

**09-24-00034-CV**

**Oral Argument Requested**

**NO. \_\_\_\_\_**

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**In The Ninth Court of Appeals in Beaumont**

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**IN RE THE MEDICAL CENTER OF SOUTHEAST TEXAS, LP  
D/B/A THE MEDICAL CENTER OF SOUTHEAST TEXAS;  
STEWARD HEALTH CARE SYSTEM LLC; AND  
STEWARD HEALTH CARE HOLDINGS LLC,**

*Relators.*

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*Arising from Cause No. 23DCCV1824  
In the 58th District Court of Jefferson County, Texas*

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**RECORD FOR  
PETITION FOR WRIT OF MANDAMUS**

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**Certificate of Service**

Pursuant to TEX. R. APP. P. 9.5(e), I certify that a true and correct copy of the foregoing document was served via electronic filing, Federal Express, and/or electronic mail on the 25th day of January, 2024, to:

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*Respondent*

/s/ Chris Dove

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## Declaration Regarding Record

Pursuant to TEX. R. APP. P. 52.7(a) and TEX. CIV. PRAC. & REM. CODE 132.001(a), the undersigned counsel declares under penalty of perjury that this Record contains true and correct copies of the relevant documents that were electronically filed with the Jefferson County District Clerk in case number 23DCCV1824.

Pursuant to TEX. R. APP. P. 52.7(a)(2), the undersigned counsel declares under penalty of perjury that no transcript is included because no testimony was adduced in connection with the matter complained. While Respondent held a hearing, no party introduced new evidence at that hearing.

My name is Christopher Benjamin Dove, my date of birth is November 1, 1971, and my address is Locke Lord, LLP, 600 Travis St., Suite 2800, Houston, Texas 77002, and United States of America. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 25th day of January, 2024.

/s/ Chris Dove  
Chris Dove

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Plaintiffs' Petition

CAUSE NO. \_\_\_\_\_

|  |   |                            |
|--|---|----------------------------|
| HNI MSO, INC., AND HNI PHYSICIAN SERVICES OF TEXAS, INC.,  | § | IN THE DISTRICT COURT      |
|  | § |                            |
| <i>Plaintiffs,</i>   | § |                            |
|  | § |                            |
| vs.  | § | _____ JUDICIAL DISTRICT    |
|  | § |                            |
| THE MEDICAL CENTER OF SOUTHEAST TEXAS, LP D/B/A THE MEDICAL CENTER OF SOUTHEAST TEXAS, STEWARD HEALTH CARE SYSTEM, LLC, AND STEWARD HEALTH CARE HOLDINGS, LLC, | § |                            |
|  | § |                            |
| <i>Defendants.</i>   | § | OF JEFFERSON COUNTY, TEXAS |

**Plaintiffs’ Verified Original Petition and Application for Temporary Injunction**

Plaintiffs HNI MSO, Inc. (“HNI MSO”) and HNI Physician Services of Texas, Inc. (“HNI Physicians” and, together with HNI MSO, “Plaintiffs” or “HNI”) file this Verified Original Petition and Application for Temporary Injunction against Defendants The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas (“TMC Hospital”), Steward Health Care System, LLC, and Steward Health Care Holdings, LLC (together, “Steward Health Care”).

**I. DISCOVERY CONTROL PLAN**

1. Pursuant to TEX. R. CIV. P. 190.4, Plaintiffs request that discovery is conducted under a Level 3 discovery control plan. The expedited-actions process does not govern this suit.

**II. JURISDICTION AND VENUE**

2. The amount in controversy exceeds the Court’s minimum jurisdictional requirements. Plaintiffs seek to recover monetary damages over \$1,000,000.00 and non-monetary relief, including injunctive relief, as detailed below.

3. Venue is proper in Jefferson County, Texas, because all or a substantial part of the transactions or occurrences made the basis of this lawsuit occurred in Jefferson County, Texas. More specifically, TMC Hospital (as defined below) is in Beaumont-Port Arthur, Jefferson County, Texas.

4. Defendants have sufficient contacts with Jefferson County, Texas, generally, and with respect to the events underlying this dispute, so that Defendants are subject to the exercise of personal jurisdiction by this Court.

### **III. NOTICE**

5. Plaintiffs will show that, in accordance with the Texas Rules of Civil Procedure and relevant Texas statutory law, any notice required by law or the subject contracts between the parties has been provided.

### **IV. PARTIES**

6. Plaintiff HNI MSO is a Delaware corporation with its principal place of business in Travis County, Texas.

7. Plaintiff HNI Physicians is a Texas non-profit corporation with its principal place of business in Travis County, Texas.

8. Defendant The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, is a Delaware limited partnership with its principal place of business at 1900 North Pearl Street, Suite 2400, Dallas, Texas 75201. Defendant may be served with process through its registered agent: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Steward Health Care System, LLC, is a Delaware limited liability company with a corporate office at 1900 North Pearl Street, Suite 2400, Dallas, Texas 75201.

Defendant may be served through its registered agent in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

10. Defendant Steward Health Care Holdings, LLC, is a Delaware limited liability company with a corporate office at 1900 North Pearl Street, Suite 2400, Dallas, Texas 75201. Defendant is the owner of Steward Health Care System LLC. Defendant may be served through its registered agent in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

## **V. FACTUAL BACKGROUND**

11. The Medical Center of Southeast Texas (“TMC” or “TMC Hospital”) is a hospital in Beaumont-Port Arthur, Texas. TMC Hospital is owned and operated by Steward Health Care. TMC Hospital is one of three hospitals that (1) is owned by Steward Health Care; and (2) contracted with HNI to provide physicians, mid-level providers, and other healthcare professionals. The other hospitals are in West Monroe, Louisiana, and Houston, Texas.

12. Through its contracts with physicians, mid-level providers, and other healthcare professionals, HNI is the exclusive provider of hospitalist, intensivist, management, administrative, business, and other services at TMC Hospital under two sets of contract documents between HNI and TMC Hospital (as defined below, the Hospital MSA and the Hospital PSA).

13. TMC Hospital has materially breached its payment obligations under the subject contracts by failing to pay amounts owed to HNI for services performed at TMC Hospital. TMC Hospital has also breached its performance obligations under the subject contracts by failing to provide support that HNI’s providers need to effectively treat patients at TMC Hospital. By this lawsuit, HNI seeks to recover money damages for TMC Hospital’s material breaches of the parties’ agreements.

***The Hospital MSA between HNI MSO and TMC Hospital.***

14. HNI MSO and TMC Hospital executed a Management Agreement (the “Hospital MSA”) effective December 1, 2020, for a period of two years. Ex. 1, Hospital MSA, p. 3 at § IV(A). The Hospital MSA automatically renews for a one-year period unless either party provides at least 120 days’ notice before the end of the Term. *Id.* Either party may terminate the Hospital MSA by providing written notice of material breach and a 30-day period to cure the material breach. *Id.*, p. 4 at § V(B)–(C). If corrective action is not taken, the Hospital MSA terminates within 60 days from the end of the cure period. *Id.*

15. Under the Hospital MSA, HNI MSO is the exclusive provider of management services at TMC Hospital, including management of qualified licensed physicians and qualified mid-level providers. *See* Ex. 1, Hospital MSA, p. 1 at §§ (A)–(E). The licensed physicians and providers who are under contract with HNI Physicians to perform services at TMC Hospital are referred to as “providers” throughout this Petition.

16. The Hospital MSA is governed and must be construed in accordance with Texas law. Ex. 1, Hospital MSA, p. 7 at § VI(K).

17. Under the Hospital MSA, prior to initiating legal action, the parties must work together to resolve the dispute. The complaining party must provide written notice (defined as a “Dispute Notice”) to the other party, which includes a period of up to 30 days to resolve the dispute. Ex. 1, Hospital MSA, p. 5 at § VI(D).

***The Hospital PSA between HNI Physicians and TMC Hospital.***

18. HNI Physicians and TMC Hospital executed a Professional Services Agreement (the “Hospital PSA”) effective October 1, 2022, for a period continuing until August 31, 2024. Ex. 2, Hospital PSA, p. 1 at § I.A and p. 6 at § IV.A. After October 1, 2023, either party may terminate

the Hospital PSA without cause upon 120 days' written notice, during which both parties must fulfill their obligations under the contract. *Id.*, p. 7 at § IV(D).

19. Under the Hospital PSA, TMC Hospital agreed that HNI Physicians would be the exclusive provider of Hospitalist Services and Intensivist Services at TMC Hospital. Ex. 2, Hospital PSA, at p. 1 (Recitals). Further, TMC Hospital agreed to provide adequate facilities other support—sufficient staffing, supplies, equipment, and medications—to facilitate the rendition of healthcare services by HNI's providers at TMC Hospital. *See, e.g.*, Ex. 2, Hospital PSA, p. 1 at § (C) (“Hospital and Group desire to enter into a contract with each other . . . to integrate the delivery of Hospitalist and Intensivist Services, ensure the quality of Hospitalist and Intensivist Services at the Hospital, coordinate scheduling and utilization, ensure continuous availability of Hospitalist and Intensivist Services, provide consistent coverage, and track appropriate quality assurance indicators.”).

20. The Hospital PSA is governed and must be construed in accordance with Texas law. Ex. 2, Hospital PSA, p. 11 at § 13.

***TMC Hospital has repeatedly refused to pay HNI for services rendered.***

21. On October 9, 2023, TMC Hospital issued a Termination Letter to HNI Physicians, which provided notice of TMC Hospital's intent to effectuate the termination of the Hospital PSA without cause with respect to hospitalist services provided by HNI Physicians as of January 8, 2024 (*i.e.*, 90 days later). *See* Ex. 3, Termination Letter (“This Letter . . . is intended to serve as notice . . . that [TMC] is terminating the [Hospital PSA] to provide Hospital Medicine Services . . .”). The Termination Letter did **not** provide 120 days' notice as required under the parties' agreement. In other words, TMC Hospital failed to provide requisite notice of its intent to terminate the Hospital MSA with respect to hospitalist services provided by HNI Physicians.

22. Nevertheless, shortly thereafter, on October 17, 2023, HNI issued notice of material breaches of the Hospital MSA and the Hospital PSA. *See* Ex. 4, Notice of Breach. HNI specifically notified TMC Hospital that it was in material breach of the subject contracts by failing to render payment for services identified on five invoices. *Id.* HNI demanded the payment of \$484,297.17, which represented the total amount outstanding as of the date of the notice. *Id.* As of the date of this Petition, TMC Hospital has not paid any portion of this outstanding balance or subsequent invoices that were properly submitted by HNI under the Hospital MSA and/or the Hospital PSA.

23. Currently, TMC Hospital has failed to pay \$1,340,513.98 (past due) and \$1,660,074.11 (total invoiced and owed) for services provided and properly invoiced by HNI at TMC Hospital. If TMC Hospital does not cure its material breaches and HNI continues to provide services, these amounts will increase by approximately \$350,000.00/month under the Hospital MSA and the Hospital PSA. The estimated total amount that will be owed when the parties' agreements terminate in January 2023 will be \$2,334,808.93.

24. HNI has complied with its performance and payment obligations under the Hospital MSA and the Hospital PSA. TMC Hospital has breached those contracts, however, by failing to (1) pay for services rendered and properly invoiced by HNI; **and** (2) failing to provide necessary support for HNI's providers at TMC Hospital.

25. In addition, HNI has recently learned that TMC Hospital has failed to provide necessary surgical consultation for at least three patients since October 26, 2023. As a result of TMC's failure to provide adequate staffing and other support, the patients treated by HNI's providers at TMC Hospital under the subject contracts were transferred to other healthcare facilities. At least one patient was forced to leave TMC Hospital against their doctor's advice. Immediate action is necessary. By this lawsuit, HNI seeks to enforce the terms of the parties'



agreements and seeks to recover the amounts owed by TMC Hospital for services rendered and properly invoiced.

***Background regarding Steward Health Care.***

26. Steward Health Care (“Steward”) “is the largest private, tax-paying hospital operator in the country.”<sup>1</sup> Steward owns and operates TMC Hospital and two other hospitals where HNI provides services under contract with Steward’s affiliates: (1) Glenwood Regional Medical Center in West Monroe, Louisiana (“GRMC Hospital”); and (2) St. Joseph Medical Center in Houston, Texas (“SJMC Hospital”). TMC Hospital, GRMC Hospital, and SJMC Hospital are collectively referred to as the “Hospitals.” Negotiations between HNI and Steward’s corporate representatives regarding past-due invoices at the Hospitals began in January 2023 and continued until October 30, 2023, days before HNI initiated an arbitration in connection with outstanding invoices for services rendered by HNI’s providers at GRMC Hospital.

27. In January 2023, Steward owed \$3,265,524.13 for past-due invoices arising from services performed by HNI’s providers at the Hospitals. The following month, on February 2, 2023, HNI sent a Notice of Delinquent Accounts (the “First Delinquency Notice”), which notified Steward that \$3,161,704.93 was outstanding. *See* Ex. 5, First Delinquency Notice. This included \$902,924.80 for services provided at TMC Hospital. The same day, Joe Deschryver, Steward’s President of the South Region, acknowledged receipt of the First Delinquency Notice. The next day, Sanjay Shetty, M.D., the President of Steward Health Care System, reached out to HNI in response to the First Delinquency Notice to schedule a meeting between representatives from HNI and representatives from Steward.

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<sup>1</sup> *Our Network*, STEWARD, <https://www.steward.org/network/our-hospitals> (last visited November 30, 2023).

28. During the subsequent call, Dr. Shetty falsely represented that Steward had already issued approximately \$1.7 million in payment to HNI and expected that HNI would receive the payment in short order. Several days later, on February 6, 2023, during a call with Mr. Deschryver, Dr. Shetty, and Patrick Lombardo, who is the Chief Administrative Officer of the Steward Health Care System, reiterated the false statement that HNI would receive payment of approximately \$1.7 million. At the same time, Steward's representatives promised a weekly payment plan and informed HNI that Steward would fully catch up on its payment obligations at the Hospitals upon the pending sale of several Steward-owned hospitals in Utah.

29. On February 7, 2023, Dr. Shetty informed HNI that he apparently misspoke on the prior calls regarding Steward's pending payment of \$1.7 million. Dr. Shetty clarified that HNI would only receive \$800,000.00 as a lump sum payment in addition to the negotiated and agreed weekly payment plan, which was finalized on February 9, 2023. Under the plan, to account for the outstanding invoices at all three of the Hospitals, Steward agreed to pay \$500,000.00 the first week, \$400,000.00 the second week, \$500,000.00 the third week, \$400,000.00 the fourth week, and so on. The payments would be continuous until the closing of the sale of Steward's hospitals in Utah, which was expected to occur (and did occur) in or around May 2023. Upon the closing of that transaction, Steward promised to make a lump-sum payment of the remaining balance due to HNI. HNI relied on these promises by continuing to provide services at the Hospitals. HNI never received the promised lump-sum payment.

30. HNI received Steward's payment of \$800,000.00 and the first two weekly installments under the payment plan, but Steward started "short paying" the invoices in March 2023 and stopped payments altogether soon thereafter. Accordingly, on May 9, 2023, HNI sent Steward a Notice of Delinquent Accounts, which informed Steward that it owed \$3,198,275.40 to

HNI for services provided at the Hospitals (the “Second Delinquency Notice”). *See* Ex. 6, Second Delinquency Notice. The Second Delinquency Notice was received by Mr. Lombardo and Mary Beth Taylor, the Chief Accounting Officer of Steward Health Care.

31. Throughout May, June, and July 2023, HNI repeatedly communicated with Steward’s representatives regarding (1) Steward’s compliance with the agreed weekly payment plan; and (2) Steward’s promise to make a lump sum payment to catch up on outstanding invoices arising from services rendered by HNI’s providers at the Hospitals. Many of these communications occurred after the closing of Steward’s sale of hospitals in Utah. *See* Exs. 7 and 8, News Articles. Steward mostly ignored HNI’s requests, however, and ultimately refused to make good on their promise to make a catchup payment despite receiving substantial funds in connection with the sale. Steward **never** informed HNI that it, in fact, had no intent to cure existing defaults of its payment obligations arising from services performed by HNI’s providers at the Hospitals.

32. Instead of terminating the parties’ agreements or otherwise allowing HNI to walk away, in August 2023, Steward’s corporate representatives, including Laura Tortorella, the former Chief Operating Officer of Steward Health Care, participated in multiple phone calls regarding Steward’s progress on making payments and its willingness to restructure contracts and staffing arrangements at the Hospitals once Steward caught up on overdue payments. HNI repeatedly tried to work with Steward’s representatives, in good faith, to resolve the payment dispute. Joshua Putter, Steward’s Regional President for Texas and Louisiana, participated in some of the calls between the parties. On August 22, 2023, Ms. Tortorella represented that Steward had issued a \$500,000.00 check to HNI several days earlier (on August 18, 2023).

33. On August 25, 2023, Ms. Tortorella represented that Steward had issued another \$500,000.00 check to HNI. Three days later, on August 28, 2023, HNI requested tracking

information for both checks that Steward had issued to HNI according to Ms. Tortorella. The next day, Ms. Tortorella forwarded HNI copies of two checks totaling approximately \$484,000.00—not \$1,000,000.00, as promised—with watermarks on both stating, “Not a Real Check.” *See* Ex. 9, Email with Fake Checks. Ultimately, HNI did not receive the approximately \$484,000.00 payment until September 18, 2023, and never received the full payment promised by Steward’s corporate representatives in August 2023.

34. On September 19, 2023, on behalf of Steward and with respect to the parties’ agreements at all three Hospitals, Mr. Putter committed Steward to a payment plan that would include three weekly payments of \$500,000.00 and a \$4,000,000.00 lump sum payment that would be issued shortly after Steward closed on a new credit facility on October 9, 2023. Mr. Putter once again reiterated Steward’s promise to catch up on payments as soon as Steward closed on pending asset sales. Steward made two \$400,000.00 short-payments to HNI in September 2023, and never caught up on the rest of the payments owed to HNI for services rendered at the Hospitals. Steward went silent after receiving a Notice of Breach on October 17, 2023.

35. HNI seeks to enforce the terms of the parties’ agreements and seeks to recover damages for Defendants’ breaches of contract, unjust enrichment, and fraudulent/negligent misrepresentations.

## **VI. FIRST CAUSE OF ACTION – BREACH OF THE HOSPITAL MSA**

36. HNI incorporates the preceding paragraphs for all purposes.

37. The Hospital MSA is a valid and enforceable contract between the HNI MSO and TMC Hospital. Under the Hospital MSA, TMC Hospital agreed to pay for the services provided by HNI MSO at TMC Hospital.

38. HNI MSO has complied with all its performance and payment obligations under the Hospital MSA.

39. HNI MSO has properly invoiced TMC Hospital for services provided by HNI MSO at TMC Hospital. Applying all lawful credits and offsets, TMC Hospital currently owes \$336,330.90 to HNI MSO, \$224,220.60 of which is past due for services provided under the Hospital MSA.

40. HNI MSO seeks to recover monetary damages for TMC Hospital's breach of its payment obligations under the Hospital MSA.

41. HNI MSO also seeks to recover reasonable and necessary attorney fees under Chapter 38 of the Texas Civil Practice and Remedies Code.

#### **VII. SECOND CAUSE OF ACTION – BREACH OF THE HOSPITAL PSA**

42. HNI incorporates the preceding paragraphs for all purposes.

43. The Hospital PSA is a valid and enforceable contract between the HNI Physicians and TMC Hospital. Under the Hospital PSA, TMC Hospital agreed to pay for the services provided by HNI Physicians at TMC Hospital.

44. HNI has complied with all its performance and payment obligations under the Hospital PSA.

45. HNI Physicians has properly invoiced TMC Hospital for services provided by HNI Physicians at TMC Hospital. Applying all lawful credits and offsets, TMC Hospital currently owes \$1,323,743.21 to HNI Physicians, \$1,116,293.38 of which is past due for services provided under the Hospital PSA.

46. In addition, under the Hospital PSA, TMC Hospital agreed to provide adequate support for the Intensivist and Hospitalist Services rendered by HNI Physicians at TMC Hospital, including sufficient staffing, medical supplies, equipment, and medications. TMC Hospital has breached their performance obligations under the Hospital PSA, however, by failing to provide adequate support to HNI Physicians' healthcare providers. In other words, TMC Hospital has failed

to provide the support needed by physicians to properly care for the hospital's patients. This failure has substantially impacted the quality of the healthcare received by at least three patients at TMC Hospital since October 26, 2023.

47. HNI Physicians seeks to recover monetary damages for TMC Hospital's breach of its payment and performance obligations under the Hospital PSA.

48. HNI Physicians also seeks to recover reasonable and necessary attorney fees under Chapter 38 of the Texas Civil Practice and Remedies Code.

### **VIII. THIRD CAUSE OF ACTION – UNJUST ENRICHMENT**

49. HNI incorporates the preceding paragraphs for all purposes.

50. Numerous payors have paid TMC Hospital and Steward Health Care directly for the services rendered by HNI's providers at the TMC Hospital. Instead of honoring their payment obligations to HNI under the parties' agreements, TMC Hospital and Steward Health Care have kept the funds and used them, without authorization, for purposes other than compensating HNI for services rendered by its providers. HNI has demanded payment of these funds, but TMC Hospital and Steward Health Care have ignored the demand and continue to hold the funds in violation of HNI's rights as the proper owner of the funds.

51. Defendants are in possession of \$1,660,074.11 that belongs to and rightfully should be paid Plaintiffs. That amount will grow to at least \$2,334,808.93 by the time the parties' agreements terminate in January.

52. TMC Hospital and Steward Health Care's improper retention of the funds constitutes unjust enrichment under Texas law, and HNI has been substantially damaged by TMC Hospital and Steward Health Care's unlawful actions.

**IX. FOURTH CAUSE OF ACTION – FRAUD**

53. HNI incorporates the preceding paragraphs for all purposes.

54. Defendants, through Steward’s representatives at the corporate level, made numerous false representations of material fact to HNI, including false statements regarding Steward’s financial condition and willingness to catch up on overdue payments for services performed by HNI’s providers at TMC Hospital. These misrepresentations include Steward’s promise to make lump sum catchup payments to HNI following (1) the sale of Steward-owned hospitals in Utah, which closed earlier this year; and (2) the close of a new credit facility in October 2023.

55. These false representations were made knowingly or recklessly as a positive assertion, without any knowledge of the truth.

56. Defendants made these false representations with the intent that HNI would act upon such false representations in continuing to provide services through its providers at TMC Hospital. HNI acted in reliance upon these false representations and suffered damages as a result.

57. Based on this misconduct by Defendants, HNI seeks to recover all forms of damages to which it is entitled.

**X. FIFTH CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION**

58. HNI incorporates the preceding paragraphs for all purposes.

59. Pleading in the alternative, if necessary, Defendants, through Steward’s representatives at the corporate level, made numerous false representations of material fact to HNI, including false statements regarding Steward’s financial condition and willingness to catch up on overdue payments for services performed by HNI’s providers at TMC Hospital. These representations were made in connection with Defendants’ financial interest in TMC Hospital and/or Defendants’ agreement to pay for the services provided by HNI’s providers at TMC

Hospital. These misrepresentations include Steward's promise to make lump sum catchup payments to HNI following (1) the sale of Steward-owned hospitals in Utah, which closed earlier this year; and (2) the close of a new credit facility in October 2023.

60. These false representations were made without the exercise of reasonable care by Defendants.

61. HNI suffered financial damage due to its reasonable and justified reliance on Defendants' misrepresentations.

62. Based on this misconduct by Defendants, HNI seeks to recover all forms of damages to which it is entitled.

#### **XI. APPLICATION FOR TEMPORARY INJUNCTION / INTERIM RELIEF**

63. HNI incorporates the preceding paragraphs for all purposes.<sup>2</sup>

64. Defendants should be enjoined and/or restrained to preserve the status quo and prevent irreparable harm to HNI while this case is pending and until the main issues in the case can be resolved by the finder of fact.

65. Generally, to obtain injunctive relief under Texas law, Plaintiffs must show that (1) Plaintiffs have pled for relief; (2) Plaintiffs have a probable right to relief; (3) Plaintiffs will suffer imminent, irreparable harm absent an injunction; and (4) the balance of equities favor an injunction. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). Plaintiffs can establish a probable right to relief by proving they are likely to succeed on the merits of its case. *See DeSantis v. Wackenhunt Corp.*, 793 S.W.2d 670, 686 (Tex. 1990). It is not necessary for Plaintiffs to show they will ultimately prevail. *Walling v. Metcalf*, 863 S.W.2d 56, 58 (Tex. 1993).

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<sup>2</sup> See generally Ex. 10, Declaration of M. Gonzales (verifying factual allegations in Plaintiffs' Verified Original Petition and Application for Temporary Injunction).



66. To preserve funds pending a trial on the merits, Plaintiffs respectfully ask the Court to (1) issue a writ of attachment under Chapter 61 of the Texas Civil Practice and Remedies Code; and/or (2) order Defendants to deposit funds into the registry of the Court; and/or (3) grant injunctive relief under the Texas Uniform Fraudulent Transfer Act. Plaintiffs are entitled to relief under each of these options, as detailed below.

67. As a preliminary matter, Plaintiffs will likely succeed on the merits of their claims against Defendants. It should be undisputed that Defendants owe Plaintiffs large sums of money under the parties' agreements and have committed breaches of contract by failing to honor their payment obligations. Defendants have also made numerous misrepresentations of material fact regarding their willingness and ability to pay the amounts owed to Plaintiffs for services rendered at TMC Hospital and other facilities. In short, Defendants have committed fraud against Plaintiffs and have benefited greatly from their misconduct. Because Defendants are in a precarious and worsening financial situation, and it is overwhelmingly likely that Defendants will be insolvent or otherwise unable to pay the inevitable judgment, Plaintiffs seek the following relief.

***Grounds for issuing a writ of attachment.***

68. A writ of attachment is available to Plaintiffs if (1) Defendants are justly indebted to Plaintiffs; (2) attachment is not sought for the purpose of injuring or harassing Defendants; (3) Plaintiffs will probably lose the subject debt unless the writ of attachment is issued; and (4) specific grounds for the writ exist under TEX. CIV. PRAC. & REM. CODE 61.002. There are nine specific grounds to obtain a writ of attachment under Section 61.002. Here, the applicable basis for granting a writ of attachment is: "the defendant owes the plaintiff for property obtained under false pretenses." TEX. CIV. PRAC. & REM. CODE § 61.002(9).

69. As detailed above, throughout this year, HNI continued to provide services to Defendants at TMC Hospital and other facilities in exchange for the false promise of payment. The false promise of payment was based on Defendants' representations that additional financing would be made available through selling assets and/or obtaining a new credit facility, and that Steward would use the funds to pay HNI. Plaintiffs relied on these misrepresentations and continued to provide services at TMC Hospital, for which Defendants received substantial payments from third-party payors, but refused to pay Plaintiffs on account of those same services. That is, Defendants fraudulently induced HNI to continue providing services, then accepted the financial benefit of those services under the false pretense that Defendants would comply with their agreement to make weekly payments and a lump sum payment to catch up on amounts owed to Plaintiffs, and later refused to pay Plaintiffs under the pretense that Defendants do not have sufficient funds to do so.

70. Plaintiffs will establish each of the necessary elements for a writ of attachment because (1) Defendants are, without a doubt, justly indebted to Plaintiffs; (2) Plaintiffs do not seek a writ of attachment for the purpose of injuring or harassing Defendants; (3) Plaintiffs will probably lose the subject debt unless the writ of attachment is issued; and (4) Defendants obtained the disputed funds under false pretenses.

***Grounds for ordering Defendants to deposit funds in the Court's registry.***

71. In exercise of the court's inherent authority, it may "order a party to pay disputed funds into the court's registry if there is evidence the funds are in danger of being 'lost or depleted.'" *In re Reveille Resources (Texas), Inc.*, 347 S.W.3d 301, 304 (Tex. App.—San Antonio 2011, orig. proceeding) (citing *Castilleja v. Camero*, 414 S.W.2d 431, 433 (Tex.1967)). To meet the applicable burden of proof, the moving party must establish that (1) ownership of the subject

funds is disputed; and (2) the subject funds are in danger of being lost or depleted. *O'Brien v. Baker*, No. 05-15-00489-CV, 2015 WL 6859581, at \*3 (Tex. App.—Dallas Nov. 9, 2015, orig. proceeding).

72. Plaintiffs do not have an adequate remedy at law if Defendants face the potential for insolvency or becoming judgment proof before trial. *E.g.*, *Donaho v. Bennett*, No. 01-08-00492-CV, 2008 WL 4965143, at \*4 (Tex. App.—Houston [1st Dist.] Nov. 20, 2008, no pet.) (mem. op.) (finding requisite harm upon statements that the “Bank is empty” and “there is a risk of the venture being insolvent”).

73. Plaintiffs respectfully ask that Defendants are ordered to deposit the funds necessary to satisfy the potential (and very likely) judgment. Plaintiffs seek such an order to protect and preserve the specific assets to which they have a *prima facie* right to recover. The ownership of the funds held by Defendants—funds received from third-party payors because of underlying services provided by HNI’s providers—is disputed. *See, e.g.*, Ex. 2, Hospital PSA, Attachment 1 at p. 14 (describing “HM Collection Guarantee”).

74. Plaintiffs are aware of numerous pending lawsuits filed by HNI and others against Steward and its affiliates. Plaintiffs are also aware of multiple representations from Steward and its affiliates regarding problems with liquidity. These issues will only worsen over time. Thus, Defendants are overwhelmingly likely to become insolvent, judgment proof, or flat broke before trial on the merits and the entry of a final judgment.

***Grounds for relief under the Texas Uniform Fraudulent Transfer Act.***

75. The Texas Uniform Fraudulent Transfer Act (TUFTA) provides that a creditor may obtain, “subject to applicable principles of equity and in accordance with applicable rules of civil procedure . . . an injunction against further disposition by the debtor or a transferee, or both, of the

asset transferred or of other property . . . [or] any other relief the circumstances may require.” TEX. BUS. & COM. CODE § 24.008.

76. To recover relief under TUFTA, Plaintiffs must first establish that they are “creditors.” A “creditor” is “any person who has a claim.” TEX. BUS. & COM. CODE § 24.002(4). A “claim” is broadly defined as “a right to payment or property, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, legal, equitable, secured or unsecured.” *Id.* § 24.002(3). Plaintiffs definitively have a “claim” against Defendants and, thus, are “creditors” for purposes of availing themselves of the rights and remedies available under TUFTA.

77. Further, TUFTA defines “transfer” as meaning “every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset,” including “payment of money, release, lease, and creation of a lien or other encumbrance.” *Id.* § 24.002(12). Transfers made or obligations incurred “with actual intent to hinder, delay, or defraud any creditor of the debtor” are fraudulent transfers. TEX. BUS. & COM. CODE § 24.005. It is the intent of the debtor which is relevant in determining whether a fraudulent transfer occurred.

78. Under TUFTA, circumstantial evidence of fraud includes, for example, any transfer to an insider, any lawsuit or threatened suit against the debtor before the transfer, any transfer of substantially all the debtor’s assets, the debtor’s insolvency at the time of transfer or shortly afterwards, concealment of the transfer, and whether the consideration the debtor received was reasonably equivalent to the asset transferred. TEX. BUS. & COM. CODE § 24.005(b). The presence of several of these factors is sufficient to support a reasonable inference of fraudulent intent. *Mladenka v. Mladenka*, 130 S.W.3d 397, 405 (Tex. App.—Houston [14th Dist.] 2004, no pet.).

And preliminary injunctive is the appropriate remedy upon a finding of fraud by the preponderance of the evidence. *See Blackthorne v. Bellush*, 61 S.W.3d 439 (Tex. App.—San Antonio 2001, no pet.) (noting that under TUFTA pre-judgment “interim injunctive relief is an available remedy to a fraudulent transfer for which the claimant asserts an equitable interest” to protect the status quo pending trial). Stated another way, Plaintiffs are entitled to an injunction against further disposition of the asset transferred or of other property. TEX. BUS. & COM. CODE § 24.008(a)(3).

79. The Court may enjoin further disposition of assets that were affected by the fraudulent transfer, and thereby prevent a fraudulent transfer of assets that may be used to satisfy a potential future judgment. *See Telephone Equipment Network, Inc. v. TA/Westchase Place, Ltd.*, 80 S.W.3d 601 (Tex. App.—Houston [1st Dist.] 2002, no pet.). Because TUFTA specifically authorizes such injunctions, as well as attachment of the asset, this type of injunction does not amount to an illegal prejudgment attachment of assets to satisfy a future judgment. *Id.*

80. Plaintiffs will establish that Defendants committed fraud by inducing HNI and its providers to continue providing services at TMC Hospital with no intent to pay for those services. In exchange for the services rendered by HNI’s providers, Defendants received substantial payments and subsequently refused to compensate HNI for those same services. All along, Defendants repeatedly, and falsely, claimed that Plaintiffs would receive weekly and lump sum payments until Defendants were caught up on past due invoices. For example, despite receiving a considerable profit from the sale of hospitals in Utah, and promising that Plaintiffs would be paid from the profit realized in connection with the sale, Defendants claim they do not have sufficient funds to pay for services rendered at TMC Hospital and other facilities. Assuming that’s true, Defendants have misappropriated the funds promised to Plaintiffs.

81. Based on the foregoing, verified facts, it should be evident that Plaintiffs will suffer irreparable, imminent harm without preliminary injunctive relief.

82. By filing this application for temporary injunction, Plaintiffs will notify Defendants of the hearings that will be held regarding the same. Plaintiffs are willing to post a bond for the temporary injunctive relief requested by this application.

## **XII. CONDITIONS PRECEDENT**

83. All conditions precedent to Plaintiffs' claims asserted in this action have been performed or otherwise have occurred.

## **XIII. ATTORNEY FEES**

84. Plaintiffs incorporate the preceding paragraphs for all purposes.

85. Plaintiffs are entitled to recover reasonable and necessary attorney fees under Chapter 38 of the Texas Civil Practice and Remedies Code.

## **PRAYER**

Plaintiffs pray that citations be issued and served upon Defendants, commanding Defendants to appear and answer this lawsuit. Plaintiffs further pray that upon hearing their Application for Temporary Injunction, the Court grants injunctive relief to prevent irreparable harm during the pendency of this lawsuit. Plaintiffs further pray that upon final hearing of this cause, Plaintiffs have a judgment against Defendants in an amount to be determined by the Court and Jury, for all damages, plus pre-judgment interest and post-judgment interest, costs of Court, and for such other and further relief, at law or in equity, both general and special, to which Plaintiffs may be entitled.

*[Signature block on next page.]*

Dated: December 1, 2023.

Respectfully submitted,

**DOBROWSKI STAFFORD LLP**

By: /s/Paul J. Dobrowski

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*Counsel for Plaintiffs*

# EXHIBIT 1



## MANAGEMENT AGREEMENT

This Agreement is made by and between HNI MSO, Inc. (hereinafter referred to as “Manager”) and The Medical Center of Southeast Texas LP d/b/a The Medical Center of Southeast Texas. (hereinafter referred to as “Hospital”).

