with Dogwood on issues that merit evaluation
- Participating in ad hoc site visits to evaluate instances of potential noncompliance
- When directed by Dogwood's General Counsel, providing written reports addressing potential noncompliance that may exist outside of the Annual Report evaluation period
- Cooperating in any litigation related to HCA's compliance with the APA

The IM's other required responsibilities under the APA includes:

- Advising the Seller Directors of the Advisory Board and the Local Advisory Board on HCA's Annual Report, including its compliance with its Continuing Obligations and other obligations covered in those reports
- Advising Dogwood on requests or notices from HCA regarding the discontinuance of contractually required services at Mission Hospital, Care Partners, Misson's Children's Hospital Reuter Outpatient Center, McDowell Hospital, Angel Medical Center, Blue Ridge Regional Hospital, Highland-Cashiers Hospital, Transylvania Community Hospital (each a "**Mission Facility**" and collectively "**Mission Facilities**")
- Advising Dogwood on requests or notices from HCA regarding the sale or closure of a Mission Facility
- Approving, with the applicable Local Advisory Board, any proposed discontinuation of services at McDowell Hospital, Angel Medical Center, Blue Ridge Regional Hospital, Highland-Cashiers Hospital, Transylvania Community Hospital (each a "**Local Hospital Facility**") within the 10-year period following the Closing (NOTE: under limited circumstances HCA can discontinue a service without this consent between years 5-10 following the Closing Date if there is a safety issue)
- Reviewing and, if necessary, disputing any notice made by HCA between years 5-10 that it can discontinue a service at a Local Hospital Facility because of a safety issue
- Approving, with the applicable Local Advisory Board, any proposed closure or sale of a Local Hospital Facility
- Advising the Advisory Board with respect to any proposed closure or sale of a Mission Hospital, Care Partners, or Misson's Children's Hospital Reuter Outpatient Center within the 10 years following the Closing Date.
- Approving, with the Advisory Board or applicable Local Advisory Board, any proposed changes made to HCA's Uninsured and Charity Care Policy within the 10 years following the Closing Date

The IM will be expected to regularly communicate with Dogwood in a collaborative manner, which includes:

- Meeting with management of Dogwood over the course of 90 days for onboarding to meet obligations of engagement
- Meeting and/or communicating with Dogwood on a regular basis regarding all its responsibilities under this SOW

Exhibit A

Annual Cycle Timeline

End of April - Annual Report issued by HCA to Dogwood and the IM – 120 days after the end of HCA’s fiscal year, which is December 31

May – Dogwood may tour the HCA facilities – within 30 days of the delivery of the Annual Report

End of July – Date by which Dogwood must notify AGO whether it intends to provide notice to HCA regarding potential noncompliance – 90 days after receipt of Annual Report

End of August – Date by which AGO must respond to Dogwood regarding whether Dogwood has failed to adequately exercise its right to enforce certain obligations of HCA – 30 days after receipt of Dogwood’s notice

End of October – Date that Dogwood or AGO is required to provide notice to HCA of any potential noncompliance – 180 days after receipt of Annual Report

End of December – Date by which the parties can attempt to resolve any issues regarding noncompliance – within 60 days following delivery of notice to HCA

Dogwood’s website with Annual Cycle reports can be found here: [link](#).

Key Terms

1. **Advisory Board.** The “Advisory Board” is an eight-person board composed of four representatives selected by HCA and four selected by the Seller Representative (the “Seller Directors”). The Advisory Board acts through block voting, where any action requires a majority of both sets of directors. Broadly, the Advisory Board monitors and resolves disputes regarding HCA’s system-wide obligations under the APA (the “Continuing Obligations”). Specifically, it has four duties: (1) approving any proposed changes to the Continuing Obligations; (2) advising HCA on how to allocate funds it has promised to spend on improving the hospital system (“Capital Expenditures”); (3) receiving and reviewing annual reports summarizing HCA’s compliance with its obligations; and (4) resolving disputes should HCA contend that it can no longer reasonably provide specific medical services at one of the main hospital facilities.
2. **ANC Healthcare.** “ANC” is the organization formerly known as Mission Health System. At the time of the sale, ANC was the designated seller representative. After Dogwood was constituted and established ANC transferred the majority of those rights to Dogwood. ANC is primarily focused on winding down the obligations of Mission Health System that were not transferred to HCA.
3. **Contingency.** “Contingency” means, with respect to a Mission Hospital / CarePartners Service or the operation of a Material Facility, as the case may be:

