OFFICE OF THE ATTORNEY GENERAL
STATE OF GEORGIA

IN THE MATTER OF THE CHANGE OF CONTROL OF FLOYD HEALTHCARE MANAGEMENT, INC. TO THE CHARLOTTE-MECKLENBURG HOSPITAL AUTHORITY.	* * * * * * *	NO. AG 2021-03

REPORT OF FINDINGS

I.

BACKGROUND

FLOYD MEDICAL CENTER

This matter presents a proposed transaction for the transfer of control of Floyd Healthcare Management, Inc. ("Floyd"), whose principal place of business is in Floyd County. Floyd, a Georgia nonprofit corporation, proposes to enter into a transaction with The Charlotte-Mecklenburg Hospital Authority (also known as "Atrium Health" or "Atrium") which will involve the change of control of Floyd. Floyd operates the Floyd Medical Center and Floyd Behavioral Health located in Floyd County, and through subsidiaries, operates Polk Medical Center located in Polk County, and Floyd Cherokee Medical Center located in Cherokee County, Alabama. Floyd Medical Center, located in Rome, Georgia is a 304-bed acute care community hospital and Level II Trauma Center and Level III Neonatal Intensive Care Unit. Polk Medical Center is a 25-bed critical access hospital in Cedartown, Georgia. Cherokee Medical Center is a 60-bed acute care hospital in Centre, Alabama (collectively "the Hospitals").[1]

The proposed transaction does not involve a sale or lease of Floyd or the Hospitals. However, under the transaction, a wholly-owned subsidiary of Atrium, AH Georgia, Inc. ("Atrium Sub"), will become the sole controlling member of Floyd. After completion of the transaction, Floyd will continue in existence as a Georgia nonprofit corporation, but it will be controlled by AH Georgia, Inc., a North Carolina nonprofit corporation, which is controlled by The Charlotte-Mecklenburg Hospital Authority. Atrium Health has committed to provide a

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[1] Polk Medical Center is the subject of a prior Georgia Hospital Acquisition Act review conducted in 2014.

number of benefits to the communities served by the Hospitals in exchange for obtaining control of Floyd. As discussed in more detail herein, the benefits are both operational and financial. Atrium Health has also committed to continue to provide the services currently provided by the Hospitals and to maintain and enhance the historic levels of indigent and charity care provided by Floyd.

THE DISPOSITION PROCESS

In 2018, Floyd engaged ECG Management Consultants ("ECG") as an independent advisor to: (i) assess and evaluate Floyd's strategic and financial position; (ii) determine Floyd's ability to remain a viable, independent organization; and (iii) assess Floyd's organizational strategic options to secure a long-term and stable future for Floyd.[2] As a result of its engagement, ECG developed a 5-year financial plan to inform Floyd of its strategic options. Based on ECG's assessment, the Floyd Board decided that in order to preserve, enhance and expand services for the benefit of the local community, it must explore a partnership to maintain a competitive position in the market. The Floyd Board appointed a Steering Committee to consider and manage the evaluation of potential strategic partners and report its recommendations to the Floyd Board. The four member Steering Committee consisted of representatives from the Boards of Floyd, Polk Medical Center, Inc., Floyd Cherokee Medical Center, LLC, and the Hospital Authority of Floyd County. The four strategic objectives identified by the Board included: (i) preservation of Floyd's mission to be responsive to the communities it serves; (ii) recruiting and retaining qualified practitioners for the benefit of the community; (iii) maintaining and enhancing the long-term financial viability of Floyd and its local delivery system; and (iv) making needed investments in facilities, technology and people.

In November 2018, the Floyd Board, in consultation with Floyd's senior leadership and ECG, identified nine potential partners after taking into consideration its strategic objectives geographic footprint, financial profile, clinical reputation, and track record of successful prior partnerships. The Floyd Board subsequently issued a Confidential Information Memorandum to eight of the nine potential partners, along with the distribution of a Request for Proposal ("RFP") for a potential affiliation transaction. Six potential partners, both within and outside of the state of Georgia, submitted Indications of Interest in early 2019. Between March 2019 and October

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[2] The engagement with ECG was later transitioned to FocalPoint Partners, LLC.