### RECITALS

This Management Agreement is made with reference to the following:

A. Manager is an entity authorized to comprehensively manage the business aspects of Intensivist Program (the “Program”) (and does not direct or does not control the manner or methods of any Intensivist FTE’s (as defined below) practice of medicine;

B. Hospital operates an acute care hospital in Port Arthur, Texas (“Assigned Facility”);

C. Sundance Physician Services, Inc. (“Group”) provides intensivist services, through its providers, to Hospital through a Professional Services Agreement;

D. Hospital and Manager desire to enter into a contract with each other for Manager to be the exclusive provider of certain management services at Assigned Facility in order to ensure the quality of Intensivist Services (as defined below and referenced herein as the “Services”) at the Assigned Facility, coordinate scheduling and utilization, ensure continuous availability of the Services, ensure consistent coverage, and track appropriate quality assurance indicators; and

E. Manager will manage two (2) qualified, licensed Physicians (“Intensivists FTE’s”) that will devote their professional efforts full-time to admit, treat, and render appropriate medical services to Hospital’s ICU patients (“Intensivist Services”). Group will provide all Intensivists FTE’s required to provide coverage and be responsible for all costs associated with them.

**THEREFORE**, in consideration of mutual terms, covenants, and conditions hereinabove and hereinafter set forth, and intending to be legally bound hereby, the Hospital hereby engages the Manager as the exclusive provider of management services at the Hospital, and the Manager accepts such engagement to provide management services at the Hospital, upon the terms and conditions set forth herein.

### **I. Obligations of Manager**

A. **Management Services.** Manager shall provide the following management services:

1. Ensure proper scheduling of the Intensivists FTE’s for consistent coverage of the Programs;
2. Ensure the effective oversight of the details of scheduling quality assurance, performance evaluation and other administrative aspects of the Programs;

3. Provide consulting services upon request to the Hospital's case management department;
4. Ensure the proper training and use of VITALSMD® by all Intensivists FTE's;
5. Provide recruitment and credentialing services;
6. Provide timely dashboard and revenue summary reports to Hospital on a monthly basis; and
7. Provide other services as reasonably requested by Hospital.

B. **Compliance.** Manager will comply with those provisions of the law that affect reimbursement to Hospital and to cooperate fully with Hospital's Medicare audits, Joint Commission surveys, and licensing organizations and other reimbursement matters, particularly as those items affect the provision of the Services hereunder. Manager will not do anything that will affect adversely such reimbursement or the Medicare/Medicaid provider status of Hospital.

## II. **Obligations of Hospital.**

A. **Incentive Management Fee.** Manager will be eligible to receive incentive compensation for achieving certain metrics as outlined in Exhibit A for the Intensivist Program. These Incentives are to be paid quarterly, are subject to reductions if the quality metrics outlined in Exhibit A are not met, and in no event shall exceed a combined total of \$100,000 annually. The first quarterly incentive shall be for the period from December 2020-February 2021, with the baseline determined by actual metrics from September 2020-November 2020. At all times, Group's determination as to whether a patient was appropriate for transfer from the ICU or removal from a ventilator will be governed solely by the medical needs of the patient.

B. **Required Data.** If Manager does not receive the required data from the Hospital within sixty (60) days after the end of each quarter end, Hospital agrees to pay Manager seventy-five percent (75%) of the maximum incentive compensation outlined in Exhibit A for that quarter. Manager will invoice Hospital for the incentive compensation earned by Manager and Hospital will remit payment within sixty (60) days of receipt of invoice.

C. **Required Data Reporting.** In order for Manager to provide timely dashboard and revenue summary reports to Hospital, Hospital must provide specific data in the detail and manner set forth in **Exhibit B** daily beginning on the Effective Date set forth in Section IV.A.

## III. **Confidentiality.**

A. **Confidentiality of Hospital Information.** Manager understands and agrees that in connection with Manager's engagement by Hospital, Manager may acquire competitively sensitive information which is neither known to nor ascertainable by persons not engaged by Hospital and which may cause Hospital to suffer competitively or economically if such information became known to persons outside of Hospital. Unless legally required to disclose such information, Manager agrees to maintain the confidentiality of any confidential information Manager

acquires during their engagement for the entire term of such engagement by Hospital, and for as long as such information remains confidential.

B. **Confidentiality of Manager Information.** Hospital understands and agrees that in connection with Hospital's engagement by Manager, Hospital may acquire competitively sensitive and proprietary information, including but not limited to VITALSMD®, which is neither known to nor ascertainable by persons not engaged by Manager and which may cause Manager to suffer competitively or economically if such information became known to persons outside of Manager. Unless legally required to disclose such information, Hospital agrees to maintain the confidentiality of any confidential information Hospital acquires during their engagement for the entire term of such engagement by Manager, and for as long as such information remains confidential

C. **Confidentiality of Patient Information.** Manager agrees to protect to the fullest extent required by law the confidentiality of any patient information generated or received by Manager in connection with the performance of services hereunder. Manager specifically acknowledges that in receiving, storing, processing, or otherwise handling records of Hospital's patients, Manager may be bound by federal laws governing addictive disease patients, including 42 C.F.R. Part 2. Manager agrees, if necessary, to resist in judicial proceedings any efforts to obtain access to patient records except as permitted by law. Manager's obligation to maintain the confidentiality of Hospital's patient information shall survive termination of this Agreement.

D. **HIPAA Requirements.** To the extent applicable to this Agreement, Manager agrees to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C.A. §1320d et seq. ("HIPAA") and any current and future regulations promulgated under the HITECH Act of HIPAA, including without limitation the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the "Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162 (the "Federal Electronic Transaction Regulations"), all as amended from time to time and collectively referred to herein as the "HIPAA Requirements". Manager agrees not to use or further disclose any "Protected Health Information" including "Electronic Protected Health Information," (as such terms are defined in the HIPAA Requirements) other than as permitted by the HIPAA Requirements and the terms of this Agreement. Managers will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the HIPAA Requirements. The parties will enter into the Business Associate Agreement in **Exhibit C**.

#### IV. **Term and Termination.**

A. **Term.** This Agreement shall be effective on December 1, 2020 (the "Effective Date") and shall continue in effect for two (2) years unless sooner terminated in accordance with the Agreement. ("Initial Term") At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement shall automatically renew for additional terms of one (1) year ("Renewal Terms"), unless either party notifies the other party of its intent not to renew the Agreement at least one hundred twenty (120) days prior to the end of the then current term. The word "Term" as used hereinafter shall mean the period of time beginning with commencement

of the Initial Term and ending on the expiration date of the Initial Term or the last Renewal Term, if any.

B. **Termination by Hospital.** This Agreement may be terminated by Hospital upon written notice of a material breach by Manager. Manager shall have thirty (30) days to cure the breach and conform its conduct to this Agreement. If such corrective action is not taken within the thirty (30) day cure period, this Agreement shall terminate in sixty (60) days from the expiration of the cure period without further notice or demand.

C. **Termination by Manager.** Manager may terminate this Agreement upon written notice of a material breach by Hospital. Hospital shall have thirty (30) days to cure the breach and conform its conduct to this Agreement. If such corrective action is not taken within the thirty (30) day cure period, this Agreement shall terminate in sixty (60) days from the expiration of the cure period without further notice or demand.

D. **Termination based on Professional Service Agreement.** This Agreement is subject to the Group providing services at Hospital, through a Professional Services Agreement with Hospital. If the Professional Services Agreement between Hospital and Group terminates for any reason, this Agreement will terminate automatically without further notice.

V. **Notice.**

Notice required or permitted to be given under this Agreement shall be given as follows:

To Hospital:           The Medical Center of Southeast Texas  
2555 Jimmy Johnson Blvd.  
Port Arthur, TX 77640

With a copy to:       Steward Health Care System LLC  
1900 N. Pearl St., Suite 2400  
Dallas, TX 75201  
ATTN: General Counsel

To Manager:           HNI MSO, Inc.  
7500 Rialto Blvd., Bldg. 1, Ste 140  
Austin, Texas 78735  
Attn: Michael Gonzales

VI. **Miscellaneous.**

A. **Indemnification.** Indemnification by either Party for liabilities and/or damages resulting from their respective acts or omissions shall be as follows:

1. To the fullest extent permitted by law, Manager shall indemnify and hold harmless Hospital, Hospital's officers, Board of Directors, partners and employees from and against any and all third party costs, losses and damages caused solely by the negligent

acts or omissions of Manager or the Manager's officers, directors, partners, employees, agents and the Manager's consultants in the performance and furnishing of the Manager's services under this Agreement up to its insurance limits.

2. To the fullest extent permitted by law, Hospital shall indemnify and hold harmless the Manager, the Manager's officers, directors, partners and employees from and against any and all third party costs, losses and damages caused solely by the negligent acts or omissions of Hospital or the Hospital's officers, directors, partners, employees, agents and the Hospital's consultants in the performance of any acts related to this Agreement up to its insurance limits.

B. **Confidentiality.** This Agreement shall be strictly confidential, and unless legally required to disclose such information, neither party shall disclose its contents or existence to any third party (with the exception of legal and financial advisors), and unauthorized disclosure shall be considered a breach of this Agreement.

C. **Independent Contractor.** It is expressly acknowledged that the parties hereto are independent contractors, and nothing in this Agreement is intended and nothing shall be construed to create an employer/employee, partnership or joint venture relationship, and neither party retains the right of control over the other's methods and manners of performance of its specific duties.

D. **Dispute Resolution.** Neither Party shall resort to legal remedies or commence any formal proceedings to resolve a dispute under the Agreement until the Parties have attempted to resolve the dispute through the escalation process described in this Section. The Party raising a dispute shall submit to the other Party a written notice and supporting material describing all issues and circumstances related to the dispute (a "Dispute Notice"). The designated primary representative of each Party shall attempt to resolve the dispute. If the Parties' primary representatives fail to resolve the dispute within fifteen (15) days from receipt of a Dispute Notice, a Vice President (or higher-level officer) of each Party shall attempt to resolve such dispute. If the Vice Presidents (or higher-level officers) of the Parties are unable to resolve the dispute within thirty (30) days from receipt of the Dispute Notice, either Party may commence formal legal proceedings to resolve the dispute.

E. **Inspection and Audit.** Manager will allow inspection, audit, and duplication by the Hospital of all relevant data related to the provision of management services under this Agreement. Such inspection, audit, verification and duplication will be allowed upon reasonable notice during regular business hours. This provision shall apply to any or all subcontractors of the Manager.

F. **Force Majeure.** Neither Party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or other interruption resulting from, directly or indirectly, acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other work or any other similar cause beyond the reasonable control of either Party unless such delay or failure in performance is expressly addressed elsewhere in this Agreement,

G. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties regarding the subject matter hereof and supersedes any prior oral or written discussions, agreements, or negotiations. This Agreement may only be amended by written agreement signed by both Parties.

H. **Headings.** The headings used in this Agreement are for general reference only and do not have special significance.

I. **Waiver.** Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

J. **Severability.** The Parties hereto have negotiated and prepared the terms of this Agreement with the intent that each and every one of the terms, covenants and conditions herein be binding upon and inure to the benefit of the respective Parties. Accordingly, if any one or more of the terms, provisions, promises, covenants or conditions of this Agreement or the application thereof to any person or circumstance shall be adjudged to any extent invalid, unenforceable, void or avoidable for any reason whatsoever by a court of competent jurisdiction or an arbitration tribunal, such provision shall be as narrowly construed as possible, and each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement or their application to other persons or circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by applicable law.

K. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

L. **Authority.** This Agreement shall not be binding upon Hospital unless signed by Hospital's President/CEO and by an officer of Manager.

M. **Assignment.** This Agreement shall not be assigned by either party without the prior express written consent of the other party. Notwithstanding the foregoing, this Agreement may be assigned to any corporation or other entity of any kind succeeding to the business of Manager or Hospital in connection with the merger, consolidation, sale or transfer of all or substantially all of their respective assets. This Agreement may also be assigned to any subsidiary, Parent Corporation or other affiliate of Manager or Hospital.

N. **Access to Books and Records.** Upon the written request of the Secretary of Health and Human Services or Controller General or any of their duly authorized representative, Manager will make available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing services under this Agreement. If Manager carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, Contractor agrees to include this requirement in any such subcontract. This **Section VIII.O** is included pursuant to and is governed by the requirements of 42 U.S.C. §1395x (v)(1) and the regulations promulgated hereunder. No attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by the Hospital, Manager, and/or Physicians by virtue of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year indicated below.

**HOSPITAL**



Dated: 10/30/20

By: P. Craig Desmond  
Its: CEO

**MANANGER**



Dated: 10/30/2020

By: Michael Gonzales, CEO

## EXHIBIT A

**MAX Incentive (ANNUAL TOTAL)** **\$100,000.00** 50% TO PROVIDERS, 50% TO HNI  
 Measured and paid quarterly

|   |           |   |         |                       |                 |
|---|-----------|---|---------|-----------------------|-----------------|
| <b>ICU LOS</b>  | Target    |   |         | Percent of Metric     | <b>30.00%</b>   |
|   |           | BASELINE TO BE BASED ON<br>PRIOR THREE MONTHS<br>ACTUAL |         | Annual Dollars<br>Max | <b>\$30,000</b> |
| Baseline (hours)  | 60        |   |         |                       |                 |
| Baseline minus 10%  | 54        |   |         |                       |                 |
|   | THRESHOLD | TARGET  | STRETCH |                       |                 |
| Average hours   | 58.50     | 57.00   | 54.00   |                       |                 |
| Payment HNI   | 15,000    | 22,500  | 30,000  |                       |                 |
|   | 50%       | 75%   | 100%    |                       |                 |
| <b>Excludes cases greater than 25 days: GMLOS Target adjusted quarterly based on actual</b> |           |   |         |                       |                 |

|   |           |   |         |                       |                 |
|---|-----------|---|---------|-----------------------|-----------------|
| <b>Vent Hours</b>   |           |   |         | Percent of Metric     | <b>30.00%</b>   |
|   |           | BASELINE TO BE BASED ON<br>PRIOR THREE MONTHS<br>ACTUAL |         | Annual Dollars<br>Max | <b>\$30,000</b> |
| Baseline (hours)  | 36        |   |         |                       |                 |
| Baseline minus 10%  | 32.4      |   |         |                       |                 |
|   | THRESHOLD | TARGET  | STRETCH |                       |                 |
| Average hours   | 35.10     | 34.20   | 32.40   |                       |                 |
| Payment HNI   | 7,500     | 22,500  | 30,000  |                       |                 |
|   | 25%       | 75%   | 100%    |                       |                 |
| <b>Excludes cases greater than 25 days: GMLOS Target adjusted quarterly based on actual</b> |           |   |         |                       |                 |

|                             |           |   |         |                       |                 |
|-----------------------------|-----------|---|---------|-----------------------|-----------------|
| <b>Vent Weaning</b>         |           |   |         | Percent of Metric     | <b>20.00%</b>   |
|                             |           | BASELINE TO BE BASED ON<br>PRIOR THREE MONTHS<br>ACTUAL |         | Annual Dollars<br>Max | <b>\$20,000</b> |
| Baseline successful weaning | 75.00%    |   |         |                       |                 |
| Baseline plus 10%           | 85.00%    |   |         |                       |                 |
| Variance                    | 10.00%    |   |         |                       |                 |
| Reduction of variance %     | 50.00%    | 70.00%  | 100.00% |                       |                 |
|                             | THRESHOLD | TARGET  | STRETCH |                       |                 |
| Percentage                  | 80.00%    | 82.00%  | 85.00%  |                       |                 |
| Payment HNI                 | 10,000    | 15,000  | 20,000  |                       |                 |
|                             | 50%       | 75%   | 100%    |                       |                 |

|                                     |        |   |  |                   |               |
|-------------------------------------|--------|---|--|-------------------|---------------|
| <b>ICU bounce back from Medical</b> | Target | 0 |  | Percent of Metric | <b>20.00%</b> |
|-------------------------------------|--------|---|--|-------------------|---------------|



|                                   |           | BASELINE TO BE BASED ON<br>PRIOR THREE MONTHS<br>ACTUAL | Annual Dollars<br>Max | \$20,000 |
|-----------------------------------|-----------|---|-----------------------|----------|
| Baseline Bounce backs per quarter | 8         |   |                       |          |
| Stretch                           | 0         |   |                       |          |
| Variance                          | -8        |   |                       |          |
| Reduction of variance %           | 50.00%    | 70.00%  | 100.00%               |          |
|                                   | THRESHOLD | TARGET  | STRETCH               |          |
| Cases                             | 4         | 2   | 0                     |          |
| Payment HNI                       | 5,000     | 15,000  | 20,000                |          |
|                                   | 25%       | 75%   | 100%                  |          |

100.00%

The metrics listed in this Exhibit A are subject to up to 25% in reductions conditioned upon not meeting the following performance expectations:

1. **ICU Readmission rate.** If ICU Readmission rate is not maintained at a level of 2% below the most recently published National Average, a 5% reduction will be assessed.
2. **VTE and ICU VTE Prophylaxis.** If Group is not 99% compliant in these two core measure standards, a 5% reduction will be assessed.
3. Stroke patients with Antithrombotic therapy by end of day 2 and Stroke patients discharged on a Statin. If Group is not 99% compliant in these two core measure standards, a 5% reduction will be assessed.
4. **Query Response Rate.** If Group's response rates from all queries tracked by our HIM department is below 96%, a 5% reduction will be assessed.
5. **Suspensions due to delinquent charts.** If more than 3 physicians employed by Group are placed on suspension for delinquent charts, based on the data supplied by the Hospital's HIM department, a 5% reduction will be assessed.

**Fair Market Value.** The parties further intend that the compensation paid hereunder, after good faith and arms-length negotiation, are the value of similar services in the community and are in the process of obtaining a Fair Market Value opinion. To the extent it is determined pursuant to the FMV opinion that the compensation is over FMV, the parties will immediately amend the Agreement to bring the compensation within FMV.

## **EXHIBIT B**

### **Required Access and Data Reporting**

1. Hospital is required to report the following data on a daily basis, via batch or live feed:

|    |                                       |
|----|---------------------------------------|
| 1  | Visit #                               |
| 2  | MRN #                                 |
| 3  | Patient Name                          |
| 4  | Admitting Diagnosis                   |
| 5  | Sex (M/F)                             |
| 6  | Date of Birth                         |
| 7  | Admit Date (LOS)                      |
| 8  | Attending Physician                   |
| 9  | Location/Room/Bed<br>(ie ICU, 230, 2) |
| 10 | Primary Diagnosis<br>Code (ICD9)      |

The data must be reported to Manager by Hospital using one of the following methods:

1. Ability to run Census reports that can be exported to TXT, CSV, XML file (fields above).
2. Receive daily export of Current Census (fields above).
2. In addition, Hospital shall provide for real-time access to Hospital's HIM/HIS, Financial and Clinical systems as Manager requires to provide monthly reporting in a format mutually agreed upon by Manager and Hospital.
3. Hospital is required to report the following DRG data on a MONTHLY basis, via batch, remote access, or live feed.

|    |                          |
|----|--------------------------|
| 1  | Physician Name           |
| 2  | Patient Number/Visit #   |
| 3  | MRN                      |
| 4  | AGE                      |
| 5  | DRG                      |
| 6  | DRG Description          |
| 7  | Financial Class          |
| 8  | Days (Length of Stay)    |
| 9  | Admit Date               |
| 10 | Discharge Date           |
| 11 | Pri DX                   |
| 12 | Discharge Physician Name |

4. Hospital is required to report the following Demographic Data on a DAILY basis, via batch, remote access, or live feed. HL7 of ADT if available is preferred.

- |    |                              |
|----|------------------------------|
| 1  | MRN                          |
| 2  | Patient # (Visit #)          |
| 3  | First Name                   |
| 4  | Last Name                    |
| 5  | Middle Name                  |
| 6  | Date of Birth                |
| 7  | Date of Admission            |
| 8  | Contact Address:             |
| 9  | City                         |
| 10 | State                        |
| 11 | Zip                          |
| 12 | Phone                        |
| 13 | Other Phone                  |
| 14 | Permanent Address            |
| 15 | City                         |
| 16 | State                        |
| 17 | Zip                          |
| 18 | Phone                        |
| 19 | Other Phone                  |
| 20 | Work Address:                |
| 21 | City                         |
| 22 | State                        |
| 23 | Zip                          |
| 24 | Phone                        |
| 25 | Other Phone                  |
| 26 | Work Info: Employer          |
| 27 | Contact                      |
| 28 | Occupation                   |
| 29 | Financial Class Info: Ins. 1 |
| 30 | Insurance 2                  |
| 31 | Insurance 3                  |
| 32 | Insurance 4                  |
| 33 | Insured: Last Name           |
| 34 | First Name                   |
| 35 | Middle Name                  |
| 36 | Relationship                 |
| 37 | SSN                          |

|    |                           |
|----|---------------------------|
| 38 | Sex                       |
| 39 | DOB                       |
|    | Insurance Details: Policy |
| 40 | No.                       |
| 41 | Insured ID                |
| 42 | Manager No.               |
| 43 | Insured Address:          |
| 44 | City                      |
| 45 | State                     |
| 46 | Zip                       |
| 47 | Phone                     |
| 48 | Other Phone               |
| 49 | Insurance Address:        |
| 50 | City                      |
| 51 | State                     |
| 52 | Zip                       |
| 53 | Phone                     |
| 54 | Other Phone               |
| 55 | Guarantor Details: #1     |
| 56 | Last Name                 |
| 57 | First Name                |
| 58 | Middle Name               |
| 59 | Relationship              |
| 60 | SSN                       |
| 61 | Sex                       |
| 62 | DOB                       |

The data must be reported to Manager by Hospital using one of the following methods:

- i. Ability to run reports via remote access or live feed - that can be exported to TXT, CSV, XML file (fields above).
- ii. Receive daily export of Data (fields above).

## EXHIBIT C

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into on this 1st day of December, 2020 by and between The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas (the “Covered Entity”) and HNI MSO, Inc. (“HNI”), (the “Business Associate”).

### WITNESSETH

**WHEREAS**, Covered Entity and Business Associate have entered into, or plan to enter into, an agreement or other documented arrangement (the “Underlying Agreement”), pursuant to which Business Associate provides certain services (the “Services”) to Covered Entity;

**WHEREAS**, Covered Entity may Disclose to Business Associate Protected Health Information (“PHI”) as necessary for Business Associate to provide Services pursuant to the Underlying Agreement, and the Business Associate may Use and further Disclose such PHI, or create additional PHI, in the performance of such Services;

**WHEREAS**, Covered Entity and the Business Associate desire to set forth their respective rights and obligations with respect to the Use and Disclosure of PHI in order to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the regulations promulgated thereunder, including, without limitation, the regulations codified at 45 C.F.R. Parts 160 and 164 (“HIPAA Regulations”); the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), including all applicable regulations and guidance issued by the Secretary of the Department of Health and Human Services (“HHS”); and other applicable state laws, all as amended from time to time; and;

**WHEREAS**, the HIPAA Regulations require Covered Entity to enter into an agreement with Business Associate meeting certain requirements with respect to the Use and Disclosure of PHI, which are met by this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and the exchange of information pursuant to this Agreement, Business Associate and Covered Entity agree as follows:

1. **Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Regulations and/or the HITECH Act, as applicable.

1.1 **Breach:** “Breach” shall have the same meaning as the term “breach” has in 45 C.F.R. §164.402, wherein breach is defined to mean the acquisition, access, Use, or Disclosure of PHI in a manner not otherwise permitted under 45 C.F.R. Subpart E that compromises the security or privacy of the PHI.

The term Breach specifically excludes:

(i) Any unintentional acquisition, access, or Use of PHI by a workforce member or person acting under the authority of a Covered Entity or a Business Associate, if such acquisition, access, or Use was made in good faith and within the scope of authority and does not result in further Use or Disclosure in a manner not permitted under 45 C.F.R. Subpart E.

(ii) Any inadvertent Disclosure by a person who is authorized to access PHI at a Covered Entity or Business Associate to another person authorized to access PHI at the same Covered Entity or Business Associate, or organized health care arrangement in which the Covered Entity participates, and the information received as a result of such Disclosure is not further Used or Disclosed in a manner not permitted under 45 C.F.R. Subpart E.

(iii) A Disclosure of PHI where a Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the Disclosure was made would not reasonably have been able to retain such information.

1.2 **Breach Notification Rule**: “Breach Notification Rule” shall mean the Notification of Breach of Unsecured PHI regulations at 45 C.F.R. Part 164, Subparts A and D.

1.3 **Designated Record Set**: “Designated Record Set” has the same meaning as the term “designated record set” has in 45 C.F.R. §164.501.

1.4 **Individual**: “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

1.5 **Privacy Rule**: “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E, as amended by the HITECH Act.

1.6 **Protected Health Information**: “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 C.F.R. §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.7 **Required by Law**: “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.

1.8 **Secretary**: “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.

1.9 **Security Incident**: “Security Incident” shall have the same meaning as “security incident” in 45 C.F.R. §164.304.

1.10 **Security Rule**: “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and C, as amended by the HITECH Act.

1.11 Unsecured Protected Health Information: “Unsecured Protected Health Information” shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in regulations or as otherwise defined in 45 C.F.R. §164.402.

2. **Obligations and Activities of Business Associate.** The parties agree as follows:

2.1 Business Associate shall only Use and Disclose PHI in compliance with each applicable requirement of 45 C.F.R. § 164.504(e). Business Associate shall comply with all requirements of Subpart E of 45 C.F.R. related to privacy and applicable as if Business Associate were a “covered entity,” as such term is defined in HIPAA.

2.2 Business Associate shall use reasonable and appropriate safeguards to prevent the Use or Disclosure of PHI other than as contemplated by the Underlying Agreement and this Agreement. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity and shall comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI.

2.3 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.4 Business Associate shall notify the Covered Entity in writing of any Security Incident or access, acquisition, Use or Disclosure that is not provided for by this Agreement without unreasonable delay and within five (5) business days of Business Associate’s discovery of the Security Incident or non-permitted access, acquisition, Use or Disclosure. The initial notification shall include a brief description of the Security Incident or non-permitted access, acquisition, Use or Disclosure, which shall include (a) the date of the event, (b) the date of discovery, (c) the nature of the PHI involved, (d) the extent of the non-permitted access, acquisition, Use or Disclosure or Security Incident, and (e) the unauthorized person(s) who accessed, acquired, or Used the PHI or to whom the non-permitted Disclosure was made. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of Covered Entity’s PHI that it discovers and shall conduct a risk assessment as set forth in 45 C.F.R. § 164.402. Business Associate shall document and retain records of its investigation of any non-permitted access, acquisition, Use or Disclosure or Security Incident, including its risk assessment and reports to Covered Entity under this Section 2.4. Upon request of Covered Entity, Business Associate shall furnish to Covered Entity the documentation of its investigation and risk assessment of whether such unauthorized access, acquisition, Use, or Disclosure constitutes a reportable Breach. If such Security Incident or non-permitted access, acquisition, Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.5 below.

2.5 If Business Associate concludes that a reportable Breach of Unsecured PHI has occurred, or Covered Entity makes such determination based on the Business Associate’s investigation and risk assessment, Business Associate shall provide a written report to Covered Entity without unreasonable delay but no later than thirty (30) calendar days after discovery of the Breach. To the extent that information is available to Business Associate, Business Associate’s

written report to Covered Entity shall be in accordance with 45 C.F.R. § 164.410(c). Covered Entity shall have sole control over the determination of whether Breach notification is required and the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media. Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations with respect to such a Breach. Business Associate shall reimburse Covered Entity for its reasonable costs, expenses, and damages (including reasonable attorney fees) arising from a Breach reported to the Covered Entity, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance for a period not to exceed one year) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

2.6 Business Associate shall require each agent and subcontractor that creates, maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such agents and subcontractors the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

2.7 Business Associate agrees to provide access, at the reasonable request of Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. §164.524. If Business Associate maintains PHI in an Electronic Health Record, Business Associate shall provide such information in the electronic form and format requested by Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by Covered Entity to enable Covered Entity to fulfill its obligations under 42 U.S.C. § 17935(e) and 45 C.F.R. § 164.524(c)(2).

2.8 Business Associate agrees to, at the request of the Covered Entity or an individual, promptly make any amendment(s) to the PHI that the Covered Entity directs or agrees to pursuant to 45 C.F.R. §164.526.

2.9 Business Associate agrees to make available to the Secretary during Business Associate's normal business hours, the internal practices, books, and records relating to the Use and Disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule. Except to the extent prohibited by law, Business Associate shall notify Covered Entity of such requests served upon Business Associate for information or documentation by or on behalf of the Secretary.

2.10 Business Associate agrees to document such Disclosures of PHI and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. §164.528. If Business Associate maintains an Electronic Health Record on behalf of Covered Entity, then, Business Associate shall document Disclosures made through such Electronic Health Record for Treatment, Payment and Health Care Operations in compliance with 42 U.S.C. § 17935(c) and the implementing regulations.



2.11 Business Associate agrees to promptly provide to Covered Entity or an Individual information collected in accordance with the Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. §164.528.

3. **Permitted Uses and Disclosures by Business Associate.** Business Associate shall Use and Disclose PHI only for the purpose of performing Business Associate's obligations under the Underlying Agreement and as permitted by this Agreement or Required by Law.

3.1 Business Associate shall not Use or Disclose PHI in a manner that would violate the Privacy Rule if done by Covered Entity, except that Business Associate may Use PHI (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate, provided that with respect to any Disclosure by the Business Associate for such purposes, either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person shall hold the PHI in confidence and shall not Use and further Disclose such PHI except as Required by Law or for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person shall notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. Business Associate may also Use PHI for Data Aggregation purposes, if requested by Covered Entity, in connection with the Health Care Operations of Covered Entity. Business Associate is not authorized to Use the PHI to create de-identified information. To the extent that Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

3.2 Business Associate shall limit its Use, Disclosure or request for PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

3.3 Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity, consistent with 42 U.S.C. § 17935(d)(2) and 45 C.F.R. § 164.502(a)(5)(ii), except with the prior written consent of the individual in accordance with 45 C.F.R. § 164.508(a)(4).

3.4 Business Associate shall not Use or Disclose PHI for fundraising purposes or for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or Use the product or service, unless such communication: (1) complies with the requirements of subparagraph (i), (ii) or (iii) of paragraph (1) of the definition of marketing contained in 45 C.F.R. § 164.501, and (2) complies with the requirements of subparagraphs (A), (B) or (C) of Section 42 U.S.C. §17936, 45 C.F.R. §§ 164.524(f) and 164.508(a)(3)(ii), and any other implementing regulations or guidance that may be issued or amended from time to time.

3.5 Business Associate shall not Disclose PHI to a health plan for payment or Health Care Operations purposes if and to the extent that Covered Entity has informed Business Associate

that the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, consistent with 42 U.S.C. § 17935(a) and 42 C.F.R. § 164.522(a)(1)(vi).

3.6 Business Associate may Use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §164.502(j)(1).

4. **Obligations of Covered Entity.** Covered Entity agrees as follows:

4.1 Covered Entity shall notify Business Associate of any limitations in its Notice of Privacy Practices of Covered Entity in accordance with 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

4.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to Use or Disclose PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

4.3 Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

5. **Term and Termination.** The parties agree as follows:

5.1 Term. This Agreement shall become effective as of the date of execution of this Agreement by Covered Entity and shall terminate as of the termination date of the Underlying Agreement or on the date that the Covered Entity terminates for cause as authorized in Section 5.2, whichever is sooner.

5.2 Termination for Cause.

1.1 A breach or violation by Business Associate of any provision of this Agreement, as determined by Covered Entity, shall constitute a breach of the Underlying Agreement and shall provide grounds for termination of the Underlying Agreement by Covered Entity.

1.2 Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall notify Business Associate and provide a reasonable time for Business Associate to cure the breach. If Business Associate does not cure the breach within such reasonable time, or if cure is not feasible, Covered Entity may terminate the Services immediately. If termination is not feasible, Covered Entity shall report the problem to the Secretary of Health and Human Services.

6. **Effect of Termination.** It is agreed and understood that, upon termination of this Agreement, Business Associate shall either return or destroy all PHI received from, or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form. Business Associate shall retain no copies of such information. If for any reason, such return or destruction is infeasible, Business Associate shall (a) retain only that

PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that the Business Associate still maintains in any form; (c) continue to extend the protections of this Agreement to the PHI for as long as Business Associate retains the PHI; (d) limit any further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the information infeasible and subject to the same conditions set out at Section 3 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

## 7. Miscellaneous.

7.1 Regulatory References. A reference in this Agreement to a section in the Privacy, Breach Notification, or Security Rules means the section as in effect or as amended, and for which compliance is required.

7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the parties to comply with the requirements of HIPAA, the HIPAA Regulations, or the HITECH Act.

7.3 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA, the HIPAA Regulations, and the HITECH Act.

7.4 Survival. The respective rights and obligations of Business Associate shall survive the termination of this Agreement as long as Business Associate and its subcontractors or agents are in possession of any Covered Entity's PHI.

7.5 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Texas.

7.6 No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

7.7 State Laws. Business Associate shall comply with all applicable state laws governing the protection and use of PHI.

7.8 Notices. All notices required or permitted under this Agreement shall be in writing and sent to the other party as directed below or as otherwise directed by either party, from time to time, by written notice to the other. All such notices shall be deemed validly given upon receipt of such notice by certified mail, postage prepaid, facsimile transmission or personal or courier delivery:

a)

If to Covered Entity:

The Medical Center of Southeast Texas  
2555 Jimmy Johnson Blvd.

Port Arthur, TX 77640  
Attn: President

With a Copy To: Steward Health Care System LLC  
1900 N. Pearl Street, Suite 2400  
Dallas, TX 75201  
Attn: General Counsel

If to HNI:  
Sundance Physician Services, Inc.  
7500 Rialto Blvd., Bldg. 1, Ste. 140  
Austin, Texas 78735  
Attn: Merced Gonzales, CIO/CTO

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have executed this BAA as of the Effective Date set forth above.

**BUSINESS ASSOCIATE:  
HNI MSO, INC.**

By: Michael Gonzales  
Michael Gonzales, CEO

**COVERED ENTITY:  
The Medical Center of Southeast Texas LP d/b/a The Medical Center of Southeast Texas**

By: [Signature]  
Name: P. Craig Desmond  
Title: President

# EXHIBIT 2

## **PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) is made by and between HNI Physician Services of Texas, Inc. (“Group”) and The Medical Center of Southeast Texas, LP (“Hospital”) (each a “Party” and, collectively, the “Parties”).

### **RECITALS**

This Agreement is made with reference to the following:

A. Group is a 5.01(a) Texas non-profit health organization authorized to conduct professional and administrative services in support of a medical practice and the provision of medical services to the public.

B. Hospital operates a general acute care hospital serving patients in Port Arthur and Beaumont Texas (the “State”).

C. Hospital and Group desire to enter into a contract with each other for Group to be the exclusive provider of certain Hospitalist and Intensivist Services (defined in Section I) at the Hospital in order to integrate the delivery of Hospitalist and Intensivist Services, ensure the quality of Hospitalist and Intensivist Services at the Hospital, coordinate scheduling and utilization, ensure continuous availability of Hospitalist and Intensivist Services, provide consistent coverage, and track appropriate quality assurance indicators.