- (i) the active medical staffs of the applicable Material Facility not having qualified, available physicians and/or clinical staff that are in good standing and are necessary for Buyer or any of its Affiliates to provide such Mission Hospital / CarePartners Service or continue such operation, as applicable;
- (ii) such Mission Hospital / CarePartners Service or Material Facility, as applicable, experiencing a significant decrease in patient volumes for any reason not within the reasonable control of Buyer or any of its Affiliates, which, for purposes of this Agreement, shall be deemed to have occurred if (a) during any full calendar year after the Closing Date (using the last day of the most recently-completed calendar year as the date of determination), a decline of thirty-three percent (33%) or more occurs in the annual patient volume for such Mission Hospital / CarePartners Service or Material Facility; and (b) the actual or projected volume for such Mission Hospital / CarePartners Service or Material Facility becomes insufficient to achieve or maintain the Level of Safety and Quality for such Mission Hospital / CarePartners Service or operation that is at least equal to, or better than, the median Level of Safety and Quality at any other similarly situated facilities owned and operated by Buyer or any of its Affiliates;
- (iii) a change in Law (or interpretation thereof) having a material adverse effect on the provision of such Mission Hospital / CarePartners Service or operation of such Material Facility, as applicable, for a period that is reasonably expected to be at least twenty-four (24) consecutive months;
- (iv) such Mission Hospital / CarePartners Service or Material Facility, as applicable, no longer being financially viable, meaning that, after the Closing Date, for a period of at least twenty-four (24) consecutive months, there is an actual or projected Financial Loss for such Mission Hospital / CarePartners Service or Material Facility, taking into account then-current or known future reimbursement levels for such Mission Hospital / CarePartners Service or Material Facility as of the time such determination is made; provided that such twenty-four (24)-month period shall in no case commence (a) with regard to the discontinuance of any Mission Hospital / CarePartners Service, prior to the eighth (8th) anniversary of the Effective Time and (b) with regard to the closure or sale of any Material Facilities, prior to the eighth (8th) anniversary of the Effective Time;
- (v) a change in the needs of the communities, including as a result of services being provided by one or more third parties, within the service area of the applicable Material Facility reasonably necessitating a termination of such Mission Hospital / CarePartners Service or operation of such Material Facility, as applicable; or
- (vi) such Mission Hospital / CarePartners Service or Material Facility, as applicable, fails to achieve or maintain the Level of Safety and Quality for such Mission Hospital / CarePartners Service or operation that is at least equal to, or better than, the median Level of Safety and Quality at any other similarly situated facilities owned and operated by Buyer or any of its Affiliates.

4. **Continuing Obligations.** The Continuing Obligations pertain to APA sections: 7.10 - Branding; 7.12 - Advisory Board and Independent Monitor; 7.13 - Operations of the Hospitals; and 7.15 - Uninsured and Charity Care Policies exclusive of any activities at a Local Hospital facility.
5. **Covenant Compliance Committee.** The “Covenant Compliance Committee” is the primary Committee charged with reporting to the Dogwood Board on HCA’s compliance with certain commitments under the APA. The Dogwood Board, as Seller Representative, is responsible for overseeing HCA’s compliance.
6. **Local Advisory Boards.** Within Mission Health System are five regional hospitals serving communities in Western North Carolina (“Local Hospitals” or “Member Hospitals”). Under the APA, each Local Hospital is advised by a “Local Advisory Board”. Each Local Advisory Board is an eight-person board composed of four directors initially selected by the board of directors of the applicable Local Hospital immediately prior to the sale and four directors selected by HCA.

Broadly, each Local Advisory Board will monitor and resolve disputes regarding HCA’s obligations pertaining to the board’s applicable Local Hospital. Specifically, each Local Advisory Board has five duties: (1) approving the discontinuance of services at its respective Local Hospital; (2) approving the sale or closure of a Local Hospital; (3) approving any change to the “Uninsured and Charity Care Policy” (as defined in Part II Section II below) of its respective facility (together with (1) and (2), the “Local Continuing Obligations”); (4) receiving and evaluating reports from HCA that involve its applicable Local Hospital; and (5) resolving disputes regarding a Contingency or an “MHF Quality or Safety Occurrence” occurring at its respective local facility.

7. **Local Continuing Obligations.** The Local Continuing Obligations pertain to the Local Hospitals with respect to APA Sections 7.13 – Operations of the Hospitals and 7.15 - Uninsured and Charity Care Policies.
8. **North Carolina Attorney General.** The Office of the North Carolina Attorney General “North Carolina AG” retains some supervisory powers under the Purchase Agreement and may choose to enforce certain covenants under the Purchase Agreement if it finds that the Seller Representative has failed to adequately do so and the Seller Representative has not taken action within 40 days of receiving notice of its perceived failure from the North Carolina AG (“AG-Enforceable Obligations”).
9. **Seller Representative.** The “Seller Representative” is the party primarily responsible for monitoring and enforcing the obligations of HCA. As the name suggests, the Seller Representative represents the interests of pre-sale ANC and ANC-affiliated hospitals. At the time of the sale, ANC itself served as the Seller Representative. ANC, however, transferred the majority of its rights and responsibilities as Seller Representative to Dogwood, and Dogwood assumed primary responsibility for assuring HCA’s compliance with certain covenants contained in the Purchase Agreement. Dogwood exercises that right through its Board.