2019, the Floyd Board engaged in interviews, calls, and meetings with the interested parties. Subsequently, three parties submitted Letters of Intent. The Floyd Board evaluated and compared the RFP responses it received against its strategic objectives and met with leadership for each organization. Afterwards, the Floyd Board selected Atrium Health as the leading potential partner with which to consider a transaction and began discussions with Atrium Health. Dr. George Bosworth, Chairman of the Floyd Board, testified at the public hearing that Atrium was ultimately selected because "Atrium has a culture very similar to ours, with significant capital and outstanding clinical expertise…and Atrium has offered the most local control and continued local involvement in our health system." (Transcript, p. 17).

THE PROPOSED TRANSACTION

As described above, the transaction provides for the transfer of control of Floyd through an amendment and restatement of its Articles of Incorporation whereby Atrium Sub will be the sole controlling member of Floyd. The change of control will be accomplished by the parties through a Member Substitution Agreement ("Agreement"). Pursuant to the Agreement, Atrium Health has committed to provide a number of benefits to the communities served by the Hospitals in exchange for obtaining control of Floyd. The benefits are both operational and financial. Operationally, the Agreement provides that Atrium Health will: (i) maintain and continue to operate the Hospitals as fully licensed and accredited acute care hospitals for a period of no less than ten years unless the Floyd Board, in its sole discretion, determines to reduce the length of such commitment; (ii) preserve Polk Medical Center's designation as a "Critical Access Hospital"; (iii) continue to provide the same level of services currently provided by the Hospitals and shall not terminate services or key programs without prior approval of the Floyd Board for at least ten years; (iv) for a period of one year, support the continued employment of Floyd employees in good standing in positions, at compensation levels, and with benefits equivalent to those levels immediately prior to the closing of the transaction; (v) support the provision of indigent care to meet the healthcare needs of the community without regard to a patient's ability to pay, consistent with Floyd's mission and historical practices; (vi) strengthen the Floyd physician enterprise; (vii) ensure Floyd maintains significant and meaningful roles in ongoing local government and management at the appropriate levels of representation among and between Floyd and Atrium Health; and (viii) ensure compliance with the Hospital Authority leases.[3]

Financially, the Agreement provides that Atrium Health will support Floyd with capital commitments necessary to fund strategic investment and expand Floyd facilities and services with the objective of enhancing Floyd's ability to serve its communities. In totality, Atrium Health is committing $570 million for capital expenditures over eleven years. The capital commitment includes: (i) $194.1 million for routine expenditures; (ii) $97.5 million for strategic growth; (iii) $218.4 million for discretionary expenditures; and (iv) $60 million for information technology conversions. During the first three years after closing, $86.9 million will be expended for routine expenditures and strategic growth. Atrium Health will also defease and payoff $172 million of Floyd bond debt, which includes Cedartown-Polk County bonds of approximately $35 million. Furthermore, Atrium Health will assume certain liabilities of Floyd, including a $34.4 million pension liability and $8.4 million liability due to the Hospital Authority of Floyd County.

Additionally, Atrium Health will donate $30 million to Floyd-Polk Healthcare Foundation, Inc. ("Foundation"). The Foundation will be locally governed by seventeen directors appointed by the Hospital Authority of Floyd County, the Cedartown-Polk County Hospital Authority, Floyd Board, and Polk Board. Floyd will also donate its net surplus cash at closing to the Foundation, which includes the net surplus cash attributable to Polk and Cherokee hospitals. At the time of the hearing, the amount of net surplus cash was approximately $101.2 million. The Foundation will be operated as an independent, non-profit organization supporting Floyd and the communities they serve.[4]

BENEFITS ANAYLSIS

Under O.C.G.A. § 31-7-406(6), a transaction involving the acquisition or disposition of the assets of a nonprofit hospital to a nonprofit entity requires the Attorney General to make a

[3] Atrium will appoint two additional directors to the Floyd Board, which will bring the total to eighteen directors. At any given time, the Floyd Board must consist of three directors from the Hospital Authority of Floyd County, three Floyd employed physicians, two Polk Medical Center Board members, and six additional directors that meet director eligibility criteria.