D. Hospital and Group have agreed to provide qualified, licensed physician full-time equivalents (“Physician FTE” or “Physician”) and qualified, licensed advanced practice provider full-time equivalents (“APP FTE” or “APP”) to devote their professional efforts to render appropriate medical services, at Hospital’s request, for Hospital’s adult patients with no assigned physician, patients referred from physicians at Hospital’s medical campus (“Hospitalist Services”), and Intensive Care Unit (“ICU”) patients (“Intensivist Services” and collectively with Hospitalist Services, the “Services”). Hospital will exclusively use Group for the Services.

In consideration of mutual terms, covenants, and conditions set forth in this Agreement, and intending to be legally bound, Hospital engages the Group as the exclusive provider of the Services at Hospital, and Group accepts the engagement to provide the Services at Hospital on the terms and conditions set forth in this Agreement.

### **I. Obligations of Group.**

A. **Hospitalist Program.** Effective October 1, 2022, Group shall provide the Hospitalist Services in accordance with Attachment 1, Section A.

B. **Intensivist Program.** Effective as of the Effective Date, Group shall provide Intensivist Services in accordance with Attachment 2, Section A.

C. **Group Participation.**

1. Group shall actively participate in Hospital's overall patient evaluation program and quality improvement activities. Group shall assist Hospital in the performance of utilization review, cost containment, and risk management functions.
2. Group's Physicians and APPs, as applicable, shall remain active members of the medical staff of Hospital in good standing with appropriate clinical privileges and serve on Hospital's committees as requested by Hospital and/or Hospital's medical staff. The Group acknowledges and agrees, and shall require each Physician and APP to acknowledge and agree, that the Medical Staff membership, Allied Health Professional Staff membership and/or clinical privileges of a specific Physician or APP shall automatically terminate upon the termination of this Agreement or such Physician's or APP's employment by or other services arrangement with the Group pursuant to which the Physician or APP provides professional Services or administrative Services, as the case may be, under this Agreement, unless otherwise waived by the Hospital in writing in its sole and absolute discretion. Any due process or other requirements of the Medical Staff Bylaws shall not apply to the termination or other limitation or qualification of Medical Staff membership, Allied Health Professional Staff membership and/or clinical privileges under this Agreement or to the termination, expiration or nonrenewal of this Agreement itself.
3. Group shall provide Hospital with documentation that Group has received Group's Medicare and Medicaid provider numbers when received by the Group.
4. Group shall provide Hospital with documentation that each Physician providing Services under this Agreement has Medicare and Medicaid provider numbers when received by the Group.
5. Nothing in this Agreement shall require or encourage Group or Physician to refer any patient to Hospital or to be influenced in making their professional medical judgments. Group shall have no control over the methods used by Physicians in the performance of the Services.
6. Each Physician providing Services shall (i) be a member of the Medical Staff of Hospital in good standing with appropriate clinical privileges, (ii) have an unrestricted license to practice medicine in the State and a current, valid and unrestricted federal and state registrations to prescribe controlled substances, (iii) be board certified or board eligible in the applicable specialty for which they are providing Services, (iv) be a participating provider in the Medicare and Medicaid programs, (v) be employed by or otherwise obligated contractually to provide professional medical services through or on behalf of the Group, and (vi) possess the training, skills, experience and temperament required to provide and perform the Services in a competent, professional and satisfactory manner. The Group and any affected Physician shall immediately notify the Hospital of



any action, investigation or proceeding, termination, suspension, revocation, or material change in, or any similar action initiated with respect to, any of the qualifications set forth in this paragraph.

7. Each APP shall (i) be a member in good standing of the Allied Health Professional Staff of the Hospital with appropriate clinical privileges, (ii) hold an unencumbered license and authorization from the State Board of Nursing to provide the applicable Services, (iii) if applicable, be a participating provider in the Medicare and Medicaid programs, (iv) be employed by or otherwise obligated contractually to provide the Services through or on behalf of the Group, and (v) possess the training, skills, experience and temperament required to provide and perform the Services in a competent, professional and satisfactory manner. The Group and any affected APP shall immediately notify the Hospital of any action, investigation or proceeding, termination, suspension, revocation, or material change in, or any similar action initiated with respect to, any of the qualifications set forth in this paragraph.

D. **Compliance.** Group will comply with those provisions of the law that affect reimbursement to Hospital and to cooperate fully with Hospital's Medicare audits, Det Norske Veritas (DNV) surveys, licensing organizations, and other reimbursement matters, particularly as those items affect the provision of the Services. Group will not do anything that will affect adversely such reimbursement or the Medicare/Medicaid provider status of Hospital. Hospital and Group will provide the Services at all times in compliance with federal, state, and local laws, rules, and regulations, as well as the written policies, rules, and regulations of the Hospital, the Hospital's medical staff bylaws, the Hospital's Code of Conduct, the applicable standards of Det Norske Veritas (DNV), and all currently accepted and approved practices of hospitalist and critical care medicine.

E. **Insurance.** Group shall maintain professional liability insurance covering each Physician in the minimum amount of \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate, unless higher limits are required under the Hospital's medical staff bylaws. Such insurance shall be with insurance companies, issued upon such forms and containing such terms and limitations reasonably acceptable to Hospital. Such Group shall provide Hospital with a certificate of such insurance coverage upon execution of this Agreement by Group and thereafter during the Term of this Agreement upon Hospital's request. Further, Group shall provide Hospital with a statement from the insurance carrier that Hospital shall be notified at least (30) days prior to any change to or cancellation of such insurance coverage. Such coverage shall be primary and non-contributory.

F. **Representations and Warranties.** Except as set forth in Exhibit C., Group represents and warrants to Hospital as follows (and such representations and warranties shall be continuing representations and warranties:

1. Group is not bound by any agreement or arrangement which would preclude Group from entering into, or from fully performing the Services required under, this Agreement;
2. No Physician's or APP's license to practice medicine (or with respect to an APP, to practice the Services hereunder) in the State or in any other jurisdiction has ever lapsed or

been denied, suspended, revoked, terminated, relinquished (under the threat of disciplinary action), or restricted in any way;

3. No Physician's or APP's medical staff membership and/or privileges at any health care facility have ever been denied, suspended, revoked, terminated, relinquished (under threat of disciplinary action), or restricted in any way;

4. Each Physician holds a valid Drug Enforcement Agency number that has never been revoked, suspended, terminated, relinquished (under the threat of disciplinary action), or restricted in any way;

5. Neither Group nor any Physician or APP is an Ineligible Person. An "Ineligible Person" is an individual or entity who: (i) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal health care programs or in Federal procurement or non-procurement programs, or (ii) has been convicted of a criminal offense that falls within the range of activities described in 42 U.S.C § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible;

6. No Physician or APP is the subject of any investigatory, disciplinary or other proceeding before any governmental, professional, licensing board, medical staff or peer review body;

7. No Physician or APP is subject to any suit, action or other legal proceeding arising out of Physician's or APP's professional services;

8. No Physician or APP has been required to pay damages in any malpractice action by way of judgement or settlement;

9. No Physician or APP has been charged with or convicted of a criminal offense (other than minor traffic violations);

10. Group and each Physician and APP are a participating physician in Medicare and State's Medicaid program; and

11. Group and each Physician and APP shall participate in all third-party payment or managed care programs in which Hospital participates, render the Services to patients covered by such programs, and accept or assign the payment amounts provided for under such programs.

Group shall immediately notify Hospital in writing if any of the above representations or warranties are breached, or otherwise are or become untrue, false, or inaccurate. To the extent a representation or warranty above relating to an individual Physician or APP is breached or otherwise becomes untrue, false, or inaccurate, Group shall immediately remove and prohibit such affected Physician or APP from

providing Services hereunder and shall immediately replace such affected Physician or APP with another individual who meets the requirements and qualifications set forth in this Agreement.

G. **Documentation; Medical Records.** In the provision of the Services, Group and its Physicians and APPs shall maintain such medical records and reports of the care provided to Hospital patients as are necessary in their professional judgment and in accordance with Applicable Laws (as defined in Section VI.O.) and the policies and procedures of the Hospital regarding medical records, utilization management and claim preparation. The records shall accurately reflect the examinations, tests, treatments and other procedures rendered for Hospital patients by the Group and its Physicians and APPs, the information and data necessary for claim preparation, and the instructions given by the Group's Physicians and APPs to the Hospital personnel. The Group and its Physicians and APPs shall be responsible for the timely, accurate and adequate completion of all medical records as they pertain to Professional Services, including sufficient documentation of medical necessity. Any and all compensation due under this Agreement shall be expressly conditioned on Group and its Physicians and APPs complying with this Section in full and timely submitted all documentation to Hospital in accordance with the Hospital's then-current rules, policies, and procedures.

## **II. Obligations of Hospital.**

A. **Compensation.** Hospital shall compensate Group for providing Hospitalist Services in accordance with Attachment 1, Section B. Hospital shall compensate Group for providing Intensivist Services in accordance with Attachment 2, Section B.

B. **eICU Coverage.** Hospital shall provide tele-health coverage for the Intensivist Program three-hundred sixty-five (365) nights per year.

C. **Space Availability.** Hospital shall provide Group with sufficient office space for Physicians to perform the administrative support services in accordance with this Agreement.

D. **Required Data Reporting.** In order for Group to provide timely dashboard and revenue summary reports to Hospital, Hospital must provide specific data in the detail and manner set forth in Exhibit D daily beginning on the Effective Date.

## **III. Confidentiality.**

A. **Confidentiality of Hospital Information.** Group understands and agrees that in connection with Group's engagement by Hospital, Group may acquire competitively sensitive information which is neither known to nor ascertainable by persons not engaged by Hospital and which may cause Hospital to suffer competitively or economically if such information became known to persons outside of Hospital. Unless legally required to disclose such information (upon which Group shall, if legally permitted to do so, notify Hospital of such potential disclosure and provide Hospital with reasonable notice, opportunity, and assistance in order for Hospital to contest such disclosure, at Hospital's sole cost and expense), Group agrees to maintain the confidentiality of any confidential information Group acquires during their engagement for the entire term of such engagement by Hospital and indefinitely thereafter.



B. **Confidentiality of Group Information.** Hospital understands and agrees that in connection with Hospital's engagement with Group, Hospital may acquire competitively sensitive information which is neither known to nor ascertainable by persons not engaged by Group and which may cause Group to suffer competitively or economically if such confidential information became known to persons outside of Group. Confidential information includes Group's proprietary software and dashboard technologies, including but not limited to VITALSMD®. Unless legally required to disclose such information (upon which Hospital shall, if legally permitted to do so, notify Group of such potential disclosure and provide Group with reasonable notice, opportunity, and assistance in order for Group to contest such disclosure, at Group's sole cost and expense), Hospital agrees to maintain the confidentiality of any confidential information Hospital acquires during their engagement for the entire term of such engagement by Hospital and indefinitely thereafter.

C. **Confidentiality of Patient Information.** Group agrees to protect to the fullest extent required by law the confidentiality of any patient information generated or received by Group in connection with the performance of Services under this Agreement. Group specifically acknowledges that in receiving, storing, processing, or otherwise handling records of Hospital's patients, Group may be bound by federal laws governing addictive disease patients, including 42 C.F.R. Part 2. Group agrees, if necessary, to resist in judicial proceedings any efforts to obtain access to patient records except as permitted by law. Group's obligation to maintain the confidentiality of Hospital's patient information shall survive termination of this Agreement.

D. **HIPAA Requirements.** To the extent applicable to this Agreement, Group agrees to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), the Administrative Simplification Provisions of the Health Insurance Portability and Accountability Act of 1996 as codified at 42 U.S.C.A. §1320d et seq. ("HIPAA"), and any current and future regulations promulgated under the HITECH Act of HIPAA, including without limitation the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the "Federal Security Regulations") and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162 (the "Federal Electronic Transaction Regulations"), all as amended from time to time (collectively the "HIPAA Requirements"). Group and Physician agree not to use or further disclose any "Protected Health Information" including "Electronic Protected Health Information," (as such terms are defined in the HIPAA Requirements) other than as permitted by the HIPAA Requirements and the terms of this Agreement. Groups will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the HIPAA Requirements. Group and Hospital will also execute the "business associate agreement" in Exhibit E.

#### **IV. Term and Termination.**

A. **Term.** This Agreement shall be effective on May 1, 2022 (the "Effective Date") and shall continue in effect until and including August 31, 2024, unless sooner terminated in accordance with the Agreement. ("Initial Term") At the end of the Initial Term and each Renewal Term (as defined below), if any, this Agreement shall automatically renew for additional terms of one-year ("Renewal

Terms”), unless either Party notifies the other Party of its intent not to renew the Agreement at least 120 days prior to the end of the then current term. The word “Term” shall mean the period of time beginning with commencement of the Initial Term and ending on the expiration date of the Initial Term or the last Renewal Term, if any. If this Agreement is terminated for any reason, with or without cause, within one (1) year from the Effective Date, then the Parties shall not enter into the same or substantially the same arrangement as provided for in this Agreement for the remainder of such one (1) year period.

B. **Termination by Hospital.** This Agreement may be terminated by Hospital upon written notice of a material breach by Group. Group shall have 30 days to cure the breach and conform its conduct to this Agreement. If such corrective action is not taken within the 30-day cure period, this Agreement shall terminate immediately upon the expiration of the cure period without further notice or demand, unless the cure period is extended by Hospital in its sole and absolute discretion. Additionally, Hospital may terminate this Agreement immediately upon written notice to Group upon the occurrence of any of the following events: (i) the failure of Group to make a timely disclosure required pursuant to Sections I.C.6., I.C.7., and I.F. hereof; (ii) conduct by Group or any Physician or APP which, in the sole discretion of Hospital, could affect the quality of professional care provided to Hospital patients or the performance of duties required hereunder, or be prejudicial or adverse to the best interest and welfare of Hospital or its patients; (iii) breach by Group or any Physician or APP of any of the confidentiality provisions hereof; (iv) failure by Group to maintain the insurance required under this Agreement; (v) the closure of Hospital, the cessation of Hospital’s patient care operations, or the sale of Hospital, or of all, or substantially all, of Hospital’s assets; or (vi) Group’s or any Physician’s or APP’s conviction of a criminal offense related to health care, or Group’s or any Physician’s or APP’s listing by a federal agency as being debarred, excluded or otherwise ineligible for federal program participation.

C. **Termination by Group.** Group may terminate this Agreement upon written notice of a material breach by Hospital. Hospital shall have 30 days to cure the breach and conform its conduct to this Agreement. If such corrective action is not taken within the 30-day cure period, this Agreement shall terminate in 60 days from the expiration of the cure period without further notice or demand. Group may also terminate this Agreement at any time during the Initial Term or Renewal Term with 90 days’ written notice if there is a material increase in the Group’s cost to provide the Services.

D. **Termination without Cause.** After October 1, 2023, either party may terminate this Agreement without cause upon 120 days’ prior written notice. During any notice period, both parties shall fulfill terms and obligations of the contract.

V. **Notice.** Notice under this Agreement must be given in writing personally, sent by overnight courier with delivery confirmation, or sent by United States registered or certified mail, postage prepaid and return receipt requested to the following addresses or at such other address as may be designated by a party by written notice to the other party:

To Hospital: The Medical Center of Southwest Texas, LP  
2555 Jimmy Johnson Blvd,  
Port Arthur, TX 77640  
Attn: President

With a copy: Steward Health Care System, LLC  
1900 N. Pearl St., Suite 2400  
Dallas, Texas 75201  
ATTN: General Counsel

To Group: HNI Physician Services of Texas, Inc.  
7500 Rialto Blvd., Bldg. 1, Ste 140  
Austin, Texas 78735  
Attn: Michael Gonzales

## **VI. Miscellaneous.**

**A. Indemnification.** Indemnification by either Party for liabilities and/or damages resulting from their respective acts or omissions shall be as follows:

1. To the fullest extent permitted by law, Group shall indemnify and hold harmless Hospital, Hospital's officers, Board of Directors, partners, and employees from and against any and all costs, losses, and damages (a) caused solely by the negligent or willful acts or omissions of Group or the Group's officers, directors, partners, employees, agents, and consultants in the performance and furnishing of the Group's Services under this Agreement up to its insurance limits, (b) arising from or relating to any breach by Group of the Business Associate Agreement attached hereto as Exhibit E or any violation of applicable local, state, or federal law, rules, or regulations by Group or its Physicians or APPs.
2. To the fullest extent permitted by law, Hospital shall indemnify and hold harmless the Group, the Group's officers, directors, partners, and employees from and against any and all costs, losses, and damages caused solely by the negligent or willful acts or omissions of Hospital or the Hospital's officers, directors, partners, employees, agents, and consultants in the performance of any acts related to this Agreement up to its insurance limits.

**B. Confidentiality of Agreement.** This Agreement shall be strictly confidential, and unless legally required to disclose such information, neither party shall disclose its contents or existence to any third party (with the exception of legal and financial advisors). Unauthorized disclosure shall be considered a breach of this Agreement.

**C. Nondiscrimination.** Group shall require Physicians to provide Services to any patient of Hospital regardless of patient's race, color, national origin, religion, gender, sexual orientation, age, disability (including AIDS and related conditions), or ability to pay for such services.

**D. Independent Contractor.** In the performance of the duties and obligations under this Agreement, it is mutually understood and agreed as follow: (1) Group is at all times acting and performing as an independent contractor practicing the profession of medicine; (2) Hospital shall neither



have nor exercise any control or direction over the methods by which Group shall perform its work and functions except that Group is expected to perform or work and functions at all times in strict accordance with the currently approved methods and practices of its professional specialty; (3) no work, act, commission, or omission of Group pursuant to the terms and conditions of this Agreement shall be construed to make or render Group the agent, employee, or servant of Hospital; (4) except as otherwise set forth in this Agreement or other agreements, Group shall pay all compensation, benefits, payroll taxes, and worker's compensation for any Physician; and (5) Group will hold Hospital harmless and free from liability or cost (including attorney's fees) arising from any alleged employment claim by or on behalf of any such Physician or governmental agency, or any other person alleging that any Physician provided by Group is an employee of Hospital.

E. **Non-Solicitation.** During the term of this Agreement and for a period of two years after termination of this Agreement, the Parties agree they shall not directly or indirectly solicit for employment or contract services with any of the employees or independent contractors of the other Party, unless otherwise agreed upon in writing between the Parties. Furthermore, both Parties agree that they are prohibited from contracting with a third party that employs or contracts with any of the employees or independent contractors of the other Party unless otherwise agreed upon in writing between the Parties. Notwithstanding the foregoing, Group agrees to waive the non-solicitation restrictions herein as it pertains to Physicians provided Hospital or Hospital affiliate pays Fifty Thousand Dollars (\$50,000.00) per Physician and Twenty-Five Thousand Dollars (\$25,000.00) per APP that is hired by Hospital or Hospital affiliate. For the avoidance of doubt, this provision does not apply to Hospital with respect to any Physician who provides services to Hospital through Temporary Physician Coverage. This provision prohibits Group from soliciting any eICU Physician. Notwithstanding the foregoing, this Section shall not prohibit either Party from conducting a general solicitation to the public that is not specifically targeted at any such employee, agent, or independent contractor or from hiring an employee, agent, or independent contractor that responds to a general solicitation to the public.

F. **Inspection and Audit.** Group will allow inspection, audit, and duplication by the Hospital of all relevant data related to the provision of Services under this Agreement. Such inspection, audit, verification, and duplication will be allowed upon reasonable notice during regular business hours. This provision shall apply to any or all subcontractors of the Group.

G. **Force Majeure.** Neither Party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or other interruption resulting from, directly or indirectly, acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other work or any other similar cause beyond the reasonable control of either Party unless such delay or failure in performance is expressly addressed elsewhere in this Agreement.

H. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties regarding its subject matter and supersedes any prior oral or written discussions, agreements, or negotiations. This Agreement may only be amended by written agreement signed by both Parties.

I. **Headings.** The headings used in this Agreement are for general reference only and do not have special significance.

J. **Waiver.** Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

K. **Severability.** The Parties have negotiated and prepared the terms of this Agreement with the intent that each and every one of the terms, covenants, and conditions be binding upon and inure to the benefit of the respective Parties. Accordingly, if any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement or their application to any person or circumstance shall be adjudged to any extent invalid, unenforceable, void, or avoidable for any reason whatsoever by a court of competent jurisdiction or an arbitration tribunal, such provision shall be as narrowly construed as possible, and each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement or their application to other persons or circumstances shall not be affected and shall be valid and enforceable to the fullest extent permitted by applicable law.

L. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State, exclusive of its choice of law rules or provisions.

M. **Assignment.** This Agreement may be assigned without prior written consent to any corporation or other entity of any kind succeeding to the business of Group or Hospital in connection with the merger, consolidation, sale, or transfer of all or a portion of their respective assets. This Agreement may also be assigned to any subsidiary, parent corporation, or other affiliate of Group or Hospital. This Agreement may not otherwise be assigned by either party without the prior express written consent of the other party.

N. **Access to Books and Records.** Upon the written request of the Secretary of Health and Human Services or Controller General or any of their duly authorized representative, Group will make available those contracts, books, documents, and records necessary to verify the nature and extent of the cost of providing services under this Agreement. If Group carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, Contractor agrees to include this requirement in any such subcontract. This Section is included pursuant to and is governed by the requirements of 42 U.S.C. §1395x (v)(1) and the regulations promulgated under that statute. No attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by the Hospital, Group, and/or Physicians by virtue of this Agreement.

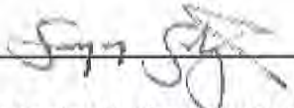
O. **Change in Law.** The Parties recognize that this Agreement, at all times, is subject to all applicable federal, state, and local laws, rules, and regulations ("Applicable Laws"). Any provisions of Applicable Laws that, in the opinion of a Party's legal counsel, invalidate this Agreement or a portion of this Agreement, or that would cause either of the Parties to be in violation of Applicable Laws shall be deemed to supersede such provisions of this Agreement and shall require reformation of this Agreement. The Parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the Applicable Laws. If the Parties are unable to mutually agree regarding the reformation of this Agreement, either Party may terminate this Agreement by giving the other Party thirty (30) days prior written notice of such termination.



{Signature Page Follows}

**IN WITNESS HEREOF**, the parties have caused this Professional Services Agreement to be duly executed as of the date(s) set forth below; provided, however, that the Parties agree and acknowledge that this Agreement shall be effective as of the Effective Date.

**The Medical Center of Southeast Texas, LP**

  
\_\_\_\_\_ Date: 7/27/2022  
By: Sanjay K. Shetty, MD, MBA  
President

**HNI Physician Services of Texas, Inc.**

DocuSigned by:  
  
\_\_\_\_\_ Date: 7/27/2022 | 2:56 PM PDT  
By: Michael Gonzales, CEO

**Attachment 1**

**A. Hospitalist Program.**

1. Effective October 1, 2022, Group shall provide four (4) qualified, licensed, Medicare and Medicaid certified (with applicable provider numbers) Physician FTEs and four (4) APP FTEs to perform full-time Hospitalist Services for Hospital's adult patients at Hospital's campus in Port Arthur, Texas and one (1) APP FTE at Hospital's campus in Beaumont, Texas. ("HM Minimum Staffing"). Physicians shall be board certified or board eligible in internal, family, critical, or pulmonary medicine, appropriately credentialed members of the Hospital's medical staff, and subject to requirements set forth in the bylaws, rules, regulations, policies, and procedures of the Hospital's medical staff and governing board. Hospitalist Services shall include:
  - a. Serving as physician of record while patients treated by Group are in Hospital.
  - b. Conducting histories and physical exams on all patients admitted by Hospitalist Providers while on duty.
  - c. Entering appropriate progress notes in the medical record for all patients evaluated.
  - d. Evaluating changes in the patient's condition and document same in the progress notes.
  - e. Making daily rounds to determine the status of the patients during agreed hours of service.
  - f. Providing follow-up communication with primary care physicians, where indicated.
  - g. Working with Admitting, Case Management, and ancillary service directors to treat patients.
  - h. Having ED and acute referrals distributed through an equitable distribution to physicians on Hospital-approved list of qualified physicians.
  - i. Conducting appropriate discharge planning activities.
  - j. Providing Hospitalist Services coverage three-hundred sixty-five (365) days at Hospital's campus in Port, Arthur, Texas, and Mondays through Fridays at Hospital's campus in Beaumont, Texas.
2. **HM Supplemental Staffing.** Hospital and Group agree that the HM Minimum Staffing assigned at Hospital's campus in Port Arthur, Texas, can serve no more than fifty-eight (58) Encounters (as defined below) per day and the HM Minimum Staffing assigned at Hospital's campus in Beaumont, Texas, can serve no more than twelve (12) Encounters per day (the "Maximum Daily Encounters" or "HM MDE"). An Encounter shall be defined as any interaction with a patient by a Physician, including an admission, discharge, consultation, or progress note. Hospital agrees that Group is authorized to provide supplemental staffing on a daily basis ("HM Supplemental Staffing") to provide Hospitalist Services for any encounters in excess of the HM MDE.
3. **HM Medical Director.** Group will designate, subject to the approval of the Hospital, a physician to act in the capacity of Director of Hospitalist Services ("HM Medical Director") during the term of this Agreement. The HM Medical Director shall provide the duties set forth in Exhibit A.

4. **HM Administrative and Management Services.** Group shall provide administrative and management services for Hospitalist Program. In providing such services, Group shall engage in recruitment, shall provide scheduling, and shall oversee management of all Hospitalist Services provided under this Agreement.

**B. HM Collection Guarantee; Billing.** Effective October 1, 2022, and in consideration for Hospitalist Services rendered by Group, Hospital shall provide Group with a collection guarantee as follows:

1. Hospital shall guarantee Group that Group shall earn Collections (as defined below) equal to Group's direct and indirect costs of delivering Hospitalist Services (the "HM Collection Guarantee"). Beginning on October 1, 2022, HM Collection Guarantee will be \$266,366.00 per month. For any partial month, the HM Collection Guarantee shall be prorated based on the days worked and the number of days in the applicable calendar month. Hospital agrees to provide a maximum of \$1,452,695.00 in HM Guarantee Payments for each contract year of the Agreement ("HM Annual Maximum Guarantee Payment").
2. Invoices shall be remitted to the Hospital within five (5) business days of the end of each month.
3. Hospital shall remit to Group within sixty (60) days of the end of each month the difference between the HM Collection Guarantee, and the amount of the monthly Collections (the "HM Guarantee Payment") for Hospitalist Services. For example, assuming in a given month, the HM Collection Guarantee was \$100,000.00 and the Collections were \$90,000.00, the Hospital would pay the Group \$10,000.00, representing the HM Guarantee Payment for that month.
4. Should Group's actual Collections for Hospitalist Services exceed the HM Collection Guarantee, the HM Collection Guarantee for the following month shall be reduced by the excess. The parties' obligation to pay such difference shall survive the expiration or termination of the Agreement.
5. The following payments shall not be included in the HM Annual Maximum Guarantee Payment and shall be as follows:
  - a. **HM Supplemental Staffing Fee.** Hospital shall pay Group \$2,400.00 per day per Physician and \$1,400.00 per day per APP that provides HM Supplemental Staffing services, payable within sixty (60) days of the end of each month.
  - b. **HM Temporary Physician Coverage Reimbursement.** For the period beginning October 1, 2022 and ending March 31, 2023, Hospital shall reimburse 100% of the difference, if any, between (i) all reasonably incurred costs associated with Group providing temporary physician coverage, *minus* (ii) the reasonable incurred costs Group would have incurred if the temporary staffing was employed or contracted with HNI on a full-time basis, payable within sixty (60) days of the end of each month. Effective April 1, 2023, Hospital shall reimburse 50% of the difference, if any, between (i) all reasonably incurred costs associated with Group providing temporary physician coverage, *minus* (ii) the reasonable incurred costs Group would have incurred if the temporary staffing was employed or contracted with HNI on a full-time basis,

payable within sixty (60) days of the end of each month. Group shall provide Hospital with any and all documentation reasonably evidencing such incurred costs. Temporary Coverage shall include coverage performed by locum tenens and/or Group's national hospitalists.

- c. **HM One-Time Implementation Fee.** Hospital will pay Group a one-time set-up fee in the amount of \$25,000.00, payable on October 1, 2022.
6. The Group shall be responsible for the billing and collection of all professional fees incurred for the Hospitalist Services provided to Hospital patients by Group's Physicians and/or APP. The Hospital shall not assume responsibility for the billing or collection of the professional fees associated with the Hospitalist Services. The Group shall be responsible for establishing the schedule of charges for the professional fees, subject to Section I.F.11. of the Agreement. Group shall use commercially reasonable efforts to bill and collect, or arrange for billing and collection of, all professional fees incurred for Hospitalist Services. For purposes of this Agreement, the term "Collections" shall be defined as all funds collected on a cash basis by Group for Hospitalist Services during the term of this Agreement. Group acknowledges that it is responsible for all operating expenses, taxes, depreciation, and all other expenses and costs in connections with Group's performance hereunder. Failure of Group to bill as specified in this Agreement shall result in said amounts being deemed collected in the month in which the Hospitalist Services were rendered, for purposes of calculating any amounts due Group under this Attachment 1. Notwithstanding anything to the contrary, under no circumstances shall Group's total compensation under this Attachment 1 exceed the fair market value for the Hospitalist Services performed by Group and its Physicians and APPs.
7. The Hospital will bill and collect for all technical (otherwise known as "facility") fees for Hospitalist Services provided in or at the Hospital. Group shall not assume responsibility for the billing or collection of the technical fees associated with the Hospitalist Services rendered by a Physician or APP of Group. The Hospital shall establish the technical fees to be charged to Hospital patients for services provided by the Hospital.
8. In accordance with and in addition to Section VI.F. of the Agreement, Group agrees to provide Hospital with full access to all books and records necessary to verify the information reported by Group as to its costs and Collections relating to the Hospitalist Services, and to cooperate fully with any audit or other review by Hospital.



## Attachment 2

### A. **Intensivist Program.**

1. Group shall provide two (2) qualified, licensed, Medicare and Medicaid certified (with applicable provider numbers) Physician FTEs to perform full-time Intensivist Services. ("ICU Minimum Staffing"). Physicians shall be board certified or board eligible in critical or pulmonary medicine, appropriately credentialed members of the Hospital's medical staff, and subject to requirements set forth in the bylaws, rules, regulations, policies, and procedures of the Hospital's medical staff and governing board. Intensivist Services shall include:
  - a. Conducting mandatory consultations and daily rounds on all ICU patients assigned to Hospital's ICU or as patient condition warrants.
  - b. Promptly responding to calls from Hospital's staff concerning ICU patients assigned to Group;
  - c. Coordinating the activities of consulting physicians on ICU patients assigned to Group;
  - d. Entering appropriate progress notes with pertinent updates and findings on all ICU patients evaluated by Group;
  - e. Helping to ensure that discharges or step-down from the ICU occur in a timely and appropriate manner, including promptly completing all forms necessary for timely and efficient discharge and transition to other facilities or levels of care;
  - f. Working closely with Admitting, Case Management and ancillary service directors to treat ICU patients effectively; and
  - g. Provide Intensivist Services coverage three-hundred sixty-five (365) days per year, with in-house coverage for a minimum of 12 hours a day during weekdays and 8 hours a day on weekends and holidays.
2. **ICU Supplemental Staffing.** Hospital and Group agree that the ICU Minimum Staffing can serve no more than sixteen (16) Encounters (as defined below) per day (the "ICU MDE"). Hospital agrees that Group is authorized to provide supplemental staffing on a daily basis ("ICU Supplemental Staffing") to provide Intensivist Services for any encounters in excess of the ICU MDE.
3. **ICU Medical Director.** Group will designate, subject to the approval of the Hospital, a physician to act in the capacity of Director of Intensivist Services ("ICU Medical Director"). The ICU Medical Director shall provide the duties set forth in Exhibit B.
4. **ICU Administrative and Management Services.** Group shall provide administrative and management services for the Intensivist Program. In providing such services, Group shall engage the recruitment, shall provide scheduling, and shall oversee management of all Intensivist Services provided under this Agreement.

### B. **ICU Compensation; Billing.**

1. **Fixed Subsidy.**

- a. Hospital shall pay Group a monthly subsidy that shall reflect Group's total costs actually incurred to provide the Intensivist Services under this Agreement, plus a 7% corporate allocation ("Fixed Subsidy"), subject to the limitations set forth in this Section B.1. Group shall invoice the Hospital on a monthly basis for the Fixed Subsidy and provide Hospital with reasonable documentation evidencing Group's costs for such month. Subject to the limitations set forth in this Section B.1, Hospital shall remit payment within sixty (60) days of the end of each month, unless there is a disputed amount in which case Hospital shall pay any undisputed amounts pending resolution of the disputed amounts.
- b. Group's estimated and itemized annual costs relating to the Intensivist Services for the first year of this Agreement are set forth and detailed in the pro forma attached hereto as Schedule I and incorporated herein by reference (the "First Year Costs"). Group's total costs to provide the Intensivist Services for the first year shall not exceed one hundred and ten percent (110%) of the First Year Costs set forth in Schedule I unless the Group receives the Hospital's prior written consent, which shall not be unreasonably withheld given the then-current nature of the Intensivists Services and the coverage levels required under this Agreement. The Fixed Subsidy for the first year shall be limited by the foregoing.
- c. Prior to the beginning of each year following the first year of this Agreement, the Parties shall work in good faith and use best efforts to come up with a mutually agreeable annual budget for the Intensivist Services that shall consist of an itemized list of Group's budgeted, estimated costs of providing the Intensivist Services for the upcoming year (the "Estimated Annual Costs"). Group's total costs to provide the Intensivist Services for a given year shall not exceed one hundred and ten percent (110%) of the mutually agreed upon Estimated Annual Costs for such year unless the Group receives the Hospital's prior written consent, which shall not be unreasonably withheld given the then-current nature of the Intensivists Services and the coverage levels required under this Agreement. The annual Fixed Subsidy for each year shall be limited by the foregoing.
- d. In accordance with and in addition to Section VI.F. of the Agreement, Group agrees to provide Hospital with full access to all books and records necessary to verify the information reported by Group as to its actually incurred costs relating to the Intensivist Services, and to cooperate fully with any audit or other review by Hospital.
- e. The Group's compensation to its Physicians providing Intensivist Services shall, at all times during the term of the Agreement, be fair market value for the provision of such services, as evidenced by current, published physician compensation surveys.
- f. The Group shall be responsible for the billing and collection of all professional fees incurred for the Intensivist Services provided to Hospital patients by Group's Physicians. The Hospital shall not assume responsibility for the billing or collection of the professional fees associated with the Intensivist Services. The Group shall be responsible for establishing the schedule of charges for the professional fees, subject to Section I.F.II. of the Agreement. Group shall use commercially reasonable efforts to bill and collect, or arrange for billing and collection of, all professional fees incurred for Intensivist Services. The term "Collections" shall be defined as

all funds collected, on a cash basis, by Group for Services provided to Hospital during and after the term of this Agreement. All Collections received by Group shall be the sole property of Group and retained by Groups as additional compensation under this Agreement. Notwithstanding anything to the contrary, under no circumstances shall Group's total compensation under this Attachment 2 exceed the fair market value for the Intensivist Services performed by Group and its Physicians.