[4] The Foundation will apply for a determination letter from the Internal Revenue Service recognizing its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

determination as to whether the seller "will receive an enforceable commitment for fair and reasonable community benefits for its assets."

Hammond Hanlon Camp, LLC/H2C Securities Inc. ("H2C") was retained by Baker, Donelson, Bearman, Caldwell & Berkowitz, PC ("Baker Donelson") on behalf of Floyd to calculate the fair market value ("FMV") of Floyd and evaluate the benefits that Floyd and the local community are expected to receive from the proposed transaction as of June 30, 2021 ("Valuation Date"). In its report, H2C estimated the value of Floyd's net assets (also known as "equity") that are included in the proposed transaction to be in the range of $431 million to $500 million. Mr. Bayman of H2C testified at the public hearing held on June 11, 2021.

There are three traditional approaches typically considered in estimating value. The three approaches are (1) the Income Approach, (2) the Market Approach, and (3) the Cost Approach (Net Asset Value). The Income Approach is based on the concept that the value of a business is the present value of the expected future economic benefits to be derived by the owners of the business. Under the Market Approach, value is derived through a comparison of the transaction prices of similar assets trading in the marketplace. In the Cost (Net Asset Value) Approach, value is estimated based on the value of all of the subject business's underlying assets, both tangible and intangible, net of liabilities.

H2C considered both the Income Approach and the Market Approach, but not the Cost Approach, in its valuation of Floyd and its assets. Although usually considered in a valuation analysis, the Cost Approach is typically not relied upon in the valuation of a profitable hospital as a going concern. It is, however, utilized in limited circumstances and can be considered to provide a floor (minimum) value. Here, Atrium Health has committed to continue operating Floyd and the Hospitals as acute care facilities and therefore, a valuation under the Cost Approach would not be applicable.

Under the Income Approach, H2C applied the Discounted Cash Flow ("DCF") method, which provides an indication of value based on the entity's ability to generate net cash flow going forward. H2C utilized a set of five year projections for Floyd for Fiscal Year 2022 through 2026, which assume that Floyd would continue to operate on a stand-alone basis, excluding the benefit of expected synergies with Atrium Health. H2C converted these future projected cash flows to "today's value" as of the Valuation Date at a discount rate of 10.02% based on H2C's estimate of Floyd's weighted average cost of capital. H2C then varied the results +/- 10% to get a range of values. The analysis produced an indicated business enterprise value ("BEV") of as of June 30, 2021 of $236 million to $397 million.

Under the Market Approach, H2C utilized both the Precedent Transactions ("PT") method and the Guideline Public Companies ("GPC") method to arrive at a BEV. The PT method considers the purchase prices paid in recent comparable hospital transactions to select transaction multiples to determine a BEV. In applying the PT method, H2C identified and calculated valuation multiples based on twenty-eight comparable hospital transactions that took place from 2015 onward. H2C selected a revenue multiple of 0.66x and a multiple of its Earnings Before Interest, Taxes, Depreciation and Amortization ("EBITDA") multiple of 9.1x and applied them to Floyd's consolidated fiscal year ("FY") 2019, FY2020 and Latest Twelve Month January 2021 revenue ("LTM") and EBITDA metrics and then varied the results by +/- 10%. This yielded a BEV range of $220 to $474 million for Floyd as of June 30, 2021, under the PT method.

The GPC method measures the value based on observed stock pricing of publicly traded companies that can be considered reasonably similar to the subject business. To develop the value for Floyd under this method, H2C identified three publically traded hospital operators: HCA Management Services, Universal Health Services and Tenet Healthcare. It analyzed the BEV trading multiples for these companies as of March 31, 2021, and selected a BEV/EBITDA multiple of 10x. It again applied this multiple to Floyd's consolidated FY2019, FY2020 and LTM 2021, and EBITDA metrics and varied the results +/- 10%. The analysis produced a BEV ranging from a low of $242 million to a high of $523 million.

Using the BEV indications of value, H2C then had to develop a final equity value for Floyd. To accomplish this, H2C applied weightings ranging from 5% to 20% to the various indications of BEV. H2C gave greater weight to the PT method due to the number of directly comparable transactions in the PT method, the smaller size of Floyd as compared to the companies in the GPC method and the uncertainty surrounding the income forecast. In addition, H2C gave greater weight to the indications of value based on FY2019 performance, compared to those from FY2020 and LTM due to the impacts of COVID-19 on FY2020 and the overlapping of the FY2020 and LTM periods. Finally, H2C converted the BEV values into an equity value by adding the estimated amount of surplus cash (net of debt payoff) of $118 million. The weightings plus the addition of surplus cash yielded an estimated equity value range of $431 to $500 million for Floyd as of June 30, 2021.

H2C also analyzed the benefits that the community would receive as a result of this transaction. It considered a number of qualitative and quantitative community benefits that could be expected from the transaction. The major community benefits outlined by H2C included the following qualitative elements: (i) continuation of access to local healthcare and the maintenance of services; (ii) commitment to charity care; (iii) operational efficiencies; (iv) quality enhancements; and (v) physician alignment and recruitment benefits that are achieved by joining with a larger healthcare system. H2C also outlined and analyzed some of the qualitative benefits of the transaction to the community including a $30 million contribution to the Foundation upon closing with an additional donation of Floyd's net surplus cash estimated to be $101.2 million, at the time of the Hearing (minus a $2 million donation to the Floyd County Hospital Authority). Atrium Health will also donate an additional $20 million in surplus cash to the Foundation when that amount is accumulated by Polk Medical Center, Inc. In addition to this donation, Atrium Health will update Floyd facilities through a commitment to fund a minimum of $570 million of capital improvements over the first eleven years following the transaction. Finally, Atrium will defease and payoff the $79.125 million outstanding debt on Floyd's series 2016 bonds and remove Floyd County as a guarantor of the debt. After considering all of the identified benefits of this transaction, H2C calculated the present value of the capital commitments, Foundation contribution, net surplus cash and net assumed liabilities, deriving a value of approximately $515 million. Having compared the calculated equity of Floyd to the calculated community benefit, H2C concluded that the value of the community benefit exceeds the stand alone value of Floyd.

Ernst & Young, LLP ("EY"), in accordance with O.C.G.A. § 31-7-405(b), was retained as an independent financial advisory consultant by the Attorney General to assist in the review of the proposed transaction between Atrium Health and Floyd. The Attorney General engaged EY to provide valuation advisory services, but not to provide a separate valuation or a fairness opinion. Ms. Natasha A. Hunerlach, a partner at Ernst & Young specializing in health care provider valuations, testified at the hearing.

As part of its engagement, EY held discussions with representatives of all the parties involved in the proposed transaction and performed independent research and analyses to review H2C's conclusions on the value of the Floyd and the community benefit from the proposed transaction. In the course of its engagement, EY analyzed H2C's underlying valuation methodologies and assumptions, and performed a number of sensitivity analyses on H2C's valuation. In its review, EY confirmed that H2C used reasonable and relevant valuation methods and techniques in its analysis to support its conclusions.

EY noted that H2C used June 30, 2021, as the effective date for its concluded value range for the Hospitals, a date in the future chosen to coincide with a potential transaction close date. The use of a future valuation date requires the use of the latest hospital financial and market data known at the time. As EY's sensitivity analyses were completed later in time, it used more current data, but found that the difference in dates did not have an impact on the calculated value range or the conclusion that the amount of community benefit exceeds the stand alone value of Floyd.