- g. The Hospital will bill and collect for all technical (otherwise known as "facility") fees for Intensivist Services provided in or at the Hospital. Group shall not assume responsibility for the billing or collection of the technical fees associated with the Intensivist Services rendered by a Physician of Group. The Hospital shall establish the technical fees to be charged to Hospital patients for services provided by the Hospital.
2. **ICU Supplemental Staffing Fee.** Hospital shall pay Group for Group's total costs actually incurred to provide Supplemental Staffing, plus a 7% corporate allocation ("Supplemental Staffing Fee") for Supplemental Staffing services. Group shall invoice the Hospital on a monthly basis for such Supplemental Staffing fees and provide Hospital with reasonable documentation evidencing Group's costs for such month. Hospital shall remit payment within sixty (60) days of the end of each month, unless there is a disputed amount in which case Hospital shall pay undisputed amounts pending resolution of the disputed amounts.



**SCHEDULE I****First Year Pro Forma****Pro Forma**

Medical Center of Southeast Texas

|                                   | Beaumont ED        | Port Arthur ED   | MC ICU             | MC HM                | Total                |
|-----------------------------------|--------------------|------------------|--------------------|----------------------|----------------------|
| Direct Cost Guarantee             | (\$2,098,648)      | (\$2,970,658)    | (\$1,299,535)      | (\$2,100,764)        | (\$8,469,605)        |
| Base Management Service Fees      | (\$150,000)        | (\$270,000)      | (\$100,547)        | (\$180,000)          | (\$700,547)          |
| Est. Billing and Collection Fees  | (\$102,435)        | (\$234,546)      | (\$36,302)         | (\$68,725)           | (\$442,008)          |
| Est. Professional Fee Collections | \$1,707,251        | \$3,909,105      | \$605,034          | \$1,145,416          | \$7,366,805          |
| <b>Est. Base Hospital Subsidy</b> | <b>(\$643,832)</b> | <b>\$433,901</b> | <b>(\$831,350)</b> | <b>(\$1,204,073)</b> | <b>(\$2,245,355)</b> |

| <b>Incentive Fees</b> |             |             |           |             |             |
|-----------------------|-------------|-------------|-----------|-------------|-------------|
| HNI Incentive         | (\$125,000) | (\$225,000) | (50,000)  | (\$150,000) | (\$550,000) |
| Provider Incentive    | \$0         | \$0         | (100,000) | (\$125,000) | (\$225,000) |

| <b>Hospital Subsidy w/ Incentives</b>              |                    |                  |                    |                      |                      |
|--|--------------------|------------------|--------------------|----------------------|----------------------|
| <b>Est. Total Hospital Subsidy with Incentives</b> | <b>(\$768,832)</b> | <b>\$208,901</b> | <b>(\$981,350)</b> | <b>(\$1,479,073)</b> | <b>(\$3,020,355)</b> |
| One-time Implementation Fee                        | \$-                | \$-              | \$-                | \$-                  | \$0                  |

**HM ROI Projection** (2,439 Cases, \$600 LDC and \$6,189 SDA)

|                      | Baseline | Projection | Improvement    | ROI                |
|----------------------|----------|------------|----------------|--------------------|
| Case Mix Index (CMI) | 1.55     | 1.65       | 0.10 Increase  | \$1,509,378        |
| Length of Stay (LOS) | 0.63     | 0.13       | 0.50 Reduction | \$731,700          |
| <b>Total</b>         |          |            |                | <b>\$2,241,078</b> |

# Pro Forma

## Medical Center of Southeast Texas

|                           | Beaumont ED | Port Arthur ED | MC ICU      | MC HM       | Total       |
|---------------------------|-------------|----------------|-------------|-------------|-------------|
| Management Fee            | \$2,500     | \$2,500        | -           | \$2,500     |             |
| Subsidy per MD Equivalent | (\$128,766) | \$61,986       | (\$415,675) | (\$240,815) | (\$118,177) |
| Hospital Data-ADE         | 35.00       | 85.00          | 12.00       | 37.00       | 169.00      |
| Coll/Enc                  | \$133.64    | \$126.00       | \$138.14    | \$84.81     |             |
| MD Daily Hours            | 24          | 24             | -           | -           |             |
| ML Daily Hours            | -           | 24             | -           | -           |             |

| Staffing                    |            |            |            |            |             |
|-----------------------------|------------|------------|------------|------------|-------------|
| Physician Medical Director  | 1.0        | 1.0        | 1.0        | 1.0        | 4.0         |
| Full-Time Day Physicians    | 4.0        | 4.0        | 1.0        | 3.0        | 12.0        |
| Nocturnists                 | 0.0        | 0.0        | 0.0        | 0.0        | 0.0         |
| Nurse Practitioners         | 0.0        | 4.0        | 0.0        | 2.0        | 6.0         |
| <b>Total Provider Count</b> | <b>5.0</b> | <b>9.0</b> | <b>2.0</b> | <b>6.0</b> | <b>22.0</b> |
| Administrators              | 0.0        | 0.0        | 1.0        | 1.0        | 2.0         |

| Base Comp                  |           |           |           |           |  |
|----------------------------|-----------|-----------|-----------|-----------|--|
| Med Directorship           | \$50,000  | \$50,000  | \$30,000  | \$40,000  |  |
| Physician Medical Director | \$422,096 | \$422,371 | \$530,000 | \$360,000 |  |
| Full-Time Day Physicians   | \$372,096 | \$372,371 | \$500,000 | \$320,000 |  |
| Nocturnists                | -         | -         | -         | -         |  |
| Nurse Practitioners        | \$164,250 | \$164,250 | -         | \$145,000 |  |
| Administrators             | -         | -         | \$25,000  | \$65,000  |  |

**EXHIBIT A**  
**MEDICAL ADMINISTRATIVE SERVICES – HM**

Administrative services will be provided by \_\_\_\_\_, or his or her successor subject to written approval of the Hospital (the "Medical Director"). The Medical Director or the Medical Director's designee shall manage the Hospitalist Program by providing and satisfying the Hospitalist Services and obligations to the Hospital for the benefit of the Hospital as follows:

a. Ensure the effective oversight of the details of scheduling, quality assurance, performance evaluation, and other administrative aspects of the management of this Agreement and the Hospitalist Program.

b. Participate in the Quality Assurance, case management, and utilization review programs of the Hospital. The Medical Director shall reasonably inform Hospital of any condition of personnel, equipment, supplies or facilities which may have an adverse impact upon patient care. The Medical Director may assist Hospital in the selection of non-physician personnel for Hospital and the selection of supplies and equipment, but final decisions shall be made by Hospital.

c. Meet from time to time as necessary with the Performance Improvement Committee of Hospital and prepare associated reports of Medical Director's activities in connection therewith. Items to be discussed by this committee include credentialing, equipment, technical or personnel problems and case reviews.

d. Participate in the development and operation of appropriate performance improvement and ongoing peer review procedures in order to meet Det Norske Veritas (DNV) standards.

e. Serve upon Hospital's Medical Staff committees upon reasonable request.

f. Participate in medical education programs sponsored by Hospital at the Hospital at least to the extent necessary to assure Hospital's compliance with accreditation requirements.

g. Assist in the development of policies and procedures for the Hospitalist Program, including, but not limited to, policies and procedures for referrals of patients to the care of an appropriate physician.

h. Oversee and supervise the clinical and medical operation of the Hospitalist Program and work with the Hospital regarding scheduling, equipment needs, the maintenance of adequate inventory of supplies for the performance of procedures, and all other activities of the Hospitalist Program.

i. Serve as a liaison between the Hospitalist Program and the Medical Staff.

j. Upon request, advise and assist Hospital administration in resolving concerns presented by the Hospital's Medical Staff, administrative personnel and others regarding the Hospitalist Program.



**EXHIBIT B**  
**MEDICAL ADMINISTRATIVE SERVICES - ICU**

Administrative services will be provided by \_\_\_\_\_, or his or her successor subject to written approval of the Hospital (the "Medical Director"). The Medical Director or the Medical Director's designee shall manage the Intensivist Program by providing and satisfying the Intensivist Services and obligations to the Hospital for the benefit of the Hospital as follows:

a. Ensure the effective oversight of the details of scheduling, quality assurance, performance evaluation, and other administrative aspects of the management of this Agreement and the Intensivist Program.

b. Post in a conspicuous space a schedule of physicians assigned to provide coverage for the Intensivist Program the succeeding calendar month within a reasonable time in advance of the beginning of each month during the term of this Agreement.

c. Develop a policy for the Physicians to govern the process for notification of the personal physician of a patient presented for medical care, if such physician is a member of Hospital's Medical Staff. If a patient does not have a personal physician who is a member of the Hospital's Medical Staff, Physicians shall refer the patient to the care of an appropriate physician in accordance with the policies and procedures for referrals promulgated by Hospital for the benefit of Hospital.

d. Provide consulting services upon request to the Hospital's case management department.

e. Participate in the Quality Assurance, case management and utilization review programs of Hospital. The Medical Director shall immediately inform Hospital of any condition of personnel, equipment, supplies or facilities which may have an adverse impact upon patient care. The Medical Director may assist in the selection of non-physician personnel for Hospital and the selection of supplies and equipment, but final decisions shall be made by Hospital.

f. Meet from time to time as necessary with the Performance Improvement Committee of Hospital and prepare associated reports of Medical Director's activities in connection therewith. Items to be discussed by this committee include credentialing, equipment, technical or personnel problems and case reviews.

g. Participate in the development and operation of appropriate performance improvement and ongoing peer review procedures in order to meet Det Norske Veritas (DNV) standards.

h. Serve upon Hospital's Medical Staff committees upon reasonable request.

i. Participate in medical education programs sponsored by Hospital at Hospital at least to the extent necessary to assure Hospital's compliance with accreditation requirements.

j. Assist in the development of policies and procedures for the Intensivist Program, including,

but not limited to, policies and procedures for referrals of patients to the care of an appropriate physician.

k. Oversee and supervise the clinical and medical operation of the Intensivist Program and work with Hospital regarding scheduling, equipment needs, the maintenance of adequate inventory of supplies for the performance of procedures and all other activities of the Intensivist Program.

l. Serve as a liaison between the Intensivist Program and the Medical Staff.

m. Upon request, advise and assist Hospital administration in resolving concerns presented by Hospital's Medical Staff, administrative personnel and others regarding the Intensivist Program.

**EXHIBIT C**

**Exceptions to Representations**

None.

**EXHIBIT D**

## ADT Messages

## Message Types

- A01 - Patient Admit
- A02 - Patient Transfer
- A03 - Patient Discharge
- A04 - Patient Registration
- A08 - Patient Information Update
- A13 – Cancel Discharge / End Visit

## Segments

| Identifier | Description                    | Optional |
|------------|--------------------------------|----------|
| <u>MSH</u> | Message Header                 | No       |
| <u>PID</u> | Patient Identification         | No       |
| <u>PD1</u> | Patient Additional Demographic | No       |
| <u>PV1</u> | Patient Visit                  | No       |
| <u>OBX</u> | Observation/Result             | Yes      |
| <u>DG1</u> | Diagnosis                      | Yes      |
| <u>GT1</u> | Guarantor                      | No       |
| <u>IN1</u> | Insurance                      | No       |
| <u>NTE</u> | Notes and Comments             | Yes      |
| <u>OBR</u> | Observation Request            | Yes      |

## Notes

- Fields not listed are not utilized by Vitals MD.
  - ex. Only MSH fields 1-10 are listed. Sending MSH.11 through MSH.21 will not cause the process to fail, but they will be ignored.
- Fields without a data type are not utilized by Vitals MD so a particular format is not required.
- Failure to include a field and component marked as non-optional will cause a message to be rejected.
- Optional fields and components that are flagged as utilized will be read by VitalsMD but are not required.



## Segments

### MSH - Message Header

| Sequence | Name                          | Optional | Utilized | Data Type               |
|----------|-------------------------------|----------|----------|-------------------------|
| MSH.01   | Field Separator               | No       | Yes      | <a href="#">ST</a> - 1  |
| MSH.02   | Encoding Characters           | No       | Yes      | <a href="#">ST</a> - 4  |
| MSH.03   | Sending Application           | No       | Yes      | <a href="#">HD</a>      |
| MSH.04   | Sending Facility <sup>1</sup> | No       | Yes      | <a href="#">HD</a>      |
| MSH.05   | Receiving Application         | Yes      | No       |                         |
| MSH.06   | Receiving Facility            | Yes      | No       |                         |
| MSH.07   | Date/Time of Message          | No       | Yes      | <a href="#">TS</a>      |
| MSH.08   | Security                      | Yes      | No       |                         |
| MSH.09   | Message Type                  | No       | Yes      | <a href="#">MSG</a>     |
| MSH.10   | Message Control ID            | No       | Yes      | <a href="#">ST</a> - 20 |

### PID - Patient Identification

| Sequence | Name                       | Optional | Utilized | Data Type               |
|----------|----------------------------|----------|----------|-------------------------|
| PID.01   | Set ID - PID               | No       | Yes      | <a href="#">SI</a>      |
| PID.02   | Patient ID                 | Yes      | Yes      | <a href="#">CX</a>      |
| PID.03   | Patient Identifier List    | No       | Yes      | <a href="#">CX</a>      |
| PID.04   | Alternate Patient ID - PID | Yes      | No       | <a href="#">CX</a>      |
| PID.05   | Patient Name               | No       | Yes      | <a href="#">XPN</a>     |
| PID.06   | Mother's Maiden Name       | Yes      | No       |                         |
| PID.07   | Date/Time of Birth         | No       | Yes      | <a href="#">TS</a>      |
| PID.08   | Administrative Sex         | No       | Yes      | <a href="#">IS</a>      |
| PID.09   | Patient Alias              | Yes      | No       |                         |
| PID.10   | Race                       | Yes      | No       |                         |
| PID.11   | Patient Address            | No       | Yes      | <a href="#">XAD</a>     |
| PID.12   | County Code                | Yes      | No       |                         |
| PID.13   | Phone Number - Home        | No       | Yes      | <a href="#">XTN</a>     |
| PID.14   | Phone Number - Business    | Yes      | No       |                         |
| PID.15   | Primary Language           | Yes      | No       |                         |
| PID.16   | Marital Status             | No       | Yes      | <a href="#">CE</a>      |
| PID.17   | Religion                   | Yes      | No       |                         |
| PID.18   | Patient Account Number     | No       | Yes      | <a href="#">CX</a>      |
| PID.19   | SSN Number - Patient       | Yes      | Yes      | <a href="#">ST</a> - 16 |

<sup>1</sup> Mnemonics for facilities should be provided.



## PD1 - Patient Additional Demographic

| Identifier | Description                   | Optional | Utilized | Data Type           |
|------------|-------------------------------|----------|----------|---------------------|
| PD1.1      | Living Dependency             | Yes      | No       |                     |
| PD1.2      | Living Arrangement            | Yes      | No       |                     |
| PD1.3      | Patient Primary Facility      | Yes      | No       |                     |
| PD1.4      | Patient Primary Care Provider | No       | Yes      | <a href="#">XCN</a> |

## PV1 - Patient Visit

| Sequence | Description               | Optional | Utilized | Data Type           |
|----------|---------------------------|----------|----------|---------------------|
| PV1.01   | Set ID - PV1              | No       | Yes      | <a href="#">SI</a>  |
| PV1.02   | Patient Class             | No       | Yes      | <a href="#">IS</a>  |
| PV1.03   | Assigned Patient Location | No       | Yes      | <a href="#">PL</a>  |
| PV1.04   | Admission Type            | Yes      | No       |                     |
| PV1.05   | Preadmit Number           | Yes      | No       |                     |
| PV1.06   | Prior Patient Location    | Yes      | No       |                     |
| PV1.07   | Attending Doctor          | No       | Yes      | <a href="#">XCN</a> |
| PV1.08   | Referring Doctor          | Yes      | Yes      | <a href="#">XCN</a> |
| PV1.09   | Consulting Doctor         | Yes      | Yes      | <a href="#">XCN</a> |
| PV1.10   | Hospital Service          | Yes      | No       |                     |
| PV1.11   | Temporary Location        | Yes      | No       |                     |
| PV1.12   | Preadmit Test Indicator   | Yes      | No       |                     |
| PV1.13   | Re-admission Indicator    | Yes      | No       |                     |
| PV1.14   | Admit Source              | Yes      | No       |                     |
| PV1.15   | Ambulatory Status         | Yes      | No       |                     |
| PV1.16   | VIP Indicator             | Yes      | No       |                     |
| PV1.17   | Admitting Doctor          | Yes      | Yes      | <a href="#">XCN</a> |
| PV1.18   | Patient Type              | No       | Yes      | <a href="#">IS</a>  |
| PV1.19   | Visit Number              | Yes      | No       |                     |
| PV1.20   | Financial Class           | Yes      | No       |                     |
| PV1.21   | Charge Price Indicator    | Yes      | No       |                     |
| PV1.22   | Courtesy Code             | Yes      | No       |                     |
| PV1.23   | Credit Rating             | Yes      | No       |                     |
| PV1.24   | Contract Code             | Yes      | No       |                     |
| PV1.25   | Contract Effective Date   | Yes      | No       |                     |
| PV1.26   | Contract Amount           | Yes      | No       |                     |
| PV1.27   | Contract Period           | Yes      | No       |                     |
| PV1.28   | Interest Code             | Yes      | No       |                     |
| PV1.29   | Transfer to Bad Debt Code | Yes      | No       |                     |
| PV1.30   | Transfer to Bad Debt Date | Yes      | No       |                     |
| PV1.31   | Bad Debt Agency Code      | Yes      | No       |                     |

| Sequence | Description              | Optional | Utilized | Data Type  |
|----------|--------------------------|----------|----------|------------|
| PV1.32   | Bad Debt Transfer Amount | Yes      | No       |            |
| PV1.33   | Bad Debt Recovery Amount | Yes      | No       |            |
| PV1.34   | Delete Account Indicator | Yes      | No       |            |
| PV1.35   | Delete Account Date      | Yes      | No       |            |
| PV1.36   | Discharge Disposition    | Yes      | Yes      | <u>IS</u>  |
| PV1.37   | Discharged to Location   | Yes      | Yes      | <u>DLD</u> |
| PV1.38   | Diet Type                | Yes      | No       |            |
| PV1.39   | Servicing Facility       | Yes      | No       |            |
| PV1.40   | Bed Status               | Yes      | No       |            |
| PV1.41   | Account Status           | Yes      | No       |            |
| PV1.42   | Pending Location         | Yes      | No       |            |
| PV1.43   | Prior Temporary Location | Yes      | No       |            |
| PV1.44   | Admit Date/Time          | Yes      | Yes      | <u>TS</u>  |
| PV1.45   | Discharge Date/Time      | Yes      | Yes      | <u>TS</u>  |

## OBX - Observation/Result

| Identifier | Description                       | Optional | Utilized | Data Type         |
|------------|-----------------------------------|----------|----------|-------------------|
| OBX.01     | Set ID – OBX                      | No       | Yes      | <u>SI</u>         |
| OBX.02     | Value Type                        |          | No       |                   |
| OBX.03     | Observation Identifier            | Yes      | Yes      | <u>CE</u>         |
| OBX.04     | Observation Sub-ID                |          | No       |                   |
| OBX.05     | Observation Value                 | Yes      | Yes      | <u>ST</u> - 99999 |
| OBX.06     | Units                             | No       | Yes      | <u>CE</u>         |
| OBX.07     | References Range                  | Yes      | Yes      | <u>ST</u> - 60    |
| OBX.08     | Abnormal Flags                    | No       | Yes      | <u>IS</u>         |
| OBX.09     | Probability                       | Yes      | Yes      | <u>NM</u>         |
| OBX.10     | Nature of Abnormal Test           | Yes      | Yes      | <u>ID</u>         |
| OBX.11     | Observation Result Status         | Yes      | Yes      | <u>ID</u>         |
| OBX.12     | Effective Date of Reference Range | Yes      | Yes      | <u>TS</u>         |
| OBX.13     | User Defined Access Checks        |          | No       |                   |
| OBX.14     | Date/Time of the Observation      | Yes      | Yes      | <u>TS</u>         |
| OBX.15     | Producer's ID                     | No       | Yes      | <u>CE</u>         |
| OBX.16     | Responsible Observer              | Yes      | Yes      | <u>XCN</u>        |

## DG1 - Diagnosis

| Identifier | Description             | Optional | Utilized | Data Type      |
|------------|-------------------------|----------|----------|----------------|
| DG1.01     | Set ID - DG1            | No       | Yes      | <u>SI</u>      |
| DG1.02     | Diagnosis Coding Method | No       | Yes      | <u>ID</u>      |
| DG1.03     | Diagnosis Code - DG1    | No       | Yes      | <u>CE</u>      |
| DG1.04     | Diagnosis Description   | No       | Yes      | <u>ST</u> - 40 |



| Identifier | Description               | Optional | Utilized | Data Type           |
|------------|---------------------------|----------|----------|---------------------|
| DG1.05     | Diagnosis Date/Time       | No       | Yes      | <a href="#">IS</a>  |
| DG1.06     | Diagnosis Type            | No       | Yes      | <a href="#">IS</a>  |
| DG1.07     | Major Diagnostic Category | Yes      | No       |                     |
| DG1.08     | Diagnostic Related Group  | Yes      | No       |                     |
| DG1.09     | DRG Approval Indicator    | Yes      | No       |                     |
| DG1.10     | DRG Grouper Review Code   | Yes      | No       |                     |
| DG1.11     | Outlier Type              | Yes      | No       |                     |
| DG1.12     | Outlier Days              | Yes      | No       |                     |
| DG1.13     | Outlier Cost              | Yes      | No       |                     |
| DG1.14     | Grouper Version and Type  | Yes      | No       |                     |
| DG1.15     | Diagnosis Priority        | Yes      | No       |                     |
| DG1.16     | Diagnosing Clinician      | No       | Yes      | <a href="#">XCN</a> |

## GT1 - Guarantor

| Identifier | Description                         | Optional | Utilized | Data Type               |
|------------|-------------------------------------|----------|----------|-------------------------|
| GT1.01     | Set ID - GT1                        | No       | Yes      | <a href="#">SI</a>      |
| GT1.02     | Guarantor Number                    | Yes      | No       |                         |
| GT1.03     | Guarantor Name                      | No       | Yes      | <a href="#">XPN</a>     |
| GT1.04     | Guarantor Spouse Name               | Yes      | No       |                         |
| GT1.05     | Guarantor Address                   | No       | Yes      | <a href="#">XAD</a>     |
| GT1.06     | Guarantor Ph Num - Home             | No       | Yes      | <a href="#">XTN</a>     |
| GT1.07     | Guarantor Ph Num - Business         | Yes      | No       |                         |
| GT1.08     | Guarantor Date/Time of Birth        | No       | Yes      | <a href="#">IS</a>      |
| GT1.09     | Guarantor Administrative Sex        | No       | Yes      | <a href="#">IS</a>      |
| GT1.10     | Guarantor Type                      | Yes      | No       |                         |
| GT1.11     | Guarantor Relationship <sup>2</sup> | No       | Yes      | <a href="#">CE</a>      |
| GT1.12     | Guarantor SSN                       | No       | Yes      | <a href="#">ST - 11</a> |
| GT1.13     | Guarantor Date - Begin              | Yes      | No       |                         |
| GT1.14     | Guarantor Date - End                | Yes      | No       |                         |
| GT1.15     | Guarantor Priority                  | No       | Yes      | <a href="#">NM</a>      |
| GT1.16     | Guarantor Employer Name             | No       | Yes      | <a href="#">XPN</a>     |
| GT1.17     | Guarantor Employer Address          | No       | Yes      | <a href="#">XAD</a>     |
| GT1.18     | Guarantor Employer Phone Number     | Yes      | No       |                         |

## IN1 - Insurance

| Identifier | Description       | Optional | Utilized | Data Type          |
|------------|-------------------|----------|----------|--------------------|
| IN1.01     | Set ID - IN1      | No       | Yes      | <a href="#">SI</a> |
| IN1.02     | Insurance Plan ID | No       | Yes      | <a href="#">CE</a> |

<sup>2</sup> Identifier abbreviation and text value should be provided.

| Identifier | Description                                    | Optional | Utilized | Data Type               |
|------------|--|----------|----------|-------------------------|
| IN1.03     | Insurance Company ID                           | No       | Yes      | <a href="#">CX</a>      |
| IN1.04     | Insurance Company Name                         | No       | Yes      | <a href="#">XON</a>     |
| IN1.05     | Insurance Company Address                      | No       | Yes      | <a href="#">XAD</a>     |
| IN1.06     | Insurance Co Contact Person                    | Yes      | No       |                         |
| IN1.07     | Insurance Co Phone Number                      | No       | Yes      | <a href="#">XTN</a>     |
| IN1.08     | Group Number                                   | No       | Yes      | <a href="#">ST - 12</a> |
| IN1.09     | Group Name                                     | No       | Yes      | <a href="#">XON</a>     |
| IN1.10     | Insured's Group Emp ID                         | Yes      | No       |                         |
| IN1.11     | Insured's Group Emp Name                       | No       | Yes      | <a href="#">XON</a>     |
| IN1.12     | Plan Effective Date                            | Yes      | Yes      | <a href="#">DT</a>      |
| IN1.13     | Plan Expiration Date                           | Yes      | Yes      | <a href="#">DT</a>      |
| IN1.14     | Authorization Information                      | No       | Yes      | <a href="#">AUI</a>     |
| IN1.15     | Plan Type                                      | Yes      | No       |                         |
| IN1.16     | Name of Insured                                | No       | Yes      | <a href="#">XPN</a>     |
| IN1.17     | Insured's Relationship to Patient <sup>3</sup> | No       | Yes      | <a href="#">CE</a>      |
| IN1.18     | Insured's Date of Birth                        | No       | Yes      | <a href="#">TS</a>      |
| IN1.19     | Insured's Address                              | No       | Yes      | <a href="#">XAD</a>     |
| IN1.20     | Assignment of Benefits                         | Yes      | No       |                         |
| IN1.21     | Coordination of Benefits                       | Yes      | No       |                         |
| IN1.22     | Coord of Ben. Priority                         | Yes      | No       |                         |
| IN1.23     | Notice of Admission Flag                       | Yes      | No       |                         |
| IN1.24     | Notice of Admission Date                       | Yes      | No       |                         |
| IN1.25     | Report of Eligibility Flag                     | Yes      | No       |                         |
| IN1.26     | Report of Eligibility Date                     | Yes      | No       |                         |
| IN1.27     | Release Information Code                       | Yes      | No       |                         |
| IN1.28     | Pre-Admit Cert (PAC)                           | Yes      | No       |                         |
| IN1.29     | Verification Date/Time                         | Yes      | No       |                         |
| IN1.30     | Verification By                                | Yes      | No       |                         |
| IN1.31     | Type of Agreement Code                         | Yes      | No       |                         |
| IN1.32     | Billing Status                                 | Yes      | No       |                         |
| IN1.33     | Lifetime Reserve Days                          | Yes      | No       |                         |
| IN1.34     | Delay Before L.R. Day                          | Yes      | No       |                         |
| IN1.35     | Company Plan Code                              | Yes      | No       |                         |
| IN1.36     | Policy Number                                  | No       | Yes      | <a href="#">ST - 15</a> |
| IN1.37     | Policy Deductible                              | Yes      | No       |                         |
| IN1.38     | Policy Limit - Amount                          | Yes      | No       |                         |
| IN1.39     | Policy Limit - Days                            | Yes      | No       |                         |
| IN1.40     | Room Rate - Semi-Private                       | Yes      | No       |                         |
| IN1.41     | Room Rate - Private                            | Yes      | No       |                         |

<sup>3</sup> Identifier abbreviation and text value should be provided.



| Identifier | Description                  | Optional | Utilized | Data Type  |
|------------|------------------------------|----------|----------|------------|
| IN1.42     | Insured's Employment Status  | Yes      | No       |            |
| IN1.43     | Insured's Administrative Sex | Yes      | Yes      | <u>IS</u>  |
| IN1.44     | Insured's Employer's Address | No       | Yes      | <u>XAD</u> |

## NTE - Notes and Comments

| Identifier | Description       | Optional | Utilized | Data Type |
|------------|-------------------|----------|----------|-----------|
| NTE.1      | Set ID            | No       | Yes      | <u>SI</u> |
| NTE.2      | Source of Comment | No       | Yes      | <u>ID</u> |
| NTE.3      | Comment           | No       | Yes      | <u>FT</u> |

## OBR – Observation Request

| Identifier | Description                   | Optional | Utilized | Data Type  |
|------------|-------------------------------|----------|----------|------------|
| OBR.1      | Set ID                        | No       | Yes      | <u>SI</u>  |
| OBR.2      | Placer Order Number           | Yes      | No       |            |
| OBR.3      | Filler Order Number           | Yes      | No       |            |
| OBR.4      | Universal Service Identifier  | Yes      | No       |            |
| OBR.5      | Priority                      | Yes      | No       |            |
| OBR.6      | Requested Date/Time           | Yes      | No       |            |
| OBR.7      | Observation Date/Time         | No       | Yes      | <u>TS</u>  |
| OBR.8      | Observation End Date/Time     | Yes      | No       |            |
| OBR.9      | Collection Volume             | Yes      | No       |            |
| OBR.10     | Collector Identifier          | Yes      | No       |            |
| OBR.11     | Specimen Action Code          | Yes      | No       |            |
| OBR.12     | Danger Code                   | Yes      | No       |            |
| OBR.13     | Relevant Clinical Information | Yes      | No       |            |
| OBR.14     | Specimen Received Date/Time   | Yes      | No       |            |
| OBR.15     | Specimen Source               | Yes      | No       |            |
| OBR.16     | Ordering Provider             | No       | Yes      | <u>XCN</u> |

## Data Types

### AUI - Authorization Information

| Identifier | Description          | Optional | Utilized | Data Type               |
|------------|----------------------|----------|----------|-------------------------|
| AUI.01     | Authorization Number | No       | Yes      | <a href="#">ST</a> - 30 |

### CE - Coded Element

| Identifier | Description                     | Optional | Utilized | Data Type                |
|------------|---------------------------------|----------|----------|--------------------------|
| CE.01      | Identifier                      | No       | Yes      | <a href="#">ST</a> - 20  |
| CE.02      | Text                            | Yes      | Yes      | <a href="#">ST</a> - 199 |
| CE.03      | Name of Coding System           | Yes      | No       | <a href="#">ID</a>       |
| CE.04      | Alternate Identifier            | Yes      | No       | <a href="#">ST</a> - 20  |
| CE.05      | Alternate Text                  | Yes      | No       | <a href="#">ST</a> - 199 |
| CE.06      | Name of Alternate Coding System | Yes      | No       | <a href="#">ID</a>       |

### CX - Extended Composite ID

| Identifier | Description | Optional | Utilized | Data Type               |
|------------|-------------|----------|----------|-------------------------|
| CX.01      | Id Number   | No       | Yes      | <a href="#">ST</a> - 15 |

### DLD - Discharge Location and Date

| Identifier | Description        | Optional | Utilized | Data Type          |
|------------|--------------------|----------|----------|--------------------|
| DLD.01     | Discharge Location | No       | Yes      | <a href="#">IS</a> |
| DLD.02     | Effective Date     | Yes      | No       |                    |

### DT - Date

VitalsMD supports most common date formats, but yyyyMMdd is preferred.

### DTM - Date/Time

VitalsMD supports most common date and time formats, but yyyyMMddHHmmss preferred.

### FT - Formatted Text Data

Treated as a string by VitalsMD.

### FN - Family Name

| Identifier | Description | Optional | Utilized | Data Type               |
|------------|-------------|----------|----------|-------------------------|
| FN.1       | Surname     | No       | Yes      | <a href="#">ST</a> - 50 |

### HD - Hierarchic Designator

| Identifier | Description  | Optional | Utilized | Data Type          |
|------------|--------------|----------|----------|--------------------|
| HD.01      | Namespace Id | No       | Yes      | <a href="#">IS</a> |



| Identifier | Description               | Optional | Utilized | Data Type       |
|------------|---------------------------|----------|----------|-----------------|
| HD.02      | Universal Id <sup>4</sup> | Yes      | Yes      | <u>ST</u> - 199 |
| ND.03      | Universal Id Type         | No       | No       |                 |

ID - Coded values for HL7 tables

Treated by VitalsMD as a string value.

IS - Coded Value for User-Defined Tables

String value from reference table.

MSG - Message Type

| Identifier | Description       | Optional | Utilized | Data Type |
|------------|-------------------|----------|----------|-----------|
| MSG.01     | Message Code      | No       | Yes      | <u>ID</u> |
| MSG.02     | Trigger Event     | No       | Yes      | <u>ID</u> |
| MSG.03     | Message Structure | Yes      | No       |           |

NM - Numeric

A number with optional leading sign (+ or -) and optional decimal point. Values without leading sign are assumed to be positive and values without a decimal are treated as integers.

PL - Person Location

| Identifier | Description   | Optional | Utilized | Data Type |
|------------|---------------|----------|----------|-----------|
| PL.01      | Point of Care | No       | Yes      | <u>IS</u> |
| PL.02      | Room          | No       | Yes      | <u>IS</u> |
| PL.03      | Bed           | Yes      | Yes      | <u>IS</u> |

SAD - Street Address

| Identifier | Description               | Optional | Utilized | Data Type       |
|------------|---------------------------|----------|----------|-----------------|
| SAD.1      | Street or Mailing Address | No       | Yes      | <u>ST</u> - 120 |
| SAD.2      | Street Name               | No       | Yes      | <u>ST</u> - 50  |
| SAD.3      | Dwelling Number           | Yes      | Yes      | <u>ST</u> - 12  |

SI - Set ID

A non-negative integer between 0 and 9999.

ST - String Data

Character string. The number after the dash is the max length of the string.

<sup>4</sup> Value is preferred in HD.02 but can be read from HD.01.