EY noted that in H2C's valuation analyses under the Market Approach and the Income Approach contained wide ranges of values, and that the best practice for valuation methodologies call for revisiting, calibrating and reconciling the assumptions used within a calculation when the indicated values differ so substantially. Ultimately, EY performed sensitivity analyses in which it reconciled and synthesized the various indicated values in both the Income and Market analyses and accounted for the proper tax basis convention. EY observed that the totality of its sensitivity analyses with these adjustment yielded a calculated equity range of $400 million to $430 million for Floyd supporting the lower end of the equity range in H2C's analysis ($431 million to $500 million).

Furthermore, EY conducted independent research of valuation multiples for comparable hospital transactions and compared these to the valuation multiples implied by H2C's valuation of Floyd. EY found that the valuation multiples based on H2C's concluded fair market value range of the Hospitals are consistent with the financial performance and condition of the Hospitals relative to the benchmarks considered. Therefore, ultimately, EY concluded that H2C used reasonable valuation methods and techniques in its valuation analysis to support its conclusions, and, the totality of EY's analyses supports the lower end of the value range derived by H2C for the Floyd.

EY also reviewed the key assumptions and calculations underlying H2C's community benefit analysis to test H2C's final conclusion. EY's review included a sensitivity analysis of the quantified community benefit. The resulting analysis confirmed the overall conclusion that the community benefit expected from this transaction exceeds the stand alone value of Floyd.

PUBLIC COMMENT

The public hearing was held on June 11, 2021, at 12:00 p.m. in Floyd County, Georgia, at The Forum Civic Center, Riverwalk Ballroom, 2 Government Plaza, Rome, Georgia 30162. Additionally, due to the COVID-19 pandemic, the public was invited to attend virtually through a WebEx virtual meeting. Pursuant to O.C.G.A. § 31-7-404, notice of the public hearing was published in *Rome News Tribune* on Friday, April 23, 2021, and Friday, April 30, 2021. Twenty-four persons made comments at the public hearing all in favor of the transaction.

Following the public hearing, the record was held open until the close of business on Tuesday, June 15, 2021, for any further public comment. This Office received eighty-four written comments in support of the transaction. Counsel for Floyd and Atrium Health were requested to inform the undersigned in writing before the record closed as to whether their respective clients intended to proceed with the proposed transaction as structured or modify the proposed transaction in some respect. On June 15, 2021, counsel for both parties submitted a joint letter stating that their clients wish to proceed with the transaction as proposed.

II.

FINDINGS

The Hospital Acquisition Act (the "Act") involves a public interest determination in the Attorney General's review of a proposed disposition and acquisition of hospital assets. *See* O.C.G.A. §§ 31-7-400 through 31-7-412; *Sparks v. Hospital Authority of City of Bremen and County of Haralson*, 241 Ga. App. 485 (1999) (physical precedent only). The Act requires a written notice filing and a public hearing "regarding the proposed transaction in the county in which the main campus of the hospital is located." O.C.G.A. §§ 31-7-401, 31-7-405(a). The purpose of the public hearing is "to ensure that the public's interest is protected when the assets of a nonprofit hospital are acquired by an acquiring entity by requiring full disclosure of the purpose and terms of the transaction and providing an opportunity for local public input." O.C.G.A. § 31-7-406.

Under the Act, disclosure is linked to whether "appropriate steps have been taken to ensure that the transaction is authorized, to safeguard the value of charitable assets, and to ensure that any proceeds of the transaction are used for appropriate charitable health care purposes."

O.C.G.A. § 31-7-406. The Act identifies thirteen factors that are key considerations in determining whether the appropriate steps have been taken by the parties. *Id.* The thirteen factors are listed in Appendix A to this report.