## TS - Time Stamp

| Identifier | Description         | Optional | Utilized | Data Type           |
|------------|---------------------|----------|----------|---------------------|
| TS.01      | Time                | No       | Yes      | <a href="#">DTM</a> |
| TS.02      | Degree of Precision | No       | No       |                     |

## XAD - Extended Address

| Identifier | Description        | Optional | Utilized | Data Type                |
|------------|--------------------|----------|----------|--------------------------|
| XAD.01     | Street Address     | No       | Yes      | <a href="#">SAD</a>      |
| XAD.02     | Other Designation  | Yes      | Yes      | <a href="#">ST - 120</a> |
| XAD.03     | City               | No       | Yes      | <a href="#">ST - 50</a>  |
| XAD.04     | State or Province  | No       | Yes      | <a href="#">ST - 50</a>  |
| XAD.05     | Zip or Postal Code | No       | Yes      | <a href="#">ST - 12</a>  |

## XCN - Extended Composite ID Number &amp; Name for Persons

| Identifier | Description                      | Optional | Utilized | Data Type               |
|------------|----------------------------------|----------|----------|-------------------------|
| XCN.01     | Id Number                        | No       | Yes      | <a href="#">ST - 15</a> |
| XCN.02     | Family Name                      | No       | Yes      | <a href="#">FN</a>      |
| XCN.03     | Given Name                       | No       | Yes      | <a href="#">ST - 30</a> |
| XCN.04     | Second and Further...            | Yes      | No       |                         |
| XCN.05     | Suffix (e.g., Jr or III)         | Yes      | No       |                         |
| XCN.06     | Prefix (e.g., Dr)                | Yes      | No       |                         |
| XCN.07     | Degree (e.g., Md)                | Yes      | No       |                         |
| XCN.08     | Source Table                     | Yes      | No       |                         |
| XCN.09     | Assigning Authority <sup>5</sup> | No       | Yes      | <a href="#">HD</a>      |

## XON - Extended Composite ID Number &amp; Name for Organizations

| Identifier | Description       | Optional | Utilized | Data Type               |
|------------|-------------------|----------|----------|-------------------------|
| XON.01     | Organization Name | No       | Yes      | <a href="#">ST - 50</a> |

## XPN - Extended Person Name

| Identifier | Description           | Optional | Utilized | Data Type               |
|------------|-----------------------|----------|----------|-------------------------|
| XPN.01     | Family Name           | No       | Yes      | <a href="#">FN</a>      |
| XPN.02     | Given Name            | No       | Yes      | <a href="#">ST - 30</a> |
| XPN.03     | Second and Further... | Yes      | Yes      | <a href="#">ST - 30</a> |

## XTN - Extended Telecommunication Number

| Identifier | Description      | Optional | Utilized | Data Type                |
|------------|------------------|----------|----------|--------------------------|
| XTN.01     | Telephone Number | No       | Yes      | <a href="#">ST - 199</a> |

<sup>5</sup> NPI strongly preferred.



## Requested Data Fields

| Data Element                        | Description  | Preferred Data Format | Optional |
|-------------------------------------|--|-----------------------|----------|
| <b>Facility Name</b>                | Name of Facility Sending Data                                |                       | No       |
| <b>Account Number</b>               | Patient Account Number                                       |                       | No       |
| <b>MRN</b>                          | Patient Medical Record Number                                |                       | No       |
| <b>Sex/Gender</b>                   | Patient Gender   |                       | Yes      |
| <b>Birthdate or Age</b>             | Patient Birthdate  | mm/dd/yy              | No       |
| <b>Patient Status</b>               | Patient Status at Discharge                                  | IP/OBS/OP/ICU         | No       |
| <b>Admit Date</b>                   | Admit Date   | mm/dd/yy              | No       |
| <b>Discharge Date</b>               | Discharge Date   | mm/dd/yy              | No       |
| <b>Discharge Time</b>               | Discharge Time   | hh:mm:ss              | No       |
| <b>Length of Stay</b>               | Length of Stay   | dd                    | No       |
| <b>OBS Date</b>                     | Observation Date   | mm/dd/yy              | Yes      |
| <b>OBS Time</b>                     | Observation Time   | hh:mm:ss              | Yes      |
| <b>Admitting Provider</b>           | Admitting Provider   | Lastname, Firstname   | Yes      |
| <b>Admitting Provider NPI</b>       | Admitting Provider NPI                                       | #####                 | Yes      |
| <b>Admitting Provider Specialty</b> | Admitting Provider Specialty                                 |                       | No       |
| <b>Attending Provider</b>           | Attending Provider   | Lastname, Firstname   | No       |
| <b>Attending Provider NPI</b>       | Attending Provider NPI                                       | #####                 | No       |
| <b>Attending Provider Specialty</b> | Attending Provider Specialty                                 |                       | No       |
| <b>Discharge Disposition</b>        | Where patient is being discharged to (Home, LAMA, SNF, etc.) |                       | No       |
| <b>Discharge Location</b>           | Location Name  |                       | No       |
| <b>Discharge Facility Name</b>      |  |                       | No       |

|                              |                                  |                     |     |
|------------------------------|----------------------------------|---------------------|-----|
| <b>DRG Final</b>             | Final Hospital Coded DRG         | ###                 | No  |
| <b>DRG Final Description</b> | DRG Description                  |                     | Yes |
| <b>Primary Care Provider</b> | Patients Primary Care Provider   | Lastname, Firstname | No  |
| <b>Referring Provider</b>    | Patients Referring Provider      | Lastname, Firstname | No  |
| <b>Financial Class</b>       | Patients Primary Financial Class |                     | No  |
| <b>Primary Diagnosis</b>     | Primary Patient Diagnosis        |                     | No  |
| <b>Consult Count</b>         | Total Consults Per Case          | ##                  | Yes |

## Data Requirements

### Data Transmission Timeframe

Data is required monthly for the previous month's discharged patients (regardless of admit date). HNI requests data between the 10<sup>th</sup>-15<sup>th</sup> of each month. In addition, HNI does request a 3-month lookback to capture any patients that may have not had a final DRG coded at time of data transmission.

*\*Please include uncoded cases.*

### Data Format

The following data formats are preferred but not limited to:

1. Excel
2. CSV (comma delimited)
3. Text (tab delimited)
4. HL7

### Data Transmission Mechanism

Data can be sent via various modes:

1. Monthly file to HNI Secure FTP
2. Custom Report available within EMR
3. VPN
4. Other mutually agreed upon option



## EXHIBIT E

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into on this 1st day of August, 2022 by and between The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas (the “Covered Entity”) and HNI Physician Services of Texas, Inc. (the “Business Associate”).

#### WITNESSETH

**WHEREAS**, Covered Entity and Business Associate have entered into, or plan to enter into, an agreement or other documented arrangement (the “Underlying Agreement”), pursuant to which Business Associate provides certain services (the “Services”) to Covered Entity;

**WHEREAS**, Covered Entity may Disclose to Business Associate Protected Health Information (“PHI”) as necessary for Business Associate to provide Services pursuant to the Underlying Agreement, and the Business Associate may Use and further Disclose such PHI, or create additional PHI, in the performance of such Services;

**WHEREAS**, Covered Entity and the Business Associate desire to set forth their respective rights and obligations with respect to the Use and Disclosure of PHI in order to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the regulations promulgated thereunder, including, without limitation, the regulations codified at 45 C.F.R. Parts 160 and 164 (“HIPAA Regulations”); the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), including all applicable regulations and guidance issued by the Secretary of the Department of Health and Human Services (“HHS”); and other applicable state laws, all as amended from time to time; and;

**WHEREAS**, the HIPAA Regulations require Covered Entity to enter into an agreement with Business Associate meeting certain requirements with respect to the Use and Disclosure of PHI, which are met by this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and the exchange of information pursuant to this Agreement, Business Associate and Covered Entity agree as follows:

1. **Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Regulations and/or the HITECH Act, as applicable.

1.1 **Breach:** “Breach” shall have the same meaning as the term “breach” has in 45 C.F.R. §164.402, wherein breach is defined to mean the acquisition, access, Use, or Disclosure of PHI in a manner not otherwise permitted under 45 C.F.R. Subpart E that compromises the security or privacy of the PHI.

The term Breach specifically excludes:

(i) Any unintentional acquisition, access, or Use of PHI by a workforce member or person acting under the authority of a Covered Entity or a Business Associate, if such acquisition, access, or Use was made in good faith and within the scope of authority and

does not result in further Use or Disclosure in a manner not permitted under 45 C.F.R. Subpart E.

(ii) Any inadvertent Disclosure by a person who is authorized to access PHI at a Covered Entity or Business Associate to another person authorized to access PHI at the same Covered Entity or Business Associate, or organized health care arrangement in which the Covered Entity participates, and the information received as a result of such Disclosure is not further Used or Disclosed in a manner not permitted under 45 C.F.R. Subpart E.

(iii) A Disclosure of PHI where a Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the Disclosure was made would not reasonably have been able to retain such information.

1.2 Breach Notification Rule: “Breach Notification Rule” shall mean the Notification of Breach of Unsecured PHI regulations at 45 C.F.R. Part 164, Subparts A and D.

1.3 Designated Record Set: “Designated Record Set” has the same meaning as the term “designated record set” has in 45 C.F.R. §164.501.

1.4 Individual: “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

1.5 Privacy Rule: “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E, as amended by the HITECH Act.

1.6 Protected Health Information: “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 C.F.R. §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.7 Required by Law: “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.

1.8 Secretary: “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.

1.9 Security Incident: “Security Incident” shall have the same meaning as “security incident” in 45 C.F.R. §164.304.

1.10 Security Rule: “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and C, as amended by the HITECH Act.

1.11 Unsecured Protected Health Information: "Unsecured Protected Health Information" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in regulations or as otherwise defined in 45 C.F.R. §164.402.

2. **Obligations and Activities of Business Associate.** The parties agree as follows:

2.1 Business Associate shall only Use and Disclose PHI in compliance with each applicable requirement of 45 C.F.R. § 164.504(e). Business Associate shall comply with all requirements of Subpart E of 45 C.F.R. related to privacy and applicable as if Business Associate were a "covered entity," as such term is defined in HIPAA.

2.2. Business Associate shall use reasonable and appropriate safeguards to prevent the Use or Disclosure of PHI other than as contemplated by the Underlying Agreement and this Agreement. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity and shall comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI.

2.3 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.4 Business Associate shall notify the Covered Entity in writing of any Security Incident or access, acquisition, Use or Disclosure that is not provided for by this Agreement without unreasonable delay and within five (5) business days of Business Associate's discovery of the Security Incident or non-permitted access, acquisition, Use or Disclosure. The initial notification shall include a brief description of the Security Incident or non-permitted access, acquisition, Use or Disclosure, which shall include (a) the date of the event, (b) the date of discovery, (c) the nature of the PHI involved, (d) the extent of the non-permitted access, acquisition, Use or Disclosure or Security Incident, and (e) the unauthorized person(s) who accessed, acquired, or Used the PHI or to whom the non-permitted Disclosure was made. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of Covered Entity's PHI that it discovers and shall conduct a risk assessment as set forth in 45 C.F.R. § 164.402. Business Associate shall document and retain records of its investigation of any non-permitted access, acquisition, Use or Disclosure or Security Incident, including its risk assessment and reports to Covered Entity under this Section 2.4. Upon request of Covered Entity, Business Associate shall furnish to Covered Entity the documentation of its investigation and risk assessment of whether such unauthorized access, acquisition, Use, or Disclosure constitutes a reportable Breach. If such Security Incident or non-permitted access, acquisition, Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.5 below.

2.5 If Business Associate concludes that a reportable Breach of Unsecured PHI has occurred, or Covered Entity makes such determination based on the Business Associate's investigation and risk assessment, Business Associate shall provide a written report to Covered Entity without unreasonable delay but no later than thirty (30) calendar days after discovery of the Breach. To the extent that



information is available to Business Associate, Business Associate's written report to Covered Entity shall be in accordance with 45 C.F.R. § 164.410(c). Covered Entity shall have sole control over the determination of whether Breach notification is required and the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media. Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations with respect to such a Breach. Business Associate shall reimburse Covered Entity for its reasonable costs, expenses, and damages (including reasonable attorney fees) arising from a Breach reported to the Covered Entity, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance for a period not to exceed one year) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

2.6 Business Associate shall require each agent and subcontractor that creates, maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such agents and subcontractors the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.

2.7 Business Associate agrees to provide access, at the reasonable request of Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. If Business Associate maintains PHI in an Electronic Health Record, Business Associate shall provide such information in the electronic form and format requested by Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by Covered Entity to enable Covered Entity to fulfill its obligations under 42 U.S.C. § 17935(e) and 45 C.F.R. § 164.524(c)(2).

2.8 Business Associate agrees to, at the request of the Covered Entity or an individual, promptly make any amendment(s) to the PHI that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526.

2.9 Business Associate agrees to make available to the Secretary during Business Associate's normal business hours, the internal practices, books, and records relating to the Use and Disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule. Except to the extent prohibited by law, Business Associate shall notify Covered Entity of such requests served upon Business Associate for information or documentation by or on behalf of the Secretary.

2.10 Business Associate agrees to document such Disclosures of PHI and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. § 164.528. If Business Associate maintains an Electronic Health Record on behalf of Covered Entity, then, Business Associate shall document Disclosures made through such Electronic Health Record for Treatment, Payment and Health Care Operations in compliance with 42 U.S.C. § 17935(c) and the implementing regulations.

2.11 Business Associate agrees to promptly provide to Covered Entity or an Individual information collected in accordance with the Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. §164.528.

3. **Permitted Uses and Disclosures by Business Associate.** Business Associate shall Use and Disclose PHI only for the purpose of performing Business Associate's obligations under the Underlying Agreement and as permitted by this Agreement or Required by Law.

3.1 Business Associate shall not Use or Disclose PHI in a manner that would violate the Privacy Rule if done by Covered Entity, except that Business Associate may Use PHI (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate, provided that with respect to any Disclosure by the Business Associate for such purposes, either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person shall hold the PHI in confidence and shall not Use and further Disclose such PHI except as Required by Law or for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person shall notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. Business Associate may also Use PHI for Data Aggregation purposes, if requested by Covered Entity, in connection with the Health Care Operations of Covered Entity. Business Associate is not authorized to Use the PHI to create de-identified information. To the extent that Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

3.2 Business Associate shall limit its Use, Disclosure or request for PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

3.3 Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity, consistent with 42 U.S.C. § 17935(d)(2) and 45 C.F.R. § 164.502(a)(5)(ii), except with the prior written consent of the individual in accordance with 45 C.F.R. § 164.508(a)(4).

3.4 Business Associate shall not Use or Disclose PHI for fundraising purposes or for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or Use the product or service, unless such communication: (1) complies with the requirements of subparagraph (i), (ii) or (iii) of paragraph (1) of the definition of marketing contained in 45 C.F.R. § 164.501, and (2) complies with the requirements of subparagraphs (A), (B) or (C) of Section 42 U.S.C. §17936, 45 C.F.R. §§ 164.524(f) and 164.508(a)(3)(ii), and any other implementing regulations or guidance that may be issued or amended from time to time.

3.5 Business Associate shall not Disclose PHI to a health plan for payment or Health Care Operations purposes if and to the extent that Covered Entity has informed Business Associate that the patient has requested this special restriction, and has paid out of pocket in full for the health care item or

service to which the PHI solely relates, consistent with 42 U.S.C. § 17935(a) and 42 C.F.R. § 164.522(a)(1)(vi).

3.6 Business Associate may Use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §164.502(j)(1).

4. **Obligations of Covered Entity.** Covered Entity agrees as follows:

4.1 Covered Entity shall notify Business Associate of any limitations in its Notice of Privacy Practices of Covered Entity in accordance with 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

4.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to Use or Disclose PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

4.3 Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

5. **Term and Termination.** The parties agree as follows:

5.1 Term. This Agreement shall become effective as of the date of execution of this Agreement by Covered Entity and shall terminate as of the termination date of the Underlying Agreement or on the date that the Covered Entity terminates for cause as authorized in Section 5.2, whichever is sooner.

5.2 Termination for Cause.

2.1 A breach or violation by Business Associate of any provision of this Agreement, as determined by Covered Entity, shall constitute a breach of the Underlying Agreement and shall provide grounds for termination of the Underlying Agreement by Covered Entity.

2.2 Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall notify Business Associate and provide a reasonable time for Business Associate to cure the breach. If Business Associate does not cure the breach within such reasonable time, or if cure is not feasible, Covered Entity may terminate the Services immediately. If termination is not feasible, Covered Entity shall report the problem to the Secretary of Health and Human Services.

6. **Effect of Termination.** It is agreed and understood that, upon termination of this Agreement, Business Associate shall either return or destroy all PHI received from, or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form. Business Associate shall retain no copies of such information. If for any reason, such return or destruction is infeasible, Business Associate shall (a) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that the Business Associate still maintains in any form; (c) continue



to extend the protections of this Agreement to the PHI for as long as Business Associate retains the PHI; (d) limit any further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the information infeasible and subject to the same conditions set out at Section 3 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

## 7. Miscellaneous.

7.1 Regulatory References. A reference in this Agreement to a section in the Privacy, Breach Notification, or Security Rules means the section as in effect or as amended, and for which compliance is required.

7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the parties to comply with the requirements of HIPAA, the HIPAA Regulations, or the HITECH Act.

7.3 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA, the HIPAA Regulations, and the HITECH Act.

7.4 Survival. The respective rights and obligations of Business Associate shall survive the termination of this Agreement as long as Business Associate and its subcontractors or agents are in possession of any Covered Entity's PHI.

7.5 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Texas.

7.6 No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

7.7 State Laws. Business Associate shall comply with all applicable state laws governing the protection and use of PHI.

7.8 Notices. All notices required or permitted under this Agreement shall be in writing and sent to the other party as directed below or as otherwise directed by either party, from time to time, by written notice to the other. All such notices shall be deemed validly given upon receipt of such notice by certified mail, postage prepaid, facsimile transmission or personal or courier delivery:

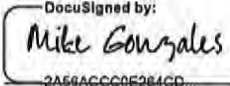
If to Business Associate:      HNI Physician Services of Texas, Inc.  
7500 Rialto Blvd., Bldg. 1, Ste. 140  
Austin, Texas 78735  
Attn: Merced Gonzales, CIO/CTO

If to Covered Entity: The Medical Center of Southeast Texas  
2555 Jimmy Johnson Blvd.  
Port Arthur, TX 77640  
Attn: President

With a Copy To: Steward Health Care System LLC  
1900 N. Pearl Street, Suite 2400  
Dallas, TX 75201  
Attn: General Counsel

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

**BUSINESS ASSOCIATE:**  
**HNI Physician Services of Texas, Inc.**

By:   
DocuSigned by:  
2A56ACCC0E284CD...  
Michael Gonzales, CEO

**COVERED ENTITY:**  
**The Medical Center of Southeast Texas, LP d/b/a**  
**The Medical Center of Southeast Texas**

By:   
Sanjay K. Shetty, MD, MBA  
President

# EXHIBIT 3

# The Medical Center of Southeast Texas

A STEWARD FAMILY HOSPITAL



October 9, 2023

*Via Certified Mail  
Return Receipt Requested*

Michael Gonzales, CEO  
HNI Physician Services of Texas, Inc.  
7500 Rialto Blvd., Bldg. 1, Ste. 140  
Austin, Texas 78735

**Re: Professional Services Agreement for Hospital Medicine Services**

Dear Mr. Gonzales:

This Letter ("Termination Letter") is intended to serve as notice to you that The Medical Center of Southeast Texas, LP ("Hospital") is terminating the Professional Services Agreement to provide Hospital Medicine Services ("Agreement") dated October 1, 2022, by and between Hospital and HNI Physician Services of Texas, Inc. *[as amended by that First Amendment to the Professional Services Agreement ("Amendment"), dated May 1, 2023]*. As permitted under Section IV, Subsection D of the Agreement, Hospital's termination shall be effective as of January 8, 2024.

Feel free to contact me at (409) 853-5900 if you have any questions regarding the contents of this Termination Letter.

Sincerely,



Josh Snow  
President

# EXHIBIT 4



October 17, 2023

**Via Email & FedEx**

The Medical Center of Southeast Texas, LP  
Attention: Josh Snow, CEO  
2555 Jimmy Johnson Boulevard  
Port Arthur, Texas 77640  
[Josh.Snow@steward.org](mailto:Josh.Snow@steward.org)

Re: **NOTICE OF BREACH OF PROFESSIONAL SERVICES AGREEMENT** between The Medical Center of Southeast Texas, LP and HNI Physicians Services of Texas, Inc.

**NOTICE OF BREACH OF MANAGEMENT AGREEMENT** between The Medical Center of Southeast Texas LP d/b/a The Medical Center of Southeast Texas and HNI MSO, Inc.

Dear Mr. Snow:

Reference is made to the Professional Services Agreement (the "PSA") dated May 1, 2022, by and between HNI Physician Services of Texas, Inc. and The Medical Center of Southeast Texas ("TMC"); and the Management Agreement dated December 1, 2020, by and between HNI MSO, Inc. and TMC (the "MSA").

In accordance with Section IV(C) of the PSA, HNI Physician Services of Texas, Inc. hereby notifies you that you are in material breach of Section II(A); Section B of Attachment 1; and Section B of Attachment 2 of the PSA. Specifically, TMC has failed to render payment for services identified on the following invoices: #INV7339; #INV7469; #INV7588; and #INV7613.

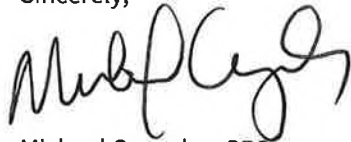
In accordance with Section IV(C) of the MSA, HNI MSO, Inc. hereby notifies you that you are in material breach of Section II(A) and Exhibit A of the MSA. Specifically, TMC has failed to render payment for services identified on the following invoice: #INV7343.

We hereby demand that you immediately render payment in the amount of **\$484,297.17**. Moreover, we hereby notify you under Section IV(C) of the PSA and Section IV(D) of the MSA that if you fail to cure the material breaches within thirty (30) days of receipt of this letter, HNI reserves any and all rights as afforded within the PSA and MSA, including the immediate termination of services at midnight on January 15, 2024.

Please direct any questions to Michael Gonzales, CEO, at [mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com) or Oon Soo Ung, CFO, at [oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com).

This notice is without prejudice to any of our rights, powers, privileges, remedies, and defense, now existing or hereafter arising, all of which are hereby expressly reserved.

Sincerely,



Michael Gonzales, CEO

cc: **Via FedEx**  
Steward Health Care System, LLC  
1900 N. Pearl Street, Suite 2400  
Dallas, Texas 75201  
Attention: General Counsel

# EXHIBIT 5





February 1, 2023

***Via Email & FedEx***

Joseph.deschryver@steward.org  
Steward Health Care System, LLC  
Attention: Joseph DeSchryver, President – South Region  
1900 N. Pearl Street #2400  
Dallas, Texas 75201

Re: **PAST DUE INVOICES** owed to HNI Medical Services at Glenwood & HNI of Louisiana, Inc.  
**PAST DUE INVOICES** owed to HNI Physician Services of Texas, Inc. & HNI MSO, Inc.  
(collectively referred to as “HNI”)

Dear Joseph:

HNI has been a dedicated partner to various Steward facilities delivering quality health care services to Steward and its surrounding communities for almost one decade. Since 2014, HNI has provided hospitalist, intensivist, and management services (collectively referred to as “Services”) at Glenwood Regional Medical Center (“GRMC”) in West Monroe, Louisiana, pursuant to the Professional Services Agreement (effective October 1, 2014) and the Management Agreement (effective May 23, 2015). In October 2015, HNI expanded its Services to St. Joseph Medical Center (“SJMC”) in Houston, Texas, pursuant to the Management Agreement (effective July 1, 2016) and the current Professional Services Agreement (effective April 1, 2021). And in 2020, HNI further expanded its Services to The Medical Center of Southeast Texas (“SETX”) in Beaumont-Port Arthur, Texas pursuant to the Management Agreement (effective October 1, 2020) and the Professional Services Agreement (effective May 1, 2022). In each of these Agreements, Steward agreed to compensate HNI for these Services.<sup>1</sup>

HNI has made numerous attempts to work collaboratively with Steward leadership to collect payment on past due invoices which date back to October 2022 and continue to accrue. Below is a summary of our unpaid and past due balances:

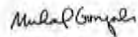
- **GRMC Past Due Balance: \$1,342,672.89**
- **SJMC Past Due Balance: \$916,107.24**
- **SETX Past Due Balance: \$902,924.80**
- **TOTAL PAST DUE BALANCE: \$3,161,704.93**

<sup>1</sup> See GRMC Professional Services Agreement effective Oct. 1, 2014, Section 3.1 and Exhibit D - Section A; GRMC Management Agreement effective May 23, 2015, Section 1.3 and Exhibit A; SJMC Professional Services Agreement effective April 1, 2021, Section II(A), Attachment 1 – Section B, Attachment 2 – Section B; SJMC Management Agreement effective July 1, 2016, Section 1.3 and Exhibit A; SETX Professional Services Agreement effective May 1, 2022, Section II(A), Attachment 1 – Section B, Attachment 2 – Section B; SETX Management Agreement effective October 1, 2020, Section II(A); II (B), and Exhibit A.

While HNI has continued to perform the Services despite only receiving one payment in the past three months (November 2022, December 2022, and January 2023) in the amount of \$476,093.86 towards Steward's severely delinquent account, it has become an impossible burden for HNI to continue to carry.

It is imperative that we meet within the next 3 business days to discuss payment of the outstanding past due balances. Please immediately contact Michael Gonzales at [mike@hnihc.com](mailto:mike@hnihc.com) or Oon Soo Ung at [oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com) to schedule this meeting. If we are unable to meet and resolve repayment of the past due invoices by February 4, 2023, HNI will have no choice but to provide Steward with notices of breach of contract; along with any and all remedies provided under the Agreement. HNI expressly reserves all rights, powers, privileges, remedies, and defenses now existing or hereafter arising. We value our partnership and hope to resolve this matter expeditiously.

Sincerely,



Mike Gonzales, CEO

cc: **Via FedEx**  
Steward Health Care System, LLC  
1900 N. Pearl Street, Suite 2400  
Dallas, Texas 75201  
Attention: General Counsel

# Steward.Notice of Delinquent Acct.2.1.23

Final Audit Report

2023-02-02

|                 |  |
|-----------------|--|
| Created:        | 2023-02-02                                   |
| By:             | Amber James (amber.james@hnihc.com)          |
| Status:         | Signed                                       |
| Transaction ID: | CBJCHBCAABAAOwej0VVzo4yVlcLccHKafEQRVQ1pdUgs |

## "Steward.Notice of Delinquent Acct.2.1.23" History

-  Document created by Amber James (amber.james@hnihc.com)  
2023-02-02 - 0:19:16 AM GMT
-  Document emailed to michael gonzales (mike.gonzales@hnihc.com) for signature  
2023-02-02 - 0:20:50 AM GMT
-  Email viewed by michael gonzales (mike.gonzales@hnihc.com)  
2023-02-02 - 0:22:22 AM GMT
-  Document e-signed by michael gonzales (mike.gonzales@hnihc.com)  
Signature Date: 2023-02-02 - 0:22:43 AM GMT - Time Source: server
-  Agreement completed.  
2023-02-02 - 0:22:43 AM GMT

# EXHIBIT 6





MAY 9, 2023

**Via Email & FedEx**

Joseph.deschryver@steward.org  
Steward Health Care System, LLC  
Attention: Joseph DeSchryver, President – South Region  
1900 N. Pearl Street #2400  
Dallas, Texas 75201

Re: **PAST DUE INVOICES** owed to HNI Medical Services at Glenwood & HNI of Louisiana, Inc.  
**PAST DUE INVOICES** owed to HNI Physician Services of Texas, Inc. & HNI MSO, Inc.  
(collectively referred to as “HNI”)

Dear Joseph:

HNI continues to experience significant challenges collecting payment from Steward for services performed by HNI pursuant to the agreements with Glenwood Regional Medical Center, St. Joseph Medical Center, and The Medical Center of Southeast Texas.<sup>1</sup>

Many of the past due invoices are more than 120 days past due and continue to accrue. Below is a summary of our unpaid and past due balances:

- **GRMC Past Due Balance: \$2,181,369.33**
- **SJMC Past Due Balance: \$291,028.37**
- **SETX Past Due Balance: \$725,877.70**
- **TOTAL PAST DUE BALANCE: \$3,198,275.40**

Steward’s ongoing past due balances have created a substantial hardship on HNI and our ability to continue to operate.

It is imperative that we meet within the next 3 business days to discuss payment of the outstanding past due balances. Please immediately contact Michael Gonzales at [mike@hnihc.com](mailto:mike@hnihc.com) or Oon Soo Ung at [oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com) to schedule this meeting. If we are unable to meet and resolve repayment of the past due invoices by May 10, 2023, HNI will have no choice but to provide Steward with notices of breach of contract;

<sup>1</sup> See GRMC Professional Services Agreement effective Oct. 1, 2014, Section 3.1 and Exhibit D - Section A; GRMC Management Agreement effective May 23, 2015, Section 1.3 and Exhibit A; SJMC Professional Services Agreement effective April 1, 2021, Section II(A), Attachment 1 – Section B, Attachment 2 – Section B; SJMC Management Agreement effective July 1, 2016, Section 1.3 and Exhibit A; SETX Professional Services Agreement effective May 1, 2022, Section II(A), Attachment 1 – Section B, Attachment 2 – Section B; SETX Management Agreement effective October 1, 2020, Section II(A); II (B), and Exhibit A.



along with any and all remedies provided under the Agreement. HNI expressly reserves all rights, powers, privileges, remedies, and defenses now existing or hereafter arising. We value our partnership and hope to resolve this matter expeditiously.

Sincerely,



Mike Gonzales, CEO

cc: **Via FedEx**  
Steward Health Care System, LLC  
1900 N. Pearl Street, Suite 2400  
Dallas, Texas 75201  
Attention: General Counsel



# EXHIBIT 7



[All Steward News >](#)

# Steward Health Care Completes Sale of Its Utah Health Care Sites to Commonspirit Health

May 1, 2023

**Dallas, TX** – Steward Health Care, the country’s largest physician-led, minority-owned, integrated health care system, today announced that it had completed the sale of its Utah health care sites to CommonSpirit Health, through its wholly owned subsidiary, Catholic Health Initiatives Colorado. The hospitals and clinics will be managed under Centura Health, the region’s leading health system. This strategic transaction allows for Steward to reinvest in its nationally recognized model of providing value-based care in communities across the other regions it operates.

Effectively immediately, Steward’s Utah health care sites – including five hospitals, over 35 medical group clinics, imaging and urgent care centers, and other outpatient ventures are part of CommonSpirit Health’s national health system. This includes Davis Hospital and Medical Center, Salt Lake Regional Medical Center, Jordan Valley Medical Center, Jordan Valley Medical Center–West Valley Campus, and Mountain Point Medical Center and associated clinics and outpatient centers.

“We are pleased to have found the right partner for our Utah hospitals,” said Brian Dunn, Regional President, Steward Health Care. “We are extremely proud of what we’ve accomplished in Utah since acquiring the system in 2017, and we want to extend our deep thanks to our colleagues whose commitment and excellence has made a difference to patients and the local community every day since.”

“This transaction continues Steward’s stated strategic plan to focus on and invest in value-based care. We look forward to increasing our presence and financial commitment in our holistic integrated care model, for which we continue to lead the industry,” said Ralph de la Torre, Chairman of Steward Health Care.



###

## About Steward Health Care

Nearly a decade ago, Steward Health Care System emerged as a different kind of health care company designed to usher in a new era of wellness. One that provides our patients better, more proactive care at a sustainable cost, our providers unrivaled coordination of care, and our communities greater prosperity and stability.

As the country's largest physician-led, minority-owned, integrated health care system, our doctors can be certain that we share their interests and those of their patients. Together we are on a mission to revolutionize the way health care is delivered - creating healthier lives, thriving communities and a better world.

Steward is among the nation's largest and most successful accountable care organizations (ACO), with more than 5,500 providers and 43,000 health care professionals who care for 12.3 million patients a year through a closely integrated network of hospitals, multispecialty medical groups, urgent care centers, skilled nursing facilities and behavioral health centers.

Based in Dallas, Steward currently operates 33 hospitals across Arizona, Arkansas, Florida, Louisiana, Massachusetts, Ohio, Pennsylvania, and Texas.

Additional information is available at [www.steward.org](http://www.steward.org)

SHARE:



## Services

## DoctorFinder™

## Information

Book Appointment

**Our Network**

[Steward Health Care Network](#)

[Steward Medical Group](#)

[Steward Urgent Care](#)

[Steward Insurance Plans](#)

**Our Policies**

[Steward Health Care Policies](#)

[Privacy Policy](#)

[Site Disclaimer](#)

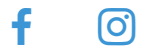
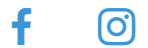
[Vendors](#)

[Nondiscrimination Notice & Interpreter Services](#)

[Accessibility](#)

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**NONDISCRIMINATION NOTICE**  
**INTERPRETER SERVICES**



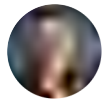
**PRIVACY POLICY | SITE DISCLAIMER | VENDORS**  
**NONDISCRIMINATION NOTICE | INTERPRETER SERVICES**

# EXHIBIT 8

**DIVE BRIEF**

# CommonSpirit to acquire 5 Steward hospitals, expanding reach into Utah

Published Feb. 16, 2023



Samantha Liss  
Senior Reporter

*Illustration: Xavier Lalanne-Tauzia for Industry Dive*

**Dive Brief:**

- CommonSpirit Health announced Wednesday that it will acquire regional health system Steward Health Care in Utah for \$685 million.
- The deal marks CommonSpirit's entry into Utah, expanding the hospital operator's footprint to a total of 22 states.
- CommonSpirit will acquire five hospitals from Steward, along with more than 40 clinics and other ambulatory services, the system said. The deal is expected to close later this year. CommonSpirit's Centura Health will manage the Utah sites.

**Dive Insight:**

The acquisition comes on the heels of a thwarted attempt by HCA to purchase Steward Health Care last year.

The Federal Trade Commission was successful in blocking the deal after the agency alleged that a tie-up between the head-to-head competitors would harm patients around Salt Lake City by raising prices and lowering care quality.

CommonSpirit said the deal represents a “significant long-term growth opportunity” and extends the system’s reach into a new region that already has an established presence with a variety of services, including acute, post-acute and ambulatory care.

The Catholic health system released financial results Wednesday for the period ended Dec. 31, the nonprofit’s second quarter, which showed a \$474 million operating loss. The system said labor shortages, higher staffing costs and a recent ransomware attack dragged on its results.

“CommonSpirit is taking a number of steps to bolster its financial sustainability,” the system said Wednesday.

But officials would not comment on whether those steps may include job cuts.

So far, the ransomware incident has cost the system \$150 million, it said Wednesday. The figure includes lost revenue due to the interruption to business and costs to remediate the issue.

CommonSpirit said it is working with insurance carriers but is unable to predict the timing or amount it may receive following the cyber incident.

Cyberattackers gained access to CommonSpirit’s network last fall in a breach that interrupted access to electronic health records and delayed patient care in multiple regions. CommonSpirit later told regulators that the breach exposed the private health information of more than 623,000 people.

Wednesday’s acquisition news follows CommonSpirit’s recent announcement that it is dissolving its long-term joint venture with AdventHealth. For more than two decades, the two operated hospitals in Colorado and western Kansas. The two will now manage their respective hospitals.





# EXHIBIT 9

**From:** [Mike Gonzales](#)  
**To:** [Oon Soo Ung](#)  
**Subject:** FW: HNI  
**Date:** Tuesday, August 29, 2023 12:44:41 PM  
**Attachments:** [image001.png](#)  
[AP - Check - Vendor 52616 - HNI PHYSICIAN SERVICES OF TX I - Check 206340 8-25-2023 - 424.278.71.tif](#)  
[AP - Check - Vendor 49528 - HNI MEDICAL SERVICES AT GLENWO - Check 206339 8-25-2023 - 60.373.25.tif](#)

---

All the best,

**Michael Gonzales**

CEO/Founder

m. 956 . 533 . 8172 / o. 512.730.3060

w. [hnihealthcare.com](http://hnihealthcare.com) / e. [mike@hnihealthcare.com](mailto:mike@hnihealthcare.com)

signature\_3953349764



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---

**From:** "Tortorella, Laura" <Laura.Tortorella@steward.org>  
**Date:** Tuesday, August 29, 2023 at 12:35 PM  
**To:** Michael Gonzales <mike.gonzales@hnihc.com>, "Putter, Joshua" <Joshua.Putter@steward.org>  
**Subject:** FW: HNI

**CAUTION:** This email originated from outside of HNI Healthcare. DO NOT click links, open attachments or provide credentials unless you can validate the sender. **ALWAYS HOVER OVER LINKS TO VERIFY DESTINATION.**

Mike,

As follow up, these were the checks cut last week. Total was \$500k

Laura

NOTICE: This email may contain PRIVILEGED and CONFIDENTIAL information and is intended only for the use of the specific individual(s) to which it is addressed. It may contain Protected Health

Information or Personally Identifiable Information that is privileged and confidential. Protected Health Information and Personally Identifiable Information may only be used or disclosed in accordance with law and you may be subject to penalties under law for improper use or further disclosure of the Protected Health Information or Personally Identifiable Information in this email. If you are not an intended recipient of this email, you are hereby notified that any unauthorized use, dissemination or copying of this email or the information contained in it or attached to it is strictly prohibited. If you have received this email in error, please delete it and immediately notify the person named above by reply email. Thank you.

\* Lawson  
(1100) Iasis Management Company

Check No 206339

Date 08/25/23

Pay To The Order Of HNI MEDICAL SERVICES AT GLENWO

\$ 60,373.25

Dollars

2970884206339

Remit To: (49528  
CHECK

) Remit Code: (DAL1) HNI MEDICAL SERVICES AT GLENWO  
Iasis Management Company

| COMP | INVOICE NUMBER | DUE DATE | PAID | AMOUNT    |
|------|----------------|----------|------|-----------|
| 3900 | INU7474        | 6/7/2023 | \$   | 20,069.00 |
| 3900 | INU7537        | 7/7/2023 | \$   | 3,750.00  |
| 3900 | INU7589        | 7/7/2023 | \$   | 36,554.25 |

\* Lawson  
(1100) Iasis Management Company

Check No 206340

Date 08/25/23

Pay To The Order Of HNI PHYSICIAN SERVICES OF TX I

\$ 424,278.71

Dollars

2970885206340

Remit To: (52616  
CHECK

) Remit Code: ( ) HNI PHYSICIAN SERVICES OF  
Iasis Management Company

| COMP | INVOICE NUMBER | DUE DATE  | PAID | AMOUNT     |
|------|----------------|-----------|------|------------|
| 3150 | INU6687        | 12/7/2022 | \$   | 55,068.65  |
| 3150 | INU7341        | 5/7/2023  | \$   | 3,715.95   |
| 3150 | INU7351        | 5/7/2023  | \$   | 138,023.96 |
| 3150 | INU7469        | 6/7/2023  | \$   | 132,169.23 |
| 3150 | INU7498        | 6/7/2023  | \$   | 95,300.92  |

# EXHIBIT 10





5. Attached as **Exhibit 2** to the Petition is a true and correct copy of the Professional Services Agreement between HNI Physician Services of Texas, Inc., and The Medical Center of Southeast Texas LP d/b/a The Medical Center of Southeast Texas (the "Hospital PSA"), which I signed on behalf of HNI Physician Services of Texas, Inc., on July 27, 2022.
6. Attached as **Exhibit 4** to the Petition is a true and correct copy of a letter from HNI to Steward Health Care System dated October 17, 2023, which notified Defendants of material breaches of the Hospital MSA and the Hospital PSA.
7. Attached as **Exhibit 5** to the Petition is a true and correct copy of a letter from HNI to Steward Health Care System dated February 1, 2023, which notified Defendants of past due invoices for services provided by HNI at TMC Hospital and two other facilities owned and operated by Steward and its affiliates.
8. Attached as **Exhibit 6** to the Petition is a true and correct copy of a letter from HNI to Steward Health Care System dated May 9, 2023, which notified Defendants of past due invoices for services provided by HNI at TMC Hospital and two other facilities owned and operated by Steward and its affiliates.

*Michael Gonzales*

---

Michael Gonzales

# 20231201 Declaration of M. Gonzales

Final Audit Report

2023-12-01

|                 |  |
|-----------------|--|
| Created:        | 2023-12-01                                   |
| By:             | Amber James (amber.james@hnihc.com)          |
| Status:         | Signed                                       |
| Transaction ID: | CBJCHBCAABAA233jdkQTEGY_qdrKYBF3Us5JgYczzqb3 |

## "20231201 Declaration of M. Gonzales" History

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-  Document emailed to michael gonzales (mike.gonzales@hnihc.com) for signature  
2023-12-01 - 8:42:50 PM GMT
-  Email viewed by michael gonzales (mike.gonzales@hnihc.com)  
2023-12-01 - 8:51:01 PM GMT
-  Document e-signed by michael gonzales (mike.gonzales@hnihc.com)  
Signature Date: 2023-12-01 - 8:51:12 PM GMT - Time Source: server
-  Agreement completed.  
2023-12-01 - 8:51:12 PM GMT

2

Defendants' Answer

CAUSE NO. 23DCCV1824

HNI MSO, INC., and HNI PHYSICIAN  
SERVICES OF TEXAS, INC.,  
*Plaintiffs,*

vs.

THE MEDICAL CENTER OF  
SOUTHEAST TEXAS, LP D/B/A THE  
MEDICAL CENTER OF SOUTHEAST  
TEXAS, STEWARD HEALTH CARE  
SYSTEM, LLC, and STEWARD  
HEALTHCARE HOLDINGS, LLC,  
*Defendants.*

§ IN THE DISTRICT COURT

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58<sup>TH</sup> JUDICIAL DISTRICT

OF JEFFERSON COUNTY, TEXAS

---

**DEFENDANTS' ORIGINAL ANSWER**

---

The Medical Center of Southeast Texas, L.P. (“The Med Center”), Steward Healthcare System, LLC, and Steward Healthcare Holdings, LLC (collectively, the “Steward Defendants”), (all, collectively, “Defendants”) file their Original Answer and respectfully show the following:

**I. GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants generally deny each and every allegation in Plaintiffs HNI MSO, Inc.’s and HNI Physician Services of Texas, Inc.’s (collectively, “HNI” or “Plaintiffs”) live pleading, and demand strict proof thereof.

**II. RESERVATION OF RIGHTS**

As authorized by the Texas Rules of Civil Procedure, Defendants reserve the right to amend this pleading before the trial of this cause on the merits.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants The Medical Center of Southeast Texas, L.P., Steward Healthcare System, LLC, and Steward Healthcare Holdings, LLC ask the Court to enter judgment that Plaintiffs HNI MSO, Inc. and HNI Physician Services of Texas, Inc.

take nothing on their claims, and award Defendants all other and further relief, at law or in equity, to which they may be entitled.

Respectfully submitted,

By: /s/ J. Michael Rose  
J. Michael Rose  
Texas State Bar No. 24041819  
mrose@lockelord.com  
Kurt Lance Krolikowski  
Texas State Bar No. 24074548  
kkrolikowski@lockelord.com  
Ryan A. Cunningham  
Texas State Bar No. 24105768  
ryan.cunningham@lockelord.com  
LOCKE LORD LLP  
600 Travis, Suite 2800  
Houston, Texas 77002  
(713) 226-1200 (Telephone)  
(713) 223-3717 (Facsimile)

and

MOORE LANDREY, L.L.P.

/s/ Greg M. Dykeman  
Greg M. Dykeman  
State Bar No. 063252100  
905 Orleans Street  
Beaumont, Texas 77701  
TELEPHONE (409) 835-3891  
FACSIMILE (409) 835-2707

**ATTORNEYS FOR DEFENDANTS THE  
MEDICAL CENTER OF SOUTHEAST  
TEXAS, L.P., STEWARD HEALTH CARE  
SYSTEM, LLC, and STEWARD  
HEALTHCARE HOLDINGS, LLC**



**CERTIFICATE OF SERVICE**

In accordance with the Texas Rules of Civil Procedure, I certify that a true and correct copy of the foregoing pleading was served on all counsel of record electronically through the Court's electronic filing system on January 5, 2024.

/s/ J. Michael Rose

# 3

## Plaintiffs' Motion for Expedited Discovery

CAUSE NO. 23DCCV1824

|  |   |                                    |
|--|---|------------------------------------|
| HNI MSO, INC., AND HNI PHYSICIAN SERVICES OF TEXAS, INC.,  | § | IN THE DISTRICT COURT              |
|  | § |                                    |
|  | § |                                    |
| <i>Plaintiffs,</i>   | § |                                    |
|  | § |                                    |
| vs.  | § | 58 <sup>TH</sup> JUDICIAL DISTRICT |
|  | § |                                    |
| THE MEDICAL CENTER OF SOUTHEAST TEXAS, LP D/B/A THE MEDICAL CENTER OF SOUTHEAST TEXAS, STEWARD HEALTH CARE SYSTEM, LLC, AND STEWARD HEALTH CARE HOLDINGS, LLC, | § |                                    |
|  | § |                                    |
|  | § |                                    |
| <i>Defendants.</i>   | § | OF JEFFERSON COUNTY, TEXAS         |

**PLAINTIFFS’ EMERGENCY MOTION FOR EXPEDITED DISCOVERY**

Plaintiffs HNI MSO, Inc. (“HNI MSO”) and HNI Physician Services of Texas, Inc. (“HNI Physicians” and, together with HNI MSO, “Plaintiffs” or “HNI”) move the Court to enter an Order providing limited, expedited discovery for the purpose of preparing for the hearing on HNI’s application for temporary injunction against Defendants The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas (“TMC Hospital”), Steward Health Care System, LLC, and Steward Health Care Holdings, LLC (collectively, “Defendants”). In support thereof, HNI would respectfully show the Court as follows:

**INTRODUCTION**

As more fully explained in HNI’s Verified Original Petition and Application for Temporary Injunction (the “Petition”), this suit arises from Defendants’ material breaches of their payment obligations under the subject contracts by failing to pay amounts owed to HNI for services performed at TMC Hospital and related misconduct, including tortious interference and fraud. The

subject contracts, the Hospital MSA and the Hospital PSA (as defined in the Petition), will terminate in January 2023.

Defendants have failed to pay \$1,340,513.98 (past due) and \$1,660,074.11 (total invoiced and owed) for services provided by HNI at TMC Hospital. If Defendants do not cure their material breaches and HNI continues to provide services, these amounts will increase by approximately \$350,000.00/month under the Hospital MSA and the Hospital PSA. The estimated total amount that will be owed when the parties' agreements terminate in January 2023 is \$2,334,808.93. Because Defendants are in an extremely tenuous position both legally and financially and have repeatedly misrepresented their willingness and ability to pay HNI for services rendered by its providers at TMC Hospital, HNI has filed an application for temporary injunction to prevent Defendants from diverting or otherwise disposing of funds to which HNI is entitled, and thereby preserve the status quo during the pendency of this lawsuit.

Limited expedited discovery is needed to prepare for the temporary injunction hearing. Using the regular discovery procedures with longer turnaround times will impair the parties' ability to fairly and fully present arguments at the hearing.

### **ARGUMENTS AND AUTHORITIES**

Under Texas Rule of Civil Procedure 191.1, the Court has discretion to modify the procedures and limitations set forth in the rules pertaining to discovery for "good cause." TEX. R. CIV. P. 191.1. Such discretion has specifically been applied to granting expedited discovery in preparation for an injunction hearing. *See, e.g., In re Tex. Health Res.*, 472 S.W.3d 895, 899 (Tex. App.—Dallas 2015, no pet.); *In re MetroPCS Commc'ns, Inc.*, 391 S.W.3d 329, 332 (Tex. App.—Dallas 2013, orig. proceeding); *In re Boehme*, 256 S.W.3d 878, 880 (Tex. App.—Houston [14th Dist.] 2008, no pet.); *see also* Hon. Randy Wilson, *From my side of the Bench*, 62 The Advoc.

(Texas) 13, 14 (2013). In addition, Rules 196.3(a) and 197.2(c) of the Texas Rules of Civil Procedure provide for expedited written discovery upon order of the Court.

There is good cause to expedite discovery under the circumstances. Defendants have already made clear to HNI that they do not intend to pay HNI the funds to which HNI is entitled. There is also a very high probability that Defendants will transfer or otherwise dispose of the disputed funds prior to trial. Documents and testimony are needed for a full record at the hearing on Plaintiffs' application for temporary injunction and to ensure that the money to which HNI is clearly entitled is not depleted.

To prepare for the injunction hearing, HNI respectfully requests that the Court exercise its authority and order the following expedited discovery. HNI requests that Defendants produce the following documents within ten (10) days of this Order:

1. Documents and communications related to the payment and/or non-payment of outstanding invoices owed to HNI, including documents and communications from January 1, 2023, to present, involving Joe Deschryver, Sanjay Shetty, M.D., Joshua Putter, Theresa Mouton, Laura Tortorella, Patrick Lombardo, Natalie Hibble, Mary Beth Taylor, and/or Michael Pletz.
2. Financial records of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, and their subsidiaries/affiliates for the period January 1, 2023, to present, including summaries of accounts payable and receivable, balance sheets, and other financial records reflecting the financial condition of TMC Hospital.
3. Contracts for sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including contracts for the sale of hospitals owned by Steward Health Care in Utah.
4. Closing documents for sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including closing documents related to the sale of hospitals owned by Steward Health Care in Utah.

5. Documents and communications related to, showing, or purporting to show Defendants' decision to sell assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including documents and communications related to the sale of hospitals owned by Steward Health Care in Utah.
6. Defendants' communications to investors in The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including communications related to the sale of hospitals owned by Steward Health Care in Utah.
7. Communications with third parties regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present.
8. Documents and communications related to, showing, or purporting to show the inability and/or failure of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates, to pay other providers/vendors, for the period January 1, 2023, to present.
9. All non-privileged documents and communications related to HNI's demand(s) for payment, including documents and communications from January 1, 2023, to present, involving Joe Deschryver, Sanjay Shetty, M.D., Joshua Putter, Theresa Mouton, Laura Tortorella, Patrick Lombardo, Natalie Hibble, Mary Beth Taylor, and/or Michael Pletz.

HNI further requests that, within fifteen (15) days of this Order, corporate representatives for Defendants are ordered to appear for deposition. HNI requests, in accordance with Rule 199.2(b)(2)(c) of the Texas Rules of Civil Procedure, the Court order a representative of each of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, to appear for deposition on the following topics within fifteen (15) days:



1. The sale of any assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including the sale of hospitals owned by Steward Health Care in Utah.
2. The financial condition of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, and their subsidiaries/affiliates, for the period January 1, 2023, to present.
3. Communications with any third parties regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including the sale of hospitals owned by Steward Health Care in Utah.
4. HNI's demand(s) for payment, for the period April 1, 2023, to present.
5. Defendants' communications with Plaintiffs since January 1, 2023, regarding the outstanding invoices identified in the Petition.
6. Defendants' communications with Plaintiffs since January 1, 2023, regarding Defendants' agreement to make weekly/lump-sum payments, as alleged in the Petition, and negotiations between the parties' related to same.
7. The payment and/or non-payment of outstanding invoices owed to HNI.
8. The inability and/or failure of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates to pay other providers/vendors, for the period January 1, 2023, to present.

### **PRAYER**

An emergency order permitting expedited discovery is necessary to allow HNI to obtain additional evidence in support of its application for temporary injunction. This request for expedited discovery is reasonable under the circumstances due to the need for discovery prior to a hearing on HNI's application for temporary injunction. For these reasons, HNI respectfully requests the Court enter an Order allowing expedited discovery as described above.

Dated: December 11, 2023

Respectfully submitted,

**DOBROWSKI STAFFORD LLP**

By: /s/Paul J. Dobrowski

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Fax: (409) 832-1000

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served on Defendants' counsel by email on December 11, 2023.



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Thomas "Tal" DeBauche

**CERTIFICATE OF CONFERENCE**

I hereby certify that I conferred with Defendants' counsel regarding the subject of the foregoing motion by email from December 5–8, 2023. Defendants are opposed.



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Thomas "Tal" DeBauche

# 4

Plaintiffs' Proposed Order granting Motion for Expedited Discovery



3. Contracts for sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including contracts for the sale of hospitals owned by Steward Health Care in Utah.
4. Closing documents for sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including closing documents related to the sale of hospitals owned by Steward Health Care in Utah.
5. Documents and communications related to, showing, or purporting to show Defendants' decision to sell assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including documents and communications related to the sale of hospitals owned by Steward Health Care in Utah.
6. Defendants' communications to investors in The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including communications related to the sale of hospitals owned by Steward Health Care in Utah.
7. Communications with third parties regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present.
8. Documents and communications related to, showing, or purporting to show the inability and/or failure of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates, to pay other providers/vendors, for the period January 1, 2023, to present.
9. All non-privileged documents and communications related to HNI's demand(s) for payment, including documents and communications from January 1, 2023, to present, involving Joe Deschryver, Sanjay Shetty, M.D., Joshua Putter, Theresa Mouton, Laura Tortorella, Patrick Lombardo, Natalie Hibble, Mary Beth Taylor, and/or Michael Pletz.

It is further,

**ORDERED** that within fifteen (15) days of this Order, corporate representatives for Defendants are ordered to appear for deposition. It is further,

**ORDERED** that within fifteen (15) days of this Order, a representative of each of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC shall appear for deposition on the following topics:

1. The sale of any assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including the sale of hospitals owned by Steward Health Care in Utah.
2. The financial condition of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, and their subsidiaries/affiliates, for the period January 1, 2023, to present.
3. Communications with any third parties regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including the sale of hospitals owned by Steward Health Care in Utah.
4. HNI's demand(s) for payment, for the period April 1, 2023, to present.
5. Defendants' communications with Plaintiffs since January 1, 2023, regarding the outstanding invoices identified in the Petition.
6. Defendants' communications with Plaintiffs since January 1, 2023, regarding Defendants' agreement to make weekly/lump-sum payments, as alleged in the Petition, and negotiations between the parties' related to same.
7. The payment and/or non-payment of outstanding invoices owed to HNI.
8. The inability and/or failure of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates to pay other providers/vendors, for the period January 1, 2023, to present.



SIGNED on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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HONORABLE JUDGE PRESIDING

# 5

## Defendants' Response to Plaintiffs' Motion for Expedited Discovery

CAUSE NO. 23DCCV1824

HNI MSO, INC., and HNI PHYSICIAN  
SERVICES OF TEXAS, INC.,  
*Plaintiffs,*

§ IN THE DISTRICT COURT

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vs.

58TH JUDICIAL DISTRICT

THE MEDICAL CENTER OF SOUTHEAST  
TEXAS, LP D/B/A THE MEDICAL CENTER  
OF SOUTHEAST TEXAS, STEWARD  
HEALTH CARE SYSTEM, LLC, and  
STEWARD HEALTHCARE HOLDINGS,  
LLC,  
*Defendants.*

OF JEFFERSON COUNTY, TEXAS

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**DEFENDANTS’ RESPONSE TO PLAINTIFFS’  
“EMERGENCY MOTION FOR EXPEDITED DISCOVERY”**

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No good cause exists for ordering expedited discovery in this case, there is no emergency or risk to the status quo, and Plaintiffs have not even set their Application for Temporary Injunction for hearing. Why? Because this case is about money. Plaintiffs seek payment to satisfy invoices they claim remain unpaid. Plaintiffs are alleged creditors, not judgment-debtors. The status quo is that Defendants own their own cash. Plaintiffs’ have sued for fraudulent transfer without even alleging that a transfer took place. Further, Plaintiffs base their Motion on imagination rather than information. Plaintiffs’ request for extraordinary relief is not in good faith. Rather, it is harassment and should be denied.

**SUMMARY OF RESPONSE**

Plaintiffs have not shown the requisite good cause necessary to prove they are entitled to expedited discovery under the circumstances of this case, for the following reasons:

- (1) There is no “emergency” basis why standard, 30-day discovery would not suffice— given the fact Plaintiffs have not even set their Application for Temporary Injunction for hearing;

- (2) The relief Plaintiffs seek on the underlying merits is not available through a Temporary Injunction—this is a dispute involving only monetary damages and liability; and
- (3) Plaintiffs’ requested discovery is wildly overbroad and premature.

Accordingly, expedited discovery prior to a Temporary Injunction hearing is neither proper nor necessary, and the Court should deny Plaintiff’s Motion.

**I. There is no “emergency” warranting any extraordinary remedy.**

Plaintiffs ask the Court to enjoin The Medical Center of Southeast Texas, LP (the “Med Center”), as well as two related entities—Steward Healthcare System, LLC and Steward Healthcare Holdings, LLC (the “Steward Defendants”)—from using their own cash to continue operating hospitals which provide vital healthcare services to our communities. The only basis for this request is the claim that the Med Center is behind on paying invoices.

Plaintiffs did not seek a Temporary Restraining Order in this matter because there is no emergency and because Plaintiffs’ claim of exigency is merely imagined—Plaintiffs have not even set their Application for Temporary Injunction hearing yet. Plaintiffs point only to their allegation of nonpayment and alleged creditor-status as the reason for needing expedited discovery.

Plaintiffs attempt to circumvent clearly established Texas law regarding the availability of the requested relief by speculating that Defendants may be unable to pay a potential judgment and suing for fraudulent transfer.<sup>1</sup> However, mere speculation is legally insufficient to order expedited

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<sup>1</sup> Plaintiffs’ Motion at ¶ 67 (“Because Defendants are in a precarious and worsening financial situation, and it is overwhelmingly likely that Defendants will be insolvent or otherwise unable to pay the inevitable judgment...”).

discovery, issue a writ of attachment, and/or order funds be deposited into the registry of the Court.<sup>2</sup>

Accordingly, Plaintiffs' request for the extraordinary remedy of expedited discovery and injunctive relief is not made in good faith, not based on information and belief, and is sought solely for harassment. Therefore, the Court should deny Plaintiffs' Motion.

**II. Plaintiffs are not entitled to expedited discovery because the relief Plaintiffs seek (on the underlying merits) is not available through a Temporary Injunction.**

It is well-settled Texas law that injunctive relief is simply not available where, as here, the harm alleged is capable of monetary valuation and can be remedied with money damages.<sup>3</sup> It is undisputed that the Plaintiffs seek monetary damages and that an award of monetary damages would remedy the harm they allege. Further, "conjectural or speculative events will not support" a claim for injunctive relief. *See St. Paul Fire & Mar. Ins. V. Texas Workers' Comp. Comm'n.*, 945 S.W.2d at 888-89 (Tex. App.—Austin 1997, no writ).

Plaintiffs cite three cases for the proposition that, upon a showing of good cause, courts may use their discretion by "granting expedited discovery in preparation for an injunction hearing."<sup>4</sup> Yet the courts in all three of those held the trial courts abused that discretion and granted mandamus relief.<sup>5</sup>

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<sup>2</sup> *See St. Paul Fire & Mar. Ins. V. Texas Workers' Comp. Comm'n.*, 945 S.W.2d 886, 888-89 (Tex. App.—Austin 1997, no writ) ("conjectural or speculative events will not support" a claim for injunctive relief).

<sup>3</sup> *See Dallas Anesthesiology Associates, P.A. v. Texas Anesthesia Group, P.A.*, 190 S.W.3d 891, 897 (Tex. App.—Dallas, 2006), holding "an injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard" (citing *Butmaru v. Ford Motor Co.*, 84 S.W.3d 198, 200, (Tex. 2002)).

<sup>4</sup> Plaintiffs' Motion, at bottom of p. 2.

<sup>5</sup> The Dallas Court of Appeals, in *In Re MetroPCS Communications, Inc.*, 291 S.W. 3d 320, 341 (Tex. App.—Dallas, 2013, no pet.), granted mandamus relief, ordered the trial court to vacate a TRO, to deny the motion for TRO, and to stay the case; in *In Re. Texas Health Resources*, 472 S.W. 3d 895, 906 (Tex. App.—Dallas 2015, no pet.), the

Likewise, the two Rules of procedure Plaintiffs cite merely mention a Court's discretion to alter the discovery plan and the deadline to produce documents responsive to discovery requests under the request for production rule (Tex. R. Civ. P. 196.3(a)) and the rule regarding interrogatories (Tex. R. Civ. P. 197.2(c)). These Rules do not expressly address expedited discovery. Nonetheless, as illustrated below, Plaintiffs cannot provide *true* "good cause" to order this expedited discovery.

Plaintiffs seek the extraordinary relief of: (1) a writ of attachment pursuant to Texas CPRC 61.002(9), (2) an order that Defendants deposit their own cash into the registry of the Court, and (3) for relief under the Texas Uniform Fraudulent Transfer Act ("TUFTA"). Because these types of extraordinary relief are not available under the circumstances of this case, no good cause exists for ordering expedited discovery, and the Court should deny Plaintiffs' Motion.

**a. Expedited discovery is not proper because Plaintiffs are not entitled to the extraordinary remedy of a writ of attachment.**

Plaintiffs cite Chapter 61.002(9) of the Texas Civil Practice and Remedies Code for the argument they are entitled to a writ of attachment. First, to put Chapter 61 in perspective, the Legislature codified writs of attachment in Title 3, under the heading "Extraordinary Remedies."

Next, this extraordinary remedy is only available where a plaintiff shows (1) the defendant is justly indebted to the plaintiff; (2) the attachment is not sought for the purpose of injuring or harassing the defendant; (3) the plaintiff will probably lose his debt unless the writ of attachment is issued; and (4) specific grounds for the writ exist under Section 61.002. Tex. Civ. Prac. & Rem.

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court granted mandamus relief, and ordered the trial court to vacate an order which required production of a privileged document; and in *In Re Boehme*, 256 S.W. 3d 878, 889 (Tex. App.—Houston [14th Dist.] 2008, no pet.), the Houston Court of Appeals for the Fourteenth District issued mandamus relief ordering the trial court to vacate its denial of a motion to dismiss (the parties in that case agreed to engage in expedited discovery, thus that issue was not even before the court). *Id.* at 880.3

Code § 61.001. Plaintiffs then cite to Section 61.002(9) as their grounds under the fourth element, which states “the defendant owes the plaintiff for **property** obtained under false pretenses.” (emphasis added).

Obviously, Defendants contest whether they are “justly indebted to” Plaintiffs, but elements 2, 3, and 4 all clearly fail. The second element fails because it is evident Plaintiffs only seek this writ of attachment to financially injure and to harass Defendants. Again, conjecture, alone, will not suffice. *See St. Paul Fire & Mar. Ins. V. Texas Workers’ Comp. Comm’n.*, 945 S.W.2d at 888-89. The third element fails because there is no legitimate risk of losing the alleged debt.<sup>6</sup> And the fourth element clearly fails because Defendants did not obtain any “property” from Plaintiffs, merely services. Services rendered are not “property” under the Rule.

Further, Plaintiffs have no relationship with the Steward Defendants, contractual or otherwise. Yet that did not stop Plaintiffs from asking the Court—with a straight face—to freeze the Steward Defendants’ funds *via* attachment. To ask for this type of extraordinary remedy against entities with which you have no contract is quite clearly bad faith and harassment, especially given that Plaintiffs have not actually alleged there was any “transfer” to these distinct entities. This type of conjecture and speculation amounts to an abuse of the judicial system and the discovery process, and the Court should not entertain the request.

Interestingly, this is not HNI’s first attempt at seeking the extraordinary remedy of injunctive relief related to unpaid invoices. In fact, an arbitrator expressly denied awarding HNI

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<sup>6</sup> Indeed, Plaintiffs’ own pleading acknowledged the Steward Defendants as “the largest private, tax-paying hospital operator in the country.” *See* Plaintiffs’ Original Petition, at ¶ 26 (citing the Steward Defendants’ website).



this same type of injunctive relief less than two months ago.<sup>7</sup> Arbitrator Gay based his Order largely on the fact that HNI lacked an ownership interest in any property at issue, including funds. This Order relates directly to the above-described fourth element. *Id.* The Med Center received services, not “property,” and Plaintiffs never owned the funds against which it requests a writ to attach. Thus, this suit does not involve a dispute over an ownership interest in property.

Because the extraordinary remedy of a writ of attachment is not available to Plaintiffs under the circumstances of this case, there is no good cause to order expedited discovery, and the Court should deny Plaintiffs’ Motion.

**b. Likewise, expedited discovery is not proper because the extraordinary remedy of ordering Defendants to deposit money into the registry of the Court is not available under these circumstances.**

The extraordinary remedy of ordering a party to deposit money into the registry of the Court—not only pre judgment but pre-pleadings—is contingent upon a showing that the remedy is available under Chapter 61 of the CPRC.<sup>8</sup> Again, Plaintiffs cite to cases where the courts grant mandamus relief for the trial courts’ abuse of discretion by improperly awarding this extraordinary relief. *See In re Reveille Resources (Texas), Inc.*, 347 SW 3d 301, 305 (Tex. App.—San Antonio, 2011) (granting mandamus relief and holding the trial court abused its discretion by “ordering any funds to be deposited into the court’s registry”).

The *In re Reveille Resources (Texas), Inc.* case and its progeny, upon which Plaintiffs rely, flow from *Castilleja v. Camero*, 414 SW 2d 431, 433 (Tex. 1967). In that case, the Texas Supreme Court ordered a **judgment-debtor** to deposit funds into the registry of the court—citing the

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<sup>7</sup> See Exhibit A, Arbitrator E. Phelps Gay’s November 27, 2023 Order denying HNI’s Application for Emergency Injunctive Relief and Interim Measures, at pp. 20-22.

<sup>8</sup> See Plaintiffs’ Original Petition at ¶ 71 (citing *In re Reveille Resources (Texas), Inc.*, 347 SW 3d 301, 305 (Tex. App.—San Antonio, 2011) and *Castilleja v. Camero*, 414 SW 2d 431, 433 (Tex. 1967)).

underlying companion case of *Castilleja v. Camero*, 414 S.W.2d 424 (Tex. 1967). Plaintiffs cite these cases for the proposition that, under certain circumstances, “a court can order payment of the disputed funds into its registry until its ownership is determined.” *Id.* Those circumstances are quite clearly distinguished from the circumstances of Plaintiffs’ case. The *Castilleja v. Camero* cases involved a dispute over ownership of a fund in Mexico, where the defendant actually testified he would not satisfy a final judgment. *Id.* There is no dispute over who owns the funds Plaintiffs want deposited into the Court’s registry. Defendants own these funds, outright. There is no judgment against Defendants, and no exigency regarding these funds.

Simply because Plaintiffs claim to be creditors for services rendered does not entitle them to this extraordinary remedy. This type of extraordinary relief is not available to Plaintiffs under the circumstances of this case; thus, there is no good cause to order expedited discovery.

**c. There is no fraudulent transfer. Plaintiff is abusing the judicial system and the discovery Rules for the purposes of collecting on allegedly unpaid invoices.**

Plaintiffs do not even allege any Defendant committed a “transfer” under TUFTA. *See* Plaintiffs’ Original Petition at ¶¶ 75-80. This, alone, warrants a motion to dismiss because this cause of action has no basis in law or fact. Put simply, this idea of a fraudulent transfer is completely imaginary, concocted by Plaintiffs to rope the Steward Defendants into this case. It is merely conjecture and speculation based on an allegation that the Med Center has not paid Plaintiffs’ invoices.

Generally, the key element to proving a claim under TUFTA is there had to be “[a] transfer made or obligation incurred by a debtor...” Tex. Bus. & Com. Code § 24.005(a). Without a transfer, there can be no fraudulent transfer; and without a fraudulent transfer, the remedies under TUFTA are not available—specifically, the injunctive relief sought by Plaintiffs in this case.

Further, neither of the Steward Defendants are “transferees” under TUFTA. A “transferee” is “one with legal dominion or control over the funds ... [and] the right to put the money to one’s own use.” *Wohlstein v. Aliezer*, 321 S.W.3d 765, 776 (Tex. App.—Houston [14th Dist.] 2010, no pet.). Likewise, Plaintiffs do not allege the Steward Defendants control the funds they seek *via* a transfer.

Because Plaintiffs have not alleged a transfer, and because there was no fraudulent transfer, Plaintiffs are not entitled to injunctive relief under TUFTA. Accordingly, ordering expedited discovery under these circumstances is not proper, and the Court should deny Plaintiffs’ Motion.

**III. Plaintiffs’ discovery requests are far too broad, seek documents and corporate-representative depositions of parties they have no relationship with, and seek privileged and confidential investment and financial documents.**

As a threshold issue, Plaintiffs have no contractual relationship with the Steward Defendants—nor any relationship of any kind. And as shown above, Plaintiffs have not actually alleged any transfer to the Steward Defendants occurred. Thus, all discovery aimed towards these Defendants is improper.

Plaintiffs claim they seek “limited, expedited discovery,” but the requests for production included in their Motion are wildly overbroad, and can be categorized as nothing less than a fishing expedition aimed only to harass Defendants. Plaintiffs’ Motion seeks, *inter alia*:

- Financial records of all three Defendants “and their subsidiaries/affiliates,” including summaries of accounts payable and receivable, balance sheets, and other financial records reflecting financial condition;
- Contracts and closing documents for the sale of all assets/property owned by all three Defendants and any of their subsidiaries/affiliates, including those related to assets sold in Utah;
- Documents and communications related to Defendants’ decision to sell assets owned by Defendants and all subsidiaries/affiliates;
- Communications to investors;
- Communications with third parties regarding the sale of assets from all three Defendants and their subsidiaries/affiliates;

- Documents and communications purporting to show Defendants’ and their subsidiaries’/affiliates’ alleged “inability and/or failure” to “pay other providers/vendors”; and
- All non-privileged documents and communications related to HNI’s demands for payment.

Applying this scope to all “subsidiaries/affiliates” of all three Defendants is quite clearly an overreach. Further, Financial records exchanged between Defendants and their “subsidiaries/affiliates” are proprietary and confidential, and qualify as trade secrets after amendments to the Texas Uniform Trade Secrets Act. *See* Tex. Civ. Prac. & Rem. Code §134A.002(6).

It is also duplicative to require depositions of corporate representatives prior to a hearing on Plaintiffs’ temporary injunction. Temporary Injunction hearings are evidentiary hearings in nature. Plaintiffs will have the ability to examine witnesses, presumably including Defendants’ respective corporate representatives, at the hearing—assuming Plaintiffs actually set their Application for Temporary Injunction for hearing.

These requests are quite clearly overbroad, unduly burdensome, and calculated to harass not only The Med Center, but the Steward Defendants and all other subsidiaries and affiliates thereof. This is plainly an abuse of the discovery process, and Defendants object to all of Plaintiffs’ requests.

### **CONCLUSION**

There is no emergency or reason why standard, 30-day discovery would not suffice. The extraordinary relief Plaintiffs seek on the underlying merits is not available through a Temporary Injunction because this case is about monetary damages and liability. And Plaintiffs’ requested discovery is wildly overbroad and premature. Accordingly, expedited discovery prior to a

Temporary Injunction hearing is neither necessary nor proper, and the Court should deny Plaintiffs Motion.

Respectfully submitted,

By: /s/ J. Michael Rose

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**ATTORNEYS FOR DEFENDANTS THE  
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SYSTEM, LLC, and STEWARD  
HEALTHCARE HOLDINGS, LLC**

**CERTIFICATE OF SERVICE**

In accordance with the Texas Rules of Civil Procedure, I certify that a true and correct copy of the foregoing pleading was served on all counsel of record electronically through the Court's electronic filing system on January 5, 2024.