The thirteen factors set forth in O.C.G.A. § 31-7-406 can be grouped into four categories relating to (a) the exercise of due diligence by the seller (factors number 1, 2, 3, 4 and 8), (b) conflicts of interest (factors number 5 and 13), (c) valuation of the hospital assets (factors number 6, 7 and 10), and (d) the charitable purpose of the proposed transaction (factors number 9, 11 and 12).

<u>The Exercise of Due Diligence by the Seller</u>

Factor number 1 is satisfied because the disposition of the Hospital is authorized by applicable law. With regard to factor number 2, there have been no donations to the Hospitals which exceed $100,000.00.[5] Furthermore, no concerns have been raised by any donors during the public hearing or the review process. Therefore, the record supports finding that factor number 2 is satisfied.

The due diligence factors number 3 and 4 necessitate review of the process and procedures employed by the Seller "in deciding to dispose of hospital assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition." O.C.G.A. § 31-7-406(3). As detailed above, Floyd exercised appropriate due diligence in its selection process as it engaged ECG and formed a special Steering Committee to evaluate its strategic and financial options to secure a long-term and stable future. Floyd also engaged Baker Donelson, H2C, and Epstein Becker and Green during the process of negotiating and finalizing the proposed transaction. The record supports a finding that Floyd "exercised due diligence in deciding to dispose of hospital assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition." O.C.G.A. § 31-7-406(3). The record further supports a finding of adequacy regarding "[t]he procedures used by the nonprofit corporation in making its decision to dispose of its assets" and that "appropriate expert assistance was used." O.C.G.A. § 31-7-406(4).

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[5] Floyd Health Care Foundation, Inc., a subsidiary of Floyd, is named as a remainder beneficiary under the Heyman Charitable Remainder Trust. A donation greater than $100,000 is expected and the funds must be utilized for the sole purpose of supporting a hospice program benefitting Floyd County at Floyd or its successors or assigns. The hospice program shall be named the Heyman Hospice Program. However, if Floyd ceases to operate a hospice program, the funds must be transferred to another specified charitable beneficiary.

Therefore, the process employed by Floyd demonstrates the exercise of due diligence, consistent with factors number 3 and 4.

Because there is no separate management or services contract negotiated in conjunction with the proposed transaction, factor number 8 is not applicable to the determination of Seller's exercise of due diligence.

Conflicts of Interest

The disclosure of any conflict of interest involving the Sellers, the Chief Executive Officer of the Hospital and its expert consultant is to be considered under factor number 5. Conflict of interest certifications, as required by the Act and the notice filing requirements of the Attorney General, have been filed by members of the governing board of Floyd, by the chief executive officer of Floyd, and by Richard Bayman, Managing Director for H2C. Such certifications do not disclose any impermissible conflicting financial interest in the proposed transaction. With regard to factor number 13, the instant transaction involves the transfer of control of a nonprofit hospital to another nonprofit corporation. Health care providers will not be offered an opportunity to invest or own an interest in the Hospital as part of the transaction or after the transaction. Therefore, factor number 13 is not applicable.

Valuation of the Hospital Assets

The factors numbered 6, 7, and 10 involve a determination of the value of the hospital assets. Because this transaction involves the transfer of control of a nonprofit corporation which controls hospital assets subject to the Act to a nonprofit corporation controlled by a public hospital authority, Floyd should receive an enforceable commitment for fair and reasonable community benefits for the transfer of control of its assets. *See* O.C.G.A. § 31-7-406(6). Based on the record, including the analysis conducted by H2C on behalf of Floyd and the review by EY at the request of the Attorney General as described herein, Floyd will receive an enforceable commitment for fair and reasonable community benefits in exchange for its assets as required by the Act.

Since Floyd is not providing any financing for the transaction, factor number 7 is not applicable. As to factor number 10, under the terms of the Agreement, the hospital authorities retain a right of first refusal to purchase the assets if Atrium Health proposes to sell the assets to an unaffiliated third party.[6] (Agreement, p. 55). The right of first refusal includes a general restriction on change of control transactions involving Floyd for a period of 10 years from the closing of the proposed transaction. Thus, factor 10 is satisfied.