/s/J. Michael Rose

**American Arbitration Association****Case No. 01-23-0005-0120**

HNI of Louisiana, Inc. and HNI Medical Services at Glenwood, LLC,  
*Claimants*

vs.

IASIS Glenwood Regional Medical Center, LP. d/b/a Glenwood Regional  
Medical Center, *et al.*, *Respondents*

**Order of Emergency Arbitrator**

Claimants filed their Demand for Arbitration and Original Complaint and Application for Emergency Injunctive Relief on November 3, 2023. Pursuant to Rule 39 of the AAA Commercial Arbitration Rules, on November 9, 2023, the AAA appointed the undersigned to serve as Emergency Arbitrator. The parties were asked to lodge any objections to the appointment by November 10. No objections were lodged.

A conference with counsel was held on November 14, 2023, during which the Emergency Arbitrator established a pre-hearing briefing schedule and set the Application for Emergency Injunctive Relief for hearing by videoconference (as agreed by the parties) on November 21, 2023, commencing at 9 a.m. (See Order of Emergency Arbitrator, 11/15/23.)



Claimants filed their First Amended Complaint and Application for Emergency Injunctive Relief and Interim Measures on November 15, 2023. Thereafter, the parties filed their pre-hearing briefs as scheduled.

The evidentiary hearing commenced on November 21, 2023, at 9 a.m. Claimants called three witnesses: Oon Soo Ung; Dr. Craig Menard; and Dr. Adebanke Davis. All of Claimant's exhibits were admitted into evidence. Relying upon cross-examination and legal argument, Respondents did not call any witnesses. The hearing concluded at approximately noon on November 21, 2023. The Emergency Arbitrator took the matter under advisement and now issues this Order.

#### **I. AAA Commercial Arbitration Rules**

The AAA Commercial Arbitration Rules, as amended effective September 1, 2022, include the following two Rules, in pertinent part, pertaining to Interim Measures and Emergency Measures of Protection:

##### **Rule 38: Interim Measures**

- (a) The arbitrator may take whatever interim measures he or she deems necessary, including injunctive relief and measures for the protection or conservation of property and disposition of perishable goods.
- (b) Such interim measures may take the form of an interim award, and the arbitrator may require security for the costs of such measures.

##### **Rule 39: Emergency Measures of Protection**

- (a) Unless the parties agree otherwise, the provisions of this Rule shall apply to arbitrations conducted under arbitration clauses or agreements entered on or after October 1, 2013. This Rule shall not apply to cases administered pursuant to the Expedited Procedures.

(b) A party in need of emergency relief prior to the constitution of the panel shall notify the AAA and all other parties in writing of the nature of the relief sought and the reasons why such relief is required on an emergency basis. The application shall also set forth the reasons why the party is entitled to such relief. Such notice may be given by facsimile or email or other reliable means but must include a statement certifying that all other parties have been notified or an explanation of the steps taken in good faith to notify the other parties.

(e) If, after consideration, the emergency arbitrator is satisfied that the party seeking the emergency relief has shown that immediate and irreparable loss or damage shall result in the absence of emergency relief, and that such party is entitled to such relief under applicable law, the emergency arbitrator may enter an interim order or award granting the relief and stating the reason therefore.

## **II. Claimants' First Amended Complaint and Application for Injunctive Relief**

Claimants (collectively "HNI") aver that until midnight on November 16, 2023, they are (or were) the exclusive providers of hospitalist, intensivist, management, administrative, business, and other services at Glenwood Regional Medical Center ("GRMC"), a hospital located in West Monroe, Louisiana, pursuant to two contracts: A Management Agreement ("Hospital MSA") and a Professional Services Agreement ("Hospital PSA").<sup>1</sup>

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<sup>1</sup> HNI of Louisiana, Inc. provided management services to the hospital. HNI Medical Services at Glenwood, LLC provided hospitalist services through physicians under the Professional Services Agreement with the hospital—formally, IASIS Glenwood Regional Medical Center, LP, d/b/a Glenwood Regional Medical Center. On October 17, 2023, Claimants sent a Notice of Breach to Respondents advising that, failing payment of HNI's outstanding invoices, HNI would be terminating the MSA and PSA effective 11/16/23. The contracts terminated at that time.

Claimants aver Respondents have breached their payment and performance obligations under these contracts by failing to pay amounts due under valid invoices submitted by HNI and by failing to provide critical supplies at the hospital needed by physicians to care for patients. Further, they aver that Dr. Mark Boersma, Medical Director of GRMC, and his limited liability company have breached non-solicitation provisions in their agreements with Claimants and have interfered with Claimants' contracts with other providers.<sup>2</sup> The contracts provide for arbitration of any disputes and are governed by Louisiana law.

Two named Respondents, Steward Health Care System, LLC and Physician Group of Louisiana, Inc. ("Steward"), are not parties to the Hospital MSA or the Hospital PSA contracts, but Claimants allege that Steward, as parent company of GRMC, is "aware of the contractual relationship" between HNI and GRMC. On information and belief, Claimants aver that the Steward Physician Group has, with Dr. Boersma's help, solicited the employment of certain HNI Glenwood providers at GRMC Hospital by promising them bonuses and salary increases and has urged others to terminate their contracts with HNI Glenwood.

In Paragraph 41 of First Amended Complaint, Claimants allege GRMC has not complied with its payment obligations to HNI. It has failed to pay HNI invoices dating back to May 31, 2023, resulting in a total past due amount of 3.4 million dollars. In Paragraph 42, Claimants aver that in September 2023 GRMC agreed to satisfy its debt to HNI by making certain weekly payments, with a "true up" payment to be made during the first week of October 2023. However, after making two payments GRMC stopped.

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<sup>2</sup> HNI Glenwood entered into a Professional Services Agreement with Boersma LLC. and a Medical Director Agreement with Dr. Boersma individually. The agreements contained non-solicitation and liquidated damage provisions.

In paragraph 48, Claimants aver that GRMC and Steward Physician Group are “misappropriating” funds received arising out of services rendered by HNI Glenwood’s providers. That money, they contend, should be used to compensate HNI Glenwood for services provided at the hospital. Instead, GRMC is “disposing of assets that should be utilized to pay outstanding invoices.” In Paragraph 76, Claimants contend Respondents have diverted money to “incentivize” medical providers to terminate their agreements with HNI Glenwood.

“For this reason, HNI seeks injunctive relief and interim measures to prevent the dissolution or transfer of assets pending final resolution of this matter.” (Paragraph 48)

Claimants further allege that GRMC Hospital’s parent company—Steward Healthcare—is a defendant in various lawsuits and is “actively marketing GRMC Hospital for sale.” (Paragraph 49; Exhibit 17 to First Amended Complaint.)

In view of these circumstances, Claimants “seek relief to ensure that the amounts owed by GRMC Hospital are secured during the pendency of this arbitration proceeding.” (Paragraphs 50, 60) Direct negotiations, they assert, have failed.

In support of their Application for Emergency Injunctive relief, Claimants rely upon La. C.C. P. art 3601(A) and associated jurisprudence. Under that jurisprudence, “A moving party is generally entitled to issuance of a preliminary injunction only if he proves the existence of three elements: (1) that the injury, loss, or damage he will suffer if the injunction is not issued may be irreparable; (2) that he is entitled to the relief sought; and (3) that he will be likely to prevail on the merits of the

case. *Succession of Smith v. Portie*, 2019-183 (La. App. 3d Cir. 12/30/19, 4-5; 289 So. 3d 77, 80.<sup>3</sup>

In Paragraphs 96-99, Claimants ask that GRMC and Steward Physician Group be ordered to deposit cash payments to be held in escrow during the pendency of this arbitration. Such an order will “prevent the dissolution of GRMC Hospital’s and/or Steward Physician Group’s assets” during the pendency of the arbitration proceeding. They seek an order limiting the ability of Respondents to dispose of cash funds generated by HNI Glenwood contracted providers and received by GRMC or Steward Physician Group because of services rendered by HNI Glenwood providers. They ask for an Order requiring GRMC to post security in the amount of 3.4 million dollars.

Claimants express “significant concerns” about Respondents’ “willingness and ability” to pay the outstanding amounts due. Preserving funds received by Respondents because of services provided by HNI Glenwood’s providers “is the least restrictive means to prevent a misappropriation of money owed to HNI . . . and to remedy unjust enrichment.”

### **III. Claimants’ Pre-Hearing Brief**

In their pre-hearing brief filed on November 17, 2023, Claimants narrow their claim for injunctive relief to the unpaid invoices, abandoning their prior request for injunctive relief relating to alleged wrongful solicitation of HNI providers and alleged failure to provide

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<sup>3</sup> Claimants then turn to injunctive relief sought to enforce GRMC’s obligations exclusively to use HNI Glenwood employees and providers and to provide adequate supplies, equipment, and non-physician personnel. They also seek injunctive relief relating to their allegation that Dr. Boersma (and his limited liability company) have violated their non-solicitation obligations. (Paragraphs 90-92). These claims for injunctive relief were subsequently omitted from Claimant’s pre-hearing Brief and not pursued during the hearing on November 21, 2023.

critical supplies and services at the hospital. Their goal is to “prevent the dissolution or transfer of assets” pending final resolution of this matter.

Claimants assert their unpaid invoices now total 4.9 million dollars. If injunctive relief is not granted, they aver, there is a risk that any judgment rendered against Respondents “would be valueless.”

Claimants emphasize that GRMC Hospital failed to fulfill its earlier promise to satisfy this debt through weekly payments “without excuse or justification.” They aver that at one point Steward sent to HNI electronic copies of “fake checks” which “never arrived.” Claimants reiterate their contention that injunctive relief is appropriate; otherwise, they face the risk of a “valueless judgment” down the line.

Claimants contend the three elements for a preliminary injunction set forth in *Succession of Smith v. Portie* are satisfied: (1) they will suffer irreparable injury, loss, or damage if an injunction is not issued; (2) they are entitled to the relief sought; and (3) they will likely prevail on the merits of the case. They renew their request that Respondents deposit cash to be held in escrow during the pendency of this arbitration proceeding, noting Respondents are receiving payments from a variety of payors such as Medicare, Medicaid, private insurers, and patients. They want Respondents to post security in the amount of 4.9 million dollars. Preserving these funds to pay the debt owed to Claimants is, they allege, the least restrictive means to prevent “misappropriation” of money owed to HNI.

Claimants cite *Ciambotti v. Decatur-St. Louis, Lupin, Properties Ventures*, 533 So. 2d 1352 (La App. 3<sup>rd</sup> Cir. 1988) for the proposition that a claim for money damages is “an inadequate remedy” if the debtor is unable pay its debts or is insolvent. They also cite *Oestreicher v. Hackett*, 94-2573 (La. App. 4 Cir. 5/16/95); 660 So 2d 29, *writ denied*, 95-2592 (La.

12/8/95); 664 So2d 422 in support of their position that insolvency of the debtor is one reason why injunctive relief may be proper.

Claimants allege that a writ of attachment may be obtained where there is intent to defraud creditors or give unfair preference to one of them. La. C.C.P. art 3541. They aver that a writ of sequestration may be obtained when one claims ownership of property. La. C.C.P. art 3571.

#### **IV. Respondents' Response to Claimants' First Amended Application for Emergency Injunctive Relief.**

Respondents filed their Response to Claimants' First Amended Application for Emergency Injunctive relief on November 20, 2023, as scheduled.

Respondents contend this claim is "about money Claimants seek from GRMC in satisfaction of their invoices." They assert injunctive relief "is not available where, as here, the harm alleged is capable of monetary valuation and can be remedied with money damages." They contend Claimants have no "ownership interest" in the Respondents' cash or assets which they seek to freeze, sequester, attach, or post as security, and the arbitrator lacks authority to grant the relief sought by Claimants.

Moreover, Respondents aver that Claimants have not offered any evidence that GRMC is, in fact, insolvent. Any contention that GRMC "may" be unable to pay a potential arbitration award is "pure speculation." Claimants offer no evidence on the value of GRMC's assets versus liabilities, which might shed light on the issue of alleged insolvency.

Respondents argue that at no time did HNI and GRMC "agree to share profits or money received from payors." As such, Claimants have no ownership interest in the money GRMC has received or will receive



from its payors. HNI and GRMC did not form a partnership, nor did they agree to become partners in a joint venture.

Further, while Claimants cite the pendency of certain lawsuits naming Steward as a party, they offer no details regarding the status of those actions. In rebuttal, Respondents provide a chart regarding the status of each lawsuit and its “relevant facts.”

Turning to the legal standard for granting an injunction, Respondents contend injunctions cannot be based on “speculative harm.” Injunctive relief is “a harsh, drastic and extraordinary remedy and will issue only if the party seeking same is threatened with irreparable loss or injury without adequate remedy at law.” *Tubular Threading, Inc. v. Scandaliato*, 443 So. 2d 712 (La. App. 5<sup>th</sup> Cir. 1983); *Greenberg v. DeSalvo*, 254 La. 1019, 229 So. 2d 83 (1969).

The applicant for injunctive relief must show “that the loss cannot be adequately compensated in money, or that it is a loss for which damages are not susceptible of being measured by pecuniary standards.” *Guilbeaux v Guilbeaux*, 981 So. 2d 913, 918 (La. App. 3d Cir. 2008). A mandatory injunction, such as ordering GRMC to post millions of dollars in security, cannot be granted without a full trial on the merits. *Hyman v. Puckett*, 2015-0930 (La. App. 4 Cir. 5/4/16), 193 So 3d 1184, 1189. A mandatory injunction is “one that requires a party to perform a specific action.” *Denta-Max v. Maxicare Louisiana, Inc.* 95-2128 (La. App. 4 Cir. 3/14/96), 671 So. 2d 995, 996.

Responding to Claimants’ citation of *Oestreicher* and *Ciambotti*, Respondents aver that in both cases the plaintiffs had an ownership interest in the property being enjoined. In *Oestreicher*, the plaintiff practiced law with the defendant, who settled a case without plaintiff’s permission and deposited the attorney fee in his personal account. By agreement, plaintiff had a 50% interest in the fee. Similarly, in *Ciambotti*,

the plaintiff gave a letter of credit to defendant for an interest in a partnership that was insolvent after the defendant knowingly concealed from plaintiff the true financial condition of the partnership--circumstances Respondents contend are not present here.

In *Oestreicher and Ciambotti*, the plaintiffs had an ownership interest in the property being enjoined, whereas the instant claim is a “suit on sworn account,” seeking payment of cash in which Claimants have no ownership interest. Claimants are not entitled to enjoin Respondents from using their own cash. A speculative “risk” that any judgment will be “valueless” is insufficient to support an injunction. Respondents also contend that writs of sequestration and attachment are not available under Louisiana law. Claimants have not shown that they have any privilege or lien on Respondents’ property, nor have they shown that GRMC or any Respondent “has or is about to dispose of property with intent to defraud Claimants.”

#### **V. Hearing Evidence**

The hearing held on November 21, 2023, began with opening statements from counsel, reflecting the arguments put forth in their pre-hearing briefs. Claimants’ counsel noted that the GRMC hospital does not dispute the work that HNI performed, work for GRMC had been paying. Counsel also contended HNI does have an ownership interest in the funds owed by Respondents and desires to enjoin Respondents from spending the 4.9 million dollars they owe. Claimants wish to “preserve” the property in dispute.

Steward is the parent company of Glenwood Hospital. Checks in payment for HNI services rendered have come from Steward. They are a party, and Claimants maintain the arbitrator is empowered to enjoin them as well as GRMC. Steward is now spending money to keep certain doctors on site at the hospital. GRMC has had to reduce its services

because they do not have sufficient money to pay for them. Claimants contend Respondents have contemplated bankruptcy.

Respondents' counsel asserted this case is "not unique at all." Claimants have no interest in GRMC's funds. "We deal with unpaid invoices," where Claimants have a right to assert a claim for monies owed but no right to an injunction. This claim can and should be resolved as a claim for money damages. Under the law an injunction is not available. Moreover, Claimants have offered no evidence that Respondents are insolvent.

Claimants' first witness was Oon Soo Ung. He is the Chief Financial Officer of HNI Healthcare, having held that position for 3 ½ years. In that capacity he oversees various departments—financial, accounting, accounts payable, payroll, financial planning, and human resources. He reports to HNI's Chief Executive Officer, Michael Gonzales. Mr. Ung has an MBA degree.

In his work as HNI Chief Financial Officer, Ung became familiar with Glenwood Hospital in West Monroe, LA. He identified its parent company as Steward Healthcare System. He testified that over the last year he has been trying to collect money owed to HNI for services provided. GRMC and Steward are delinquent in making payments.

Typically, he said, HNI invoices would be sent to GRMC. GRMC would approve them and send them to Steward for payment. When HNI got paid, the payments came from Steward—on a Steward check. Ung said he had frequent communications with several persons at Steward, including its Chief Accounting Officer, Chief Administrative Officer, Chief Operating Officer, and Chief Executive Officer, identifying Joshua Putter and Laura Tortorella, among others. At no time did anyone from Steward say, "Don't talk to us."

Ung identified the two main contracts which were in effect between HNI and GRMC—the Management Agreement (MSA) and the Professional Services Agreement (PSA). The PSA (Exhibit 3) covers three programs: HNI employs physicians to cover hospitalist, ICU, and neurology programs. HNI provides staff to care for patients under these programs.

Both the MSA and PSA were in effect until November 16, 2023. Each contract was assigned or amendment over time. For the PSA, Ung referred to the Fourth Amendment and the Third Amendment (for ICU/Neurology). For the MSA he cited the First Amendment.

Referring to Claimants’ Exhibit 4, Ung explained that under the contract HNI was entitled to certain “incentive payments” if it met specified metrics—such as preventing readmissions.

Ung testified that HNI invoiced GRMC monthly for PSA services and quarterly for MSA services. The amounts invoiced are due within 30 days.

Ung said that for HNI services provided from January 2023 through November 16, 2023, many invoices remain unpaid. He would like the Emergency Arbitrator to set aside 4.9 million dollars in funds the hospital has received or will receive for services provided by HNI to Glenwood Hospital as security for this debt.

Claimants offered into evidence Exhibit 1, a summary sheet regarding “invoices owing from Glenwood to HNI.” These invoices were sent to both GRMC and Steward. Mr. Ung testified that he created this document, using detailed information provided to him by HNI staff members. They relate to services provided by HNI under the PSA and MSA. He cited Invoice #7434 as an example of an invoice under the MSA Agreement. The invoices are attached as part of Exhibit 1.

Mr. Ung testified that the sum of \$1,058,315 in quarterly invoices to GRMC under the MSA represents the incentives HNI achieved. He identified the sum of \$3,314,639 as the amount owed to HNI under the PSA through end of October 2023. Ung explained that certain “estimates” of amounts owed, based on history and experience, were necessary for him to bring the figures completely up to date—that is, through November 16, 2023, the date the contracts terminated. This is because “we have no final data from Glenwood,” but Ung did not expect these figures to “be any different.” With those estimates under the MSA (\$180,220.46) and the PSA (\$343,083.18), Mr. Ung testified that the total amount owed by GRMC/Steward to HNI for services provided is \$4, 896, 259.

In his regular communications with Steward regarding these outstanding invoices—sometimes occurring two to three times a week-- Mr. Ung said no one at Steward ever contended the money was not owed, the invoices were not accurate, or that the services were not provided.

The witness identified Claimants’ Exhibit #2, a document he created regarding HNI’s Monthly Exchange of Funds. He noted that HNI paid physicians to work at the GRMC hospital, paying them salaries and benefits, citing a figure of \$350,000. He referred to administrative costs and malpractice insurance expense. If payments due from GRMC are not received, Ung testified, HNI experiences a “shortfall” of \$465,000 on a monthly basis.

Mr. Ung attempted to estimate the amount of money GRMC hospital receives or received from its various payors each month, coming up with

a figure of 10 to 15 million dollars based on 1000 to 1,300 patients per month.<sup>4</sup>

The witness described his communications with various individuals at GRMC and Steward over the last ten months in his effort to get the outstanding invoices paid, referring to numerous documents and emails marked as exhibits and admitted into evidence. He said under the weekly plan agreement worked out with Steward they agreed to pay HNI the sum of \$550,000 one week and \$400,000 the next to “get us caught up.” At one point, Steward advised HNI that certain “checks were cut,” electronically sending HNI copies of a check. But (as shown on the watermarks) these were not real checks, and the real checks “never arrived.” In an email dated 10/5/23, Josh Putter, Regional Hospital President for Steward Healthcare advised: “We will not be able to make [the payments] . . . solely due to cash flow this week.” [Claimants’ Exh. 13]

Returning to the specific amount owed by GRMC/Steward, Mr. Ung testified that the sum of \$4, 372, 955 was owed through the month of October 2023. The amount owed from November 1st through November 16th is \$523, 303.65. The total amount owed is \$4, 896, 258.65.<sup>5</sup>

On cross-examination, Mr. Ung agreed that HNI is (or was) a vendor of the hospital, with GRMC as the client. The two companies were not partners. Nothing in the Management or Services Agreements, which control their relationship, refer to the parties as partners or as forming a partnership. Mr. Ung is not aware of any partnership agreement.

Mr. Ung was also not aware of any right to sequester GRMC’s funds contained in either of the contracts, although Mr. Ung testified that

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<sup>4</sup> No business records or other documentary evidence from GRMC or Steward was offered in support of this testimony.

<sup>5</sup> This figure is about one dollar less than the sum (\$4,896,259.52) referenced in Claimants’ Interim Order of the Emergency Arbitrator tendered on November 22, 2023, for the Emergency Arbitrator’s consideration.

GRMC has a contractual obligation to pay invoices for services rendered. He was also unaware of any contractual right on the part of HNI to sequester funds owned by Steward. Similarly, he was not aware of any contractual language entitling HNI to freeze the assets of GRMC or Steward, nor any right of attachment.

On further examination, Mr. Ung testified that HNI terminated the contracts because it was not getting paid by GRMC or Steward. The termination was effective November 16, 2023. The only reason given by Steward for not paying HNI's invoices was an inability to pay due to a cash flow problem.

Claimants called Dr. Craig Menard as their second witness. He is a medical doctor who also has a master's degree in health services administration. He has been employed by HNI for six years and currently serves as a Regional Vice President of Operations. In that capacity he maintains regular communications with hospital clients, including their Chief Executive Officers. At each hospital site HNI has a program director who reports to Dr. Menard. Dr. Menard reports to the Chief Operating Officer of HNI.

Dr. Menard recalled that during 2023 HNI was not getting paid for its services at GRMC, which "became a big issue." From discussing the situation with CEOs at three Steward sites, he understood Steward was having trouble paying other vendors as well. Reportedly, GRMC was not paying a surgical supply vendor, causing cancellation of surgeries, which he described as producing a significant financial impact on a hospital. Patient volume at GRMC was dropping from 120 patients per day to a figure in the low to mid 90s. "Less patients is less money," he said.

HNI agreed to certain "amendments" to control costs, Dr. Menard emphasizing that from HNI's standpoint "we did everything we could." By June and July of 2023, he said, conditions worsened. GRMC/Steward



representatives indicated to him that vendors were not getting paid and at certain points water and electricity were cut off. Dr. Menard believed the hospital “went on diversion.” By October 2023, when he asked GRMC/Steward why HNI wasn’t getting paid, the reply was “they didn’t have enough money to pay us.” Jeremy Martin of Steward Health Care told him, “I owe everybody.” At the same time, according to Dr. Menard, “Jeremy never objected to any specific HNI invoices.”

Despite making efforts to work with Steward, HNI’s invoices remained outstanding. Dr. Menard formed the belief that Steward was not acting in good faith. He noted that about twelve HNI providers stayed on at GRMC after the HNI-GRMC contract ended.

Claimants’ third and last witness was Dr. Adebanke Davis. She has been associated with HNI since 2019. She described her medical practice at GRMC as a mixture of pulmonology and critical care.

Dr. Davis worked at GRMC until November 16, 2023, leaving because the contract ended. She testified that “things got really bad” at the hospital due to a shortage of supplies. At one point there were no forceps to carry out procedures and an MRI machine was broken, which presented a safety issue. She was aware that Steward had a lot of debt.

Dr. Davis testified that she received an offer from Dr. Mark Boersma to stay on at Glenwood. In response, she asked a physician: “Where is the money coming from?” The physician became angry with her for asking this question.

## **VI. Ruling on Facts and Applicable Law**

Claimants have offered strong evidence to the effect that GRMC owes HNI the sum of approximately 4.9 million dollars for services rendered. In response to the Application for Injunctive Relief, Respondents have offered no substantive defense to the debt. The

evidence produced by Claimants indicates GRMC/Steward have not contested the validity or accuracy of the amount owed, but they are not currently in a position to pay the debt due to cash flow problems. This indicates Claimants have met their burden of showing they are likely to prevail on the merits, at least as far as GRMC's failure to pay HNI's invoices is concerned.

But the question remains whether Claimants are "entitled to such relief" under Louisiana law and AAA Rule 39(e) at this stage of the proceedings. This is the centerpiece of Respondents' defense—that Claimants are not entitled to seize, attach, or sequester GRMC or Steward's assets at this preliminary stage. A "merits" arbitrator has not yet been appointed. No discovery—by depositions, interrogatories, requests for production of documents, or otherwise--has been conducted.<sup>6</sup> Beyond the anecdotal evidence produced by Claimants, the precise financial condition of GRMC and Steward has not been established.

Louisiana courts have characterized injunction as a "hard, drastic, and extraordinary remedy" which "should only issue if the mover is threatened with irreparable loss without adequate remedy at law. *General Motors Acceptance Corp. v. Daniels*, 377 So. 2d 346, 348 (La. 1979); *Oestreicher*, 660 So. 2d 29 (La. App. 4<sup>th</sup> Cir. 1995) *Chandler v. State Dep't of Transp & Dev*, 2002-1410 (La App. 1<sup>st</sup> Cir. 3/28/03), 844 So. 2d 905. An award of damages, not injunctive relief, is the traditional remedy for harm that does not involve irreparable injury. *Smith v. Brumfield*, 133 So. 3d 70 (La. App. 4<sup>th</sup> Cir. 2014). See also *Bagert v. Goldsmith*, 504 So. 2d 648 (La. App. 4<sup>th</sup> Cir. 1987), *writ denied*, (La. 6/12/1987) (injunctive relief is appropriate when a party cannot be compensated for damages monetarily or in a situation where the damages are non-pecuniary); and

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<sup>6</sup> In their First Amended Complaint, Claimants assert they "intend to conduct discovery" under AAA Commercial Rules and request a Case Management Order.

*Guilbeaux v. Guilbeaux*, #2008-17, (La. App. 3d Cir., 4/30/08), 981 So. 2d 913 (to obtain a preliminary injunction plaintiff must show the loss alleged cannot be adequately compensated in money, or that it is a loss for which damages are not susceptible of being measured by pecuniary standards.)

A key issue here is whether Claimants can show they have some ownership interest in the sum of money owed by GRMC and/or Steward. Establishing that a debt is owed pursuant to a contract does not equate to an ownership interest in funds residing in Respondents' bank accounts. The evidence produced thus far indicates that HNI stands in the position of an unsecured creditor asserting a claim on open account. La. R.S. 9:2781. Ordinarily, most such creditors must obtain a money judgment from a court against the debtor and seek to enforce that judgment in accordance with the law. That a debt is owed does not automatically entitle a creditor to seize a portion of the debtor's bank accounts or other assets.

Claimants contend they are "restricting" their claim for injunctive relief to the amount of money Respondents have received as a result of services they provided. That may be true, but query whether this is not the case for most service-providers who are owed money: they have not been paid for services they performed and from which the debtor has benefited. Does that give them the legal right to a preliminary injunction ordering the debtor to escrow that sum of money until a pending proceeding has run its course? Does the creditor attain such a right because the debtor received funds from other sources (in this case hospital payors such as Medicare, Medicaid, private insurers, and patients) allegedly as a result of service provided by the creditor?<sup>7</sup>

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<sup>7</sup> Presumably, the payors owe a debt to the hospital, not to HNI. The hospital has a contractual obligation to pay HNI, but not necessarily an obligation to transfer those precise receipts directly to HNI.

Moreover, assuming there are other unsecured creditors to whom GRMC and/or Steward owe money, is it appropriate for an unsecured creditor, at this stage of the proceedings, to have the money they are owed sequestered or placed in escrow, so it will be available ahead of other creditors, in the event Respondents later become insolvent and file for bankruptcy? Understandably, Claimants seek to avoid the risk of obtaining a “valueless judgment” down the line. But based on the evidence presented, such “significant concerns” do not entitle Claimants to a preliminary injunction.

Claimants rely on two Louisiana cases, *Oestreicher* and *Ciambotti*. Upon review the Arbitrator finds them distinguishable.

In *Oestreicher*, one member of a law firm settled a lawsuit without Mr. Oestreicher’s knowledge and deposited the fee into his personal account. Oestreicher claimed he had a 50% interest in that fee pursuant to their law firm agreement and further contended Mr. Hackett’s insolvency necessitated injunctive relief. The trial court issued a temporary restraining order and a preliminary injunction ordering Mr. Hackett to deposit the contested sum into the registry of the court.

The Louisiana Fourth Circuit Court of Appeal agreed that Mr. Oestreicher had an interest in the legal fee. Whether Oestreicher had shown Mr. Hackett was insolvent, however, was unclear: there were conflicting affidavits on this point. The appeal court upheld the injunction on other grounds—namely, because Mr. Hackett “has been less than candid with the court during the pendency of this case.”

Therefore, the *Oestreicher* case involves two distinguishing factors: (1) the Claimant had a direct ownership interest in the legal fee; and (2)

the defendant had been less than candid with the court, a circumstance not present here.

In *Ciambotti*, plaintiff purchased one share of a limited partnership interest in a construction venture, requiring him to put up a letter of credit issued by a Lake Charles bank. The partnership pledged this letter of credit to a bank as security for interim construction financing. The loan went into default, and the bank sought to collect on the letter of credit. The evidence showed defendants had not disclosed critical information about the construction project in a private placement memorandum, information, had it been divulged, would have caused plaintiff not to purchase the interest. The appeal court affirmed the trial court's finding of fraud. It also said it was "clear the limited partnership was insolvent," and therefore a claim of damages would not have been an adequate remedy.

In the instant matter, at this early stage we do not have clear evidence of fraud, nor reliable records documenting GRMC or Steward's financial condition. Potential insolvency has been suggested but remains "unclear." Although it may prove to be true sometime in the future, based on the evidence produced thus far the Emergency Arbitrator is not in a position to declare that GRMC or Steward are insolvent, and that any money judgment obtained by Claimants would be valueless.

Neither a writ of attachment nor sequestration apply in these circumstances. Under La. C.C.P. art. 3541, a writ of attachment may be obtained when the defendant (1) has concealed himself to avoid service of citation; (2) has granted a security interest under Chapter 9 of the Louisiana Commercial Laws (R.S. 10:9-101) or has mortgaged, assigned, or disposed of his property or some part thereof, or is about to do any of these acts, with intent to defraud his creditors or give an unfair preference to one or more of them. (3) has converted or is about to

convert his property into money or evidences of debt, with intent to place it beyond the reach of his creditors; (4) has left the state permanently, or is about to do so before a judgement can be obtained and executed against him; (5) is a nonresident who has no duly appointed agent for service of process within the state. Claimant has not shown entitlement to a writ of sequestration under these criteria.

Under La. C.C.P. art. 3571, grounds for seizure of property under a writ of sequestration arise when one claims the ownership or right to possession of property, or a mortgage, security interest, lien, or privilege thereon, if it is within the power of the defendant to conceal, dispose of, or waste the property or the revenues therefrom, or remove the property from the parish, during the pendency of the action. As noted, Claimants have not shown any ownership or security interest in Respondents' property.

Ultimately, like Louisiana trial courts, the Emergency Arbitrator has "great discretion" to determine whether a preliminary injunction should be granted. *Whitney Nat'l Bank v. Blueridge, Inc.*, 606 So.2d 902 (La. App. 4<sup>th</sup> Cir. 1992) Claimants have made a strong showing that they will likely prevail on their claim to recover approximately 4.9 million dollars in unpaid invoices, and they have offered some evidence of Respondents' financial difficulties. But the evidence falls short of meeting the high standard required under Louisiana law for issuance of an injunction ordering Respondents to post the sum 4.9 million dollars as security against an eventual money judgment.

Accordingly:

IT IS ORDERED that Claimants' Application for Emergency Injunctive Relief and Interim Measures be and the same is hereby DENIED.

IT IS FURTHER ORDERED, pursuant to AAA Rule 39(i), that each party shall bear its own costs associated with the application for emergency relief, subject to the power of the merits arbitrator to determine finally the apportionment of such costs.

/s/ E. Phelps Gay

Emergency Arbitrator

November 27, 2023

# 6

Plaintiffs' Reply In Support Of Motion for Expedited Discovery





### **First Issue: Evidence of Defendants' Financial Condition**

The Response entirely fails to acknowledge that Defendants are in a precarious and worsening financial position and, thus, there is a legitimate risk of losing the subject debt. For example, approximately one week ago, on January 4, 2023, Medical Properties Trust, Inc., and MPT Operating Partnership, L.P. (together, “MPT”), filed a Form 8-K with the United States Securities and Exchange Commission, which reflects that Defendants owe MPT approximately \$50 million in unpaid rent as of December 31, 2023.

The filing details a plan to “accelerate its efforts to recover uncollected rents and outstanding loan obligations from Steward Health Care System (‘Steward’) and related processes designed to significantly reduce [MPT’s] exposure to Steward.” Ex. 1 at p. 4. The filing also states that “Steward is pursuing several strategic transactions, including the potential sale or re-tenanting of certain hospital operations as well as the divestiture of non-core operations.” *Id.* Based on this information, it is very likely that Defendants will be insolvent or otherwise will be unable to pay any judgment awarded in favor of HNI. Accordingly, after receiving the discovery sought by the Motion, HNI seeks injunctive relief to prevent Defendants from diverting or otherwise disposing of specific funds that are owed to HNI.

### **Second Issue: Evidence of Steward’s Involvement/Agreement**

Defendants fail to address the allegation that Steward—at the corporate level—promised to make payments to HNI following the sale of hospitals in the State of Utah that were formerly owned and operated by Steward. In fact, the Response incorrectly claims there is no contractual relationship whatsoever between HNI and Steward. But the email communications attached to Plaintiffs’ Verified Original Petition and Application for Temporary Injunction (the “Petition”) and this Reply establish that Steward—at the corporate level—engaged in numerous discussions

directly with HNI regarding its promise to make payments on behalf of three hospitals where HNI's providers rendered services, including the TMC Hospital in Beaumont. *See* Exs. 2–6.

More specifically, in February 2023, HNI made a demand on Defendants for payment of past due invoices, which resulted in conversations with Steward at the corporate level. To obtain additional time to pay the balance owed and to induce HNI to continue providing services, Steward agreed to make weekly payments to HNI and then pay the remaining balance due to HNI upon the sale of hospitals that were formerly owned and operated by Steward in the State of Utah. Steward agreed to the plan, promised to “do everything possible to adhere to” the plan, and made some of the weekly payments as promised. However, Steward failed to make all agreed-upon weekly payments and, when the hospitals in Utah were sold, Steward failed to pay HNI the remaining balance. *See* Exs. 2-6.