<u>Charitable Purpose of the Proposed Transaction</u>

With respect to the charitable purpose of the proposed transaction, factor number 9 requires that the disposition proceeds be used for charitable health care purposes consistent with the nonprofit's original purpose. Here, the Agreement is not expected to generate any proceeds. Therefore, factor number 9 is not applicable.

The other two charitable purpose factors, numbers 11 and 12, concern the purchaser's commitment to provide (a) continued access to affordable care, (b) the range of services historically provided by the seller, (c) health care to the disadvantaged, the uninsured and the underinsured, and (d) benefits to the community to promote improved health care. Pursuant to the Agreement, Atrium Health has made various commitments regarding maintenance of the core healthcare services provided by Floyd. The commitments include, but are not limited to, maintaining and continuing operation of the Hospitals as fully licensed and accredited acute care hospitals for a period of no less than 10 years, preserving Polk Medical Center's designation as a "Critical Access Hospital," continuing key programs and services provided by the Hospitals, and supporting Floyd's mission and historical practices of providing indigent care to meet the healthcare needs of the communities it serves. Changes in the healthcare industry in the future may make it necessary to make adjustments to the key programs or services offered by the Hospitals, however, any material reductions or termination of services must receive the approval of the Floyd Board and/or the applicable hospital authority. The obligations provided for in the record, including those described herein, support a finding that factors 11 and 12 are satisfied in this matter.

III.

<u>CONCLUSION</u>

Upon review of the public record and in accordance with the Act, the undersigned Hearing Officer finds that the public record in this matter discloses that the proposed transaction is appropriate in light of the factors set forth in the Act.

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[6] The hospital authorities may exercise the right of first refusal alone or in combination with others, including the Foundation.

This 12th day of July, 2021.

ALKESH B. PATEL
Senior Assistant Attorney General
Hearing Officer

APPENDIX A

(1) Whether the disposition is permitted under Chapter 3 of Title 14, the Georgia Nonprofit Corporation Code,' and other laws of Georgia governing nonprofit entities, trusts, or charities;

(2) Whether the disposition is consistent with the directives of major donors who have contributed over $100,000.00;

(3) Whether the governing body of the nonprofit corporation exercised due diligence in deciding to dispose of hospital assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition;

(4) The procedures used by the nonprofit corporation in making its decision to dispose of its assets, including whether appropriate expert assistance was used;

(5) Whether any conflict of interest was disclosed, including, but not limited to, conflicts of interest related to directors or officers of the nonprofit corporation and experts retained by the parties to the transaction;

(6) Whether the seller or lessor will receive fair value for its assets, including an appropriate control premium for any relinquishment of control or, in the case of a proposed disposition to a not-for-profit entity, will receive an enforceable commitment for fair and reasonable community benefits for its assets;

(7) Whether charitable assets are placed at unreasonable risk if the transaction is financed in part by the seller or lessor;

(8) Whether the terms of any management or services contract negotiated in conjunction with the transaction are reasonable;

(9) Whether any disposition proceeds will be used for appropriate charitable health care purposes consistent with the nonprofit corporation's original purpose or for the support and promotion of health care in the affected community;

(10) Whether a meaningful right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation has been retained if the acquiring entity subsequently proposes to sell, lease, or transfer the hospital to yet another entity;

(11) Whether sufficient safeguards are included to assure the affected community continued access to affordable care and to the range of services historically provided by the nonprofit corporation;

(12) Whether the acquiring entity has made an enforceable commitment to provide health care to the disadvantaged, the uninsured, and the underinsured and to provide benefits to the affected community to promote improved health care; and

(13) Whether health care providers will be offered the opportunity to invest or own an interest in the acquiring entity or a related party, and whether procedures or safeguards are in place to avoid conflicts of interest in patient referrals.