### **Third Issue: Effect of the Louisiana Arbitration Proceeding**

The Response mischaracterizes the nature of the Order signed by Arbitrator Gay in the pending arbitration proceeding in West Monroe, Louisiana, filed by HNI against Glenwood Regional Medical Center (“GRMC Hospital”), Steward Health Care System, LLC, Steward Health Care Holdings, LLC, and other Steward-related entities. While it is true that Arbitrator Gay denied HNI's request for emergency injunctive relief and interim measures, the circumstances are easily distinguishable for several reasons.

*First*, the claims pleaded in the Louisiana arbitration proceeding, when HNI's application was considered by Arbitrator Gay, did not include causes of action arising from Steward's promise to make payments on behalf of GRMC Hospital, TMC Hospital, or other Steward-owned hospitals, nor did they include HNI's causes of action for fraud and negligent misrepresentation. Because

these causes of action underly HNI's request for injunctive relief in this case, the Louisiana arbitration proceeding should have absolutely no bearing on the issues before this Court.

*Second*, Arbitrator Gay's decision relied on a finding that HNI failed to submit evidence of Defendants' insolvency. The decision, after all, was reached *before* HNI was given the opportunity to conduct *any* discovery.

By contrast, in this case, HNI has submitted evidence demonstrating the weakness of Defendants' financial condition and seeks to conduct a temporary injunction hearing *after* some limited discovery is conducted. The situations are very different.

#### **Fourth Issue: Limited Scope of Discovery**

The Response objects to the scope of discovery included in HNI's proposed order granting the Motion, complaining that HNI's requests are "wildly overbroad and premature." To address Defendants' concerns regarding the scope of discovery, however, concurrently with the filing of this Reply, HNI has submitted an amended order that includes fewer and much narrower requests for production. The requests listed in HNI's first amended proposed order are designed to target the specific information necessary to prepare for the hearing on HNI's application for temporary injunction, including internal communications among Defendants' employees regarding Steward's agreement to make payments to HNI on behalf of the three hospitals and information regarding the sale of hospitals that were formerly owned and operated by Steward in the State of Utah. This information is necessary for the Court to fairly consider HNI's request for injunctive relief.

#### **Fifth Issue: Basis for Injunctive Relief**

Although the Response correctly asserts that HNI's harm may be remedied by money damages, this allegation assumes that Defendants will have the funds to satisfy such money damages, which is becoming more and more unlikely with each passing month as evidenced by

Defendants' own actions (and ever-increasing debt). As thoroughly explained in the Petition and the Motion, HNI seeks injunctive relief and associated expedited discovery to prevent Defendants from diverting or otherwise disposing of funds to which HNI is entitled (*i.e.*, the “money damages” Defendants claim are capable of remedying HNI's harm), thereby preserving the status quo during the pendency of this lawsuit. The need for such “extraordinary relief” is due to the emergency risk to the status quo posed by the extremely tenuous position Defendants are in both legally and financially, and Defendants' repeated misrepresentations regarding their willingness and ability to pay HNI for services rendered by its providers at TMC Hospital.

#### **Sixth Issue: Misstatements of Facts and Law**

Most of the arguments contained in the Response put the cart before the horse. That is, Defendants prematurely and improperly rely on arguments that are not presently before the Court. Rather, these arguments are red herrings that entirely fail to address the issue of whether HNI is entitled to expedited discovery. Thus, they should be disregarded. In addition, Defendants do not cite a single case or statute in support of their threadbare assertion that there is no good cause to order expedited discovery in preparation for the injunction hearing. Finally, in support of their (inapplicable) arguments, Defendants repeatedly misstate the underlying facts and Texas law.

As an example, Defendants allege that because the injunctive relief HNI seeks on the underlying merits (*i.e.*, a writ of attachment *and/or* an order that Defendants deposit money into the registry of the Court *and/or* relief under TUFTA) is somehow “not available” as a matter of course, HNI is not entitled to expedited discovery. But Defendants misinterpret the standard for injunctive relief. Defendants improperly ask the Court to adopt a standard where HNI must show it will ultimately prevail on the *remedies* sought to obtain an injunction. Yet, under Texas law, HNI must only show that it is likely to succeed on the merits of its *claims* against Defendants:

breach of contract, unjust enrichment, fraud, and negligent misrepresentation. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002); *Sun Oil Co. v. Whitaker*, 424 S.W.2d 216, 218 (Tex. 1968) (stating that “[t]o warrant issuance of the writ [of temporary injunction], an applicant . . . needs only to plead a cause of action and to show a probable right on final trial to the relief he seeks and probable injury in the interim”). It is simply not necessary for HNI to show it will ultimately prevail. *Walling v. Metcalf*, 863 S.W.2d 56, 58 (Tex. 1993).

Regardless, the purported reason why HNI is not entitled to the expedited discovery sought appears to be entirely based on Defendants’ conclusory allegations that HNI is not entitled to the injunctive relief sought.<sup>1</sup> And, despite claiming that “[n]o good cause exists for ordering expedited discovery in this case,” Defendants decline to provide any support for this assertion. In other words, Defendants skip a step and seemingly argue that because they believe HNI is not entitled to the injunctive relief sought, no good cause exists for ordering expedited discovery. But the Response misses the point entirely—instead of arguing why HNI is not entitled to expedited discovery in preparation for the injunction hearing, Defendants only argue that HNI is not entitled to the injunctive relief sought. Defendants miss the boat by ignoring the issue that is presently before the Court. After all, the purpose of the expedited discovery sought by HNI is to prepare for the injunction hearing (*i.e.*, to prepare to show why HNI is entitled to the injunctive relief it seeks).

As another example, the case cited by Defendants in support of their claim that “mere speculation is legally insufficient to order expedited discovery,” *St. Paul Fire & Mar. Ins.*, does not even address expedited discovery. As stated in Footnote 2 of the Response, the court held that

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<sup>1</sup> Defendants assert that “[b]ecause these types of extraordinary relief are not available . . . no good cause exists for ordering expedited discovery.” Response at p. 4.

“conjectural or speculative events will not support a claim for *injunctive relief*.”<sup>2</sup> The available grounds for ordering injunctive relief, however, are not the same as the available grounds for ordering expedited discovery. And, as discussed above, Defendants’ apparent belief that HNI is not entitled to injunctive relief is irrelevant to the issue of whether HNI is entitled to expedited discovery *to prepare for a hearing on such injunctive relief*. Similarly, despite Defendants’ accurate observation that the courts in three cases cited by HNI in the Motion granted mandamus relief, **none** of these three courts granted mandamus relief for an abuse of discretion arising from granting a motion for expedited discovery in preparation for an injunction hearing.<sup>3</sup>

In addition, Defendants routinely mischaracterize the arguments raised in the Motion. Although Defendants insinuate that HNI only cites “two Rules of procedure”—Texas Rules of Civil Procedure 196.3(a) and 197.2(c)—Defendants turn a blind eye to the most important rule of procedure cited in the Motion: Texas Rule of Civil Procedure 191.1.<sup>4</sup> Under Texas Rule of Civil Procedure 191.1, “the procedures and limitations set forth in the rules pertaining to discovery may be modified . . . by court order for good cause.” TEX. R. CIV. P. 191.1. Contrary to Defendants’

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<sup>2</sup> See *id.* at p. 3 (emphasis added); *St. Paul Fire & Mar. Ins. V. Texas Workers’ Comp. Comm’n*, 945 S.W.2d 886, 888–89 (Tex. App.—Austin 1997, no writ).

<sup>3</sup> See *In re MetroPCS Commc’ns, Inc.*, 391 S.W.3d 329 (Tex. App.—Dallas, 2013, no pet.) (conditionally granting the writ of mandamus, concluding that (1) the trial court abused its discretion by granting the TRO without verified facts or supporting evidence on the record and by granting injunctive relief without first ruling on motions respecting the forum selection clause in question; and (2) that the relators lack an adequate remedy by appeal because the trial court granted the motion for temporary restraining order and set a temporary injunction hearing without deciding pending motions respecting enforcement of the forum selection provision in question); see *In re Texas Health Res.*, 472 S.W.3d 895, 900-906 (Tex. App.—Dallas 2015, no pet.) (conditionally granting a writ of mandamus because the trial court abused its discretion in ordering production of privileged information). And as admitted in the Response: “the parties in [*In re Boehme*] . . . agreed to engage in expedited discovery, [and] thus that issue was not even before the court.” Response at p. 4; see *In re Boehme*, 256 S.W.3d 878, 880 (Tex. App.—Houston [14th Dist.] 2008, no pet.).

<sup>4</sup> See Response at p. 4.

misleading argument that Texas Rules of Civil Procedure 196.3(a) and 197.2(c) “do not expressly address expedited discovery,” the Motion makes clear that HNI’s reference to these rules was merely to explain that, *in addition to the Court’s discretion to modify discovery procedures and limitations under Rule 191.1*, Rules 196.3(a) and 197.2(c) provide for expedited written discovery upon order of the Court.

In short, the Motion should be granted because good cause exists to expedite discovery. Defendants have improperly put the cart before the horse by urging the Court’s consideration of the wrong issue. Defendants wholly fail to support their assertion that HNI is not entitled to expedited discovery. In doing so, Defendants inexplicably skip a step by arguing that because HNI is allegedly not entitled to injunctive relief, HNI is allegedly not entitled to expedited discovery to prepare for the injunction hearing. And, ironically, Defendants’ arguments that HNI is not entitled to injunctive relief help establish the need for expedited discovery—so that HNI may adequately prepare for the hearing on the injunctive relief it seeks.

### **PRAYER**

An emergency order permitting expedited discovery is necessary to allow HNI to obtain additional evidence in support of its application for temporary injunction. This request for expedited discovery is reasonable under the circumstances due to the need for discovery prior to a hearing on HNI’s application for temporary injunction. For these reasons, HNI respectfully requests the Court enter an Order allowing expedited discovery as described above.

*[Signature block on next page.]*



Respectfully submitted,

**DOBROWSKI STAFFORD & PIERCE LLP**

By: /s/ Tal DeBauche

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***Counsel for Plaintiffs***

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served on all parties and counsel of record by email and the electronic filing system on January 12, 2024.



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Thomas "Tal" DeBauche

# Exhibit 1

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

**Date of report (Date of earliest event reported): January 2, 2024**

**MEDICAL PROPERTIES TRUST, INC.  
MPT OPERATING PARTNERSHIP, L.P.**  
(Exact Name of Registrant as Specified in Charter)

Commission File Number 001-32559

Commission File Number 333-177186

**Maryland  
Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**20-0191742  
20-0242069**  
(I.R.S. Employer  
Identification No.)

**1000 Urban Center Drive, Suite 501  
Birmingham, AL**  
(Address of principal executive offices)

**35242**  
(Zip Code)

**Registrant's telephone number, including area code: (205) 969-3755**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the Registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class   | Trading<br>Symbol | Name of each exchange<br>on which registered |
|---|-------------------|--|
| Common Stock, par value \$0.001 per share, of<br>Medical Properties Trust, Inc. | MPW               | The New York Stock Exchange                  |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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### **Item 1.01. Entry into a Material Definitive Agreement.**

On January 2, 2024, in connection with the arrangements with Steward Health Care System LLC described under Item 7.01 below, certain subsidiaries of Medical Properties Trust, Inc. (the “Company”) entered into an amendment to the Amended and Restated Master Lease Agreement dated as of November 9, 2021 between such subsidiaries, as Lessor, and certain subsidiaries of Steward Health Care System LLC, as Lessee (as amended from time to time, the “Master Lease”). The amendment provides for limited rent deferral under the Master Lease, pursuant to which the Lessee will be permitted to defer monthly rent payable under the Master Lease for the fourth quarter of 2023 and for the month of January 2024, the Lessee will be required to pay 25% of total monthly rent due under the Master Lease for each of February and March 2024, and pay 75% of total monthly rent due under the Master Lease for each of April and May 2024. The Lessee is required to resume 100% monthly rent payments beginning June 2024, in addition to repayment of all deferred rent amounts plus accrued interest and penalties no later than June 30, 2024 (or earlier from the net proceeds of any asset sales by Lessee and its affiliates).

The terms and conditions of the Master Lease amendment summarized above are qualified in their entirety by the full text of the amendment, which the Company expects to file as an exhibit to its Quarterly Report on Form 10-Q for the quarter ended March 31, 2024.

### **Item 7.01. Regulation FD Disclosure.**

On January 4, 2024, the Company issued a press release announcing a series of actions relating to its relationship with Steward Health Care System LLC. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

The information contained in this Item 7.01, including Exhibit 99.1, is being “furnished” and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liability of that section or Sections 11 and 12(a)(2) of the Securities Act of 1933, as amended. In addition, this information shall not be deemed incorporated by reference in any filing of the Company with the Securities and Exchange Commission, except as expressly set forth by specific reference in any such filing.

### **Item 9.01. Financial Statements and Exhibits.**

(d) *Exhibits*

| <u>Exhibit Number</u> | <u>Description</u>  |
|-----------------------|---|
| 99.1                  | <a href="#">Press release dated January 4, 2024</a>                         |
| 104                   | Cover Page Interactive Data File (embedded within the Inline XBRL document) |

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunder duly authorized.

**MEDICAL PROPERTIES TRUST, INC.**

By: /s/ R. Steven Hamner  
Name: R. Steven Hamner  
Title: Executive Vice President and Chief Financial Officer

**MPT OPERATING PARTNERSHIP, L.P.**

By: /s/ R. Steven Hamner  
Name: R. Steven Hamner  
Title: Executive Vice President and Chief Financial Officer of the sole member of the general partner of MPT Operating Partnership, L.P.

Date: January 4, 2024



Contact: Drew Babin, CFA, CMA  
Senior Managing Director of Corporate Communications  
Medical Properties Trust, Inc.  
(646) 884-9809  
[dbabin@medicalpropertiestrust.com](mailto:dbabin@medicalpropertiestrust.com)

#### MEDICAL PROPERTIES TRUST PROVIDES UPDATE ON STEWARD HEALTH CARE

**Birmingham, AL – January 4, 2024** – Medical Properties Trust, Inc. (the “Company” or “MPT”) (NYSE: MPW) today announced plans to accelerate its efforts to recover uncollected rents and outstanding loan obligations from Steward Health Care System (“Steward”) and related processes designed to significantly reduce its exposure to Steward.

As disclosed in the Company’s third quarter 2023 Form 10-Q, Steward delayed paying a portion of its September and October rent to MPT. Despite its obtaining additional working capital financing and selling its non-core laboratory business in the fourth quarter of 2023, Steward recently informed MPT that its liquidity has been negatively impacted by significant changes to vendors’ payment terms. As a result, Steward has continued to make partial monthly rent payments, and total unpaid rent under its consolidated master lease with MPT is approximately \$50 million as of December 31, 2023 (exclusive of approximately \$50 million that was previously deferred and not currently payable related to the Norwood Hospital, which is under reconstruction).

MPT has engaged Alvarez & Marsal Securities, LLC (“A&M”) as its financial advisor and KTBS Law, LLP and Baker, Donelson, Bearman, Caldwell & Berkowitz, PC as legal advisors to advise the Company on its options to enable the recovery of uncollected rent and outstanding loans. MPT’s management team and advisors have worked closely with Steward and its own advisors to develop an action plan which, if successful, is designed to strengthen Steward’s liquidity and restore its balance sheet, optimize MPT’s ability to recover unpaid rent, and ultimately reduce MPT’s exposure to Steward.

As part of this plan, Steward is pursuing several strategic transactions, including the potential sale or re-tenanting of certain hospital operations as well as the divestiture of non-core operations. Further, Steward has committed to seeking a third-party capital partner for its managed care business, net proceeds from which will be used in part to repay all outstanding obligations to MPT. Steward has also intensified measures to improve collections and overall governance, including establishment of a transformation committee comprised of newly appointed independent directors and submission of periodic cash activity and asset sale progress reports to MPT and its ABL lenders.

To protect the value of MPT’s assets and hospital operations while Steward executes on its strategic plan, MPT has agreed to fund a new \$60 million bridge loan secured by all MPT’s existing collateral plus new second liens on Steward’s managed care business, subordinate only to Steward’s ABL lenders. A portion of MPT’s existing approximately \$215 million of transaction-specific and working capital loans to Steward will now also be secured by these same second liens on the managed care platform. The Company has also consented to the

deferral of unpaid rent under the consolidated master lease as of December 31, 2023, as well as a limited and tapering deferral of approximately \$55 million of 2024 rents, until the earlier of June 30, 2024 or the completion of anticipated asset sales. Partial cash rent payments are expected to recommence in February, including approximately \$9 million in the first quarter and approximately \$44 million in the second quarter of 2024.

There can be no assurance that Steward will successfully execute its plans or that the Company will recover all of its deferred rent and loans outstanding to Steward. As a result, MPT cannot be assured that Steward will make all scheduled lease payments throughout the remaining approximate 22-year fully extended term of its master lease. Accordingly, pursuant to generally accepted accounting principles, the Company expects to record a non-cash charge in the fourth quarter of 2023 to write off consolidated straight-line rent receivables of approximately \$225 million, its approximately \$25 million share of straight-line rent receivables related to the unconsolidated Massachusetts partnership and consolidated unpaid rent receivables of approximately \$100 million (which includes the previously referenced \$50 million related to the Norwood development). Furthermore, MPT routinely evaluates for indications of impairments to its real estate and other investments, including those related to Steward. Such evaluations are ongoing as of December 31, 2023, and no assurances can be provided that further impairment of real estate and non-real estate assets will not be taken with MPT's fourth quarter 2023 reporting.

Importantly, MPT's non-Steward portfolio continues to generate robust revenue as demonstrated in the table below, which separates Steward's third quarter 2023 GAAP revenue from the remainder of the Company's portfolio:

**Q3 2023 Consolidated Revenue Attribution (GAAP) (\$ amounts in thousands)**

|                                     | <u>Steward</u>        | <u>Non-Steward</u>  | <u>Total</u>           |
|-------------------------------------|-----------------------|---------------------|------------------------|
| <b>Rent billed</b>                  | \$52,051 <sup>1</sup> | \$ 177,255          | \$229,306 <sup>1</sup> |
| <b>Straight-line rent</b>           | 8,973                 | 12,538              | 21,511                 |
| <b>Income from financing leases</b> | —                     | 26,066 <sup>2</sup> | 26,066 <sup>2</sup>    |
| <b>Interest and other income</b>    | 9,640                 | 20,053              | 29,693                 |
| <b>Total revenues</b>               | <u>\$70,664</u>       | <u>\$ 235,912</u>   | <u>\$306,576</u>       |

<sup>1</sup> Includes approximately \$4 million of non-cash deferred rent related to the Norwood Hospital redevelopment

<sup>2</sup> Includes approximately \$13 million of contractually owed rent and interest revenue from the non-cash receipt of an investment in PHP Holdings

The complete removal of all contributions from Steward-related investments, including that from the Massachusetts partnership, would have negatively impacted third quarter 2023 reported adjusted funds from operations (AFFO) by approximately \$67 million (\$0.11 per diluted share), resulting in a reported AFFO payout ratio in the high-70% range. A description of AFFO and a reconciliation of net income to AFFO for Q3 2023 is provided in the Company's earnings release for Q3 2023, available under the "News" tab of the Company's website.

**About Medical Properties Trust, Inc.**

Medical Properties Trust, Inc. is a self-advised real estate investment trust formed in 2003 to acquire and develop net-leased hospital facilities. From its inception in Birmingham, Alabama, the Company has grown to become one of the world's largest owners of hospital real estate with 441 facilities and approximately 44,000 licensed beds as of September 30, 2023. Since the end of the third quarter, the Company has sold four facilities and now owns approximately 43,000 licensed beds in nine countries across three continents. MPT's financing model facilitates acquisitions and recapitalizations and allows operators of hospitals to unlock the value of their real estate assets to fund facility improvements, technology upgrades and other investments in operations. For more information, please visit the Company's website at [www.medicalpropertystrust.com](http://www.medicalpropertystrust.com).



This press release includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements can generally be identified by the use of forward-looking words such as “may”, “will”, “would”, “could”, “expect”, “intend”, “plan”, “estimate”, “target”, “anticipate”, “believe”, “objectives”, “outlook”, “guidance” or other similar words, and include statements regarding our strategies, objectives, future expansion and development activities, asset sales, expected returns on investments and expected financial performance. Forward-looking statements involve known and unknown risks and uncertainties that may cause our actual results or future events to differ materially from those expressed in or underlying such forward-looking statements, including, but not limited to: (i) the economic, political and social impact of, and uncertainty relating to, potential impact from health crises (like COVID-19); (ii) the ability of our tenants, operators and borrowers to satisfy their obligations under their respective contractual arrangements with us, especially as a result of the adverse economic impact of the COVID-19 pandemic, and government regulation of hospitals and healthcare providers in connection with same (as further detailed in our Current Report on Form 8-K filed with the SEC on April 8, 2020); (iii) our expectations regarding annual guidance for net income and NFFO per share; (iv) our success in implementing our business strategy and our ability to identify, underwrite, finance, consummate and integrate acquisitions and investments; (v) the nature and extent of our current and future competition; (vi) macroeconomic conditions, such as a disruption of or lack of access to the capital markets or movements in currency exchange rates; (vii) our ability to obtain debt financing on attractive terms or at all, which may adversely impact our ability to pursue acquisition and development opportunities and pay down, refinance, restructure or extend our indebtedness as it becomes due; (viii) increases in our borrowing costs as a result of changes in interest rates and other factors; (ix) international, national and local economic, real estate and other market conditions, which may negatively impact, among other things, the financial condition of our tenants, lenders and institutions that hold our cash balances, and may expose us to increased risks of default by these parties; (x) factors affecting the real estate industry generally or the healthcare real estate industry in particular; (xi) our ability to maintain our status as a REIT for federal and state income tax purposes; (xii) federal and state healthcare and other regulatory requirements, as well as those in the foreign jurisdictions where we own properties; (xiii) the value of our real estate assets, which may limit our ability to dispose of assets at attractive prices or obtain or maintain equity or debt financing secured by our properties or on an unsecured basis; (xiv) the ability of our tenants and operators to operate profitably and generate positive cash flow, comply with applicable laws, rules and regulations in the operation of our properties, to deliver high-quality services, to attract and retain qualified personnel and to attract patients; (xv) potential environmental contingencies and other liabilities; (xvi) the risk that the expected sale of three Connecticut hospitals currently leased to Prospect does not occur; (xvii) the risk that MPT is unable to monetize its investment in PHP at full value within a reasonable time period or at all; (xviii) the risk that other property sales, loan repayments, and other capital recycling transactions do not occur; (xix) the risk that MPT is not able to attain its leverage, liquidity and cost of capital objectives within a reasonable time period or at all; (xx) the risk that MPT is not able to recover deferred rent or its other investments in Steward at full value within a reasonable time period or at all; and (xxi) the risks and uncertainties of litigation.

The risks described above are not exhaustive and additional factors could adversely affect our business and financial performance, including the risk factors discussed under the section captioned “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2022 and as updated in our quarterly reports on Form 10-Q. Forward-looking statements are inherently uncertain and actual performance or outcomes may vary materially from any forward-looking statements and the assumptions on which those statements are based. Readers are cautioned to not place undue reliance on forward-looking statements as predictions of future events. We disclaim any responsibility to update such forward-looking statements, which speak only as of the date on which they were made.

###

3

# Exhibit 2

**From:** [Shetty, Sanjay](#)  
**To:** [Mike Gonzales](#); [Deschryver, Joseph A.](#); [Lombardo, Patrick](#)  
**Cc:** [Oon Soo Ung](#)  
**Subject:** Re: [EXTERNAL] Follow-up  
**Date:** Tuesday, February 7, 2023 8:22:41 AM  
**Attachments:** [image001.png](#)

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I did find out that this was a miscommunication from AP to the site, so that check did not go out. However, I did make sure that \$800K was included on yesterday's check run. Pat and Joe will be in touch soon with a plan to address the balance of past due.

---

**From:** Mike Gonzales <mike.gonzales@hnihc.com>  
**Date:** Tuesday, February 7, 2023 at 7:32 AM  
**To:** "Shetty, Sanjay" <Sanjay.Shetty@steward.org>, "Deschryver, Joseph A." <Joseph.Deschryver@steward.org>, "Lombardo, Patrick" <Patrick.Lombardo@steward.org>  
**Cc:** Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Subject:** [EXTERNAL] Follow-up

**WARNING:** This e-mail came from outside Steward Health Care. Exercise extra **CAUTION** when clicking links and opening attachments from any and all senders. **REPORT** any suspicious emails by clicking the "**REPORT MESSAGE**" button in Outlook.

Dr. Shetty – following up on yesterday's call. Can you let us know what you found out on the \$1.7M GRMC check?

All the best,

**Michael Gonzales**

CEO/Founder

m. 956 . 533 . 8172 / o. 512.730.3060

w. [hnihealthcare.com](http://hnihealthcare.com) / e. [mike@hnihealthcare.com](mailto:mike@hnihealthcare.com)

signature\_2030437446



This e-mail is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, the information in this e-mail by persons or entities other than the intended recipient is prohibited and may be unlawful. If you received this in error, please contact the sender and delete the material from any computer and all devices.

NOTICE: This email may contain PRIVILEGED and CONFIDENTIAL information and is intended only for the use of the specific individual(s) to which it is addressed. It may contain Protected Health Information or Personally Identifiable Information that is privileged and confidential. Protected Health Information and Personally Identifiable Information may only be used or disclosed in accordance with law and you may be subject to penalties under law for improper use or further disclosure of the Protected Health Information or Personally Identifiable Information in this email. If you are not an intended recipient of this email, you are hereby notified that any unauthorized use, dissemination or copying of this email or the information contained in it or attached to it is strictly prohibited. If you have received this email in error, please delete it and immediately notify the person named above by reply email. Thank you.

# Exhibit 3

**From:** [Lombardo, Patrick](#)  
**To:** [Oon Soo Ung](#)  
**Cc:** [Deschryver, Joseph A.](#); [Mike Gonzales](#); [Oon Soo Ung](#); [Taylor, Mary Beth](#)  
**Subject:** Re: [EXTERNAL] Monthly Billings - Glenwood, St. Joseph's & Med Ctr SE TX  
**Date:** Thursday, February 9, 2023 11:52:52 AM  
**Attachments:** [image001.png](#)

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Let's go with your plan and we will do everything possible to adhere to it.

Thanks,

Pat Lombardo

---

**From:** Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Sent:** Thursday, February 9, 2023 12:46:44 PM  
**To:** Lombardo, Patrick <Patrick.Lombardo@steward.org>  
**Cc:** Deschryver, Joseph A. <Joseph.Deschryver@steward.org>; Mike Gonzales <mike.gonzales@hnihc.com>; Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Subject:** RE: [EXTERNAL] Monthly Billings - Glenwood, St. Joseph's & Med Ctr SE TX

**WARNING:** This e-mail came from outside Steward Health Care. Exercise extra **CAUTION** when clicking links and opening attachments from any and all senders. **REPORT** any suspicious emails by clicking the "**REPORT MESSAGE**" button in Outlook.

Good morning Patrick,

Mike and I reviewed your proposed plan below and took a look at our situation. We definitely want to continue to be good partners with Steward, considering our long standing relationship.

As we evaluated, we really need to have a total of \$2M every 4 weeks but will definitely stretch more where we can. So, would you be able to do a total of \$1.8M every 4 weeks, instead of the \$1.6M proposed below? Switching weeks 2 & 4 to \$400K each.

Wk 1 – 500K

Wk 2 – 400K

Wk 3 – 500K

Wk 4 – 400K

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Lombardo, Patrick <Patrick.Lombardo@steward.org>  
**Sent:** Wednesday, February 8, 2023 2:57 PM  
**To:** Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Cc:** Deschryver, Joseph A. <Joseph.Deschryver@steward.org>; Mike Gonzales <mike.gonzales@hnihc.com>; Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Subject:** Re: [EXTERNAL] Monthly Billings - Glenwood, St. Joseph's & Med Ctr SE TX

**CAUTION:** This email originated from outside of HNI Healthcare. DO NOT click links, open attachments or provide credentials unless you can validate the sender. **ALWAYS HOVER OVER LINKS TO VERIFY DESTINATION.**

Payment plan for the next 4 week period:

Wk 1 – 500K  
Wk 2 – 300K  
Wk 3 – 500K  
Wk 4 – 300K

If additional AR is received, will revise.

---

**From:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Date:** Wednesday, February 8, 2023 at 2:29 PM  
**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Cc:** Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>, Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>, Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** Re: [EXTERNAL] Monthly Billings - Glenwood, St. Joseph's & Med Ctr SE TX

Oon Soo:

Attached is the first check for today, will forward the other, team is working on it now  
NOTICE: This email may contain PRIVILEGED and CONFIDENTIAL information and is intended only for the use of the specific individual(s) to which it is addressed. It may contain Protected Health Information or Personally Identifiable Information that is privileged and confidential. Protected Health Information and Personally Identifiable Information may only be used or disclosed in accordance with law and you may be subject to penalties under law for improper use or further disclosure of the Protected Health Information or Personally Identifiable Information in this email. If you are not an intended recipient of this email, you are hereby notified that any unauthorized use, dissemination or copying of this email or the information contained in it or attached to it is strictly

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**NOTICE:** This email may contain **PRIVILEGED** and **CONFIDENTIAL** information and is intended only for the use of the specific individual(s) to which it is addressed. It may contain Protected Health Information or Personally Identifiable Information that is privileged and confidential. Protected Health Information and Personally Identifiable Information may only be used or disclosed in accordance with law and you may be subject to penalties under law for improper use or further disclosure of the Protected Health Information or Personally Identifiable Information in this email. If you are not an intended recipient of this email, you are hereby notified that any unauthorized use, dissemination or copying of this email or the information contained in it or attached to it is strictly prohibited. If you have received this email in error, please delete it and immediately notify the person named above by reply email. Thank you.



# Exhibit 4

**From:** [Oon Soo Ung](#)  
**To:** [Taylor, Mary Beth](#); [Lombardo, Patrick](#)  
**Cc:** [Mike Gonzales](#); [Deschryver, Joseph A.](#); [Oon Soo Ung](#)  
**Subject:** RE: [EXTERNAL] RE: HNI payment  
**Date:** Monday, May 8, 2023 3:41:51 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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Good afternoon Steward Team,

Reaching out to obtain an update on when our outstanding invoices will be paid.

At the beginning of February 2023, we agreed on our call that a consistent weekly payment plan would be in place until the consummation of the sale of the Steward Utah hospitals, which would then provide adequate cash to Steward to bring us up to current on our invoices. This payment plan was agreed to by our HNI Board for the benefit of Steward and in the spirit of partnership with HNI. The 5 Utah hospital sale has been closed and we have approximately \$3.2M of outstanding invoices at the end of April 30, 2023.

Our board has requested an update on payment to true up AR to current. We request payment for our open invoices this week as Steward's ongoing past due balances have created a substantial hardship on HNI, our ability to continue to operate and difficulties with our current credit arrangement. The current AR status is a breach of current contract.

Please let me know the payment details and tracking information when available. Thank you.

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Sent:** Friday, May 5, 2023 1:59 PM  
**To:** Taylor, Mary Beth <MaryBeth.Taylor@steward.org>; Lombardo, Patrick <Patrick.Lombardo@steward.org>  
**Cc:** Mike Gonzales <mike.gonzales@hnihc.com>; Deschryver, Joseph A. <Joseph.Deschryver@steward.org>; Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

Good afternoon Steward Team,

Still looking for the details of the payments for the past several weeks. It has been 4 weeks since any meaningful payments were received and our Board is certainly needing updates. Can you please provide an update of when and what amounts of payments can be expected? We have quite a large amount of invoices still delinquent and outstanding.

Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Thursday, May 4, 2023 3:37 PM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good afternoon Steward Team,

I believe we have provided all the invoices that were requested by your AP Team yesterday. Would you please let me know the details of the checks and tracking numbers when available for this week's catch up payments.

Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Tuesday, May 2, 2023 10:46 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning Steward Team,

Congratulations on the closing of the sale of your Utah Facilities!

I'm reaching out again to request payments for all outstanding invoices. Please find attached the summary of all invoices outstanding at this time at the end of March 2023. We have some very old invoices and many > 60+ days. I know from our very first call on this topic with Joe, Patrick and Sanjay, the commitment was to help Steward get to the point when this transaction was completed and once closed, we would be caught up

and made current on all our invoices.

Please let me know the details of the checks and tracking numbers when available. Thank you for your help with this.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, April 28, 2023 9:49 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning,

Following up on the payments for the past 2 weeks and including this week's payment. The older outstanding invoices are now well over 90 days and we have much more now in the 60+ day bucket.

Please send details of payments and tracking today. Looking for a total of \$1.35M.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Wednesday, April 26, 2023 11:22 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning Steward Team,

We are following up on this week's payment, which should include amounts for the last 2 weeks as well. Total of \$1.35M. Need a payment this week.

Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Monday, April 24, 2023 11:29 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning all,

Following up on the checks for the past 2 weeks totaling \$850,000 in agreed to payments which we have not received any details. Can you please send?

For this week, an additional \$500,000 of payments is being requested. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, April 21, 2023 9:42 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning and thank you for the tracking information.

Any update for additional checks for this week. Looking for total payments of \$900K for last week and this week, including the \$51K check that was reissued.

Can you please send check details and tracking when available today?

Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Thursday, April 20, 2023 10:33 AM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Yes, that is where it is headed. Thanks.



**Mary Beth Taylor**

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Thursday, April 20, 2023 10:29 AM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Thank you. Will you be able to send the checks to my attention at our Corporate offices: - 7500 Rialto Boulevard, Building 1, Suite 140, Austin TX 78735? Thanks again.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>  
**Sent:** Thursday, April 20, 2023 10:03 AM  
**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

**CAUTION:** This email originated from outside of HNI Healthcare. DO NOT click links, open attachments or provide credentials unless you can validate the sender. **ALWAYS HOVER OVER LINKS TO VERIFY DESTINATION.**

Stop payment, void and re-issued the check.

TRK# 7719 1027 5402

Thanks.

**Mary Beth Taylor**

Chief Accounting Officer  
Steward Health Care System LLC  
2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Taylor, Mary Beth  
**Sent:** Wednesday, April 19, 2023 8:01 PM  
**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

We are checking on the FedEx tracking number sent.

I do not see where you sent the invoices requested, unless I overlooked. We need these in order to make another payment.

Thanks.

### Mary Beth Taylor

Chief Accounting Officer  
Steward Health Care System LLC  
2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Wednesday, April 19, 2023 11:23 AM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning Steward Team,



We have not received any payment last week for the \$500K which was agreed to. The attached \$51k check was not received as of today at either our lockbox or Corporate office.

We are looking for a payment totaling \$950K for this week which includes both the \$500K for last week and \$400K for this week. Please send all checks to my attention at 7500 Rialto Boulevard, Building 1, Suite 140, Austin TX 78732. We have resent copies of all invoices > 70 days last week.

Please provide check details and tracking when available.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Thursday, April 13, 2023 4:22 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

**CAUTION:** This email originated from outside of HNI Healthcare. DO NOT click links, open attachments or provide credentials unless you can validate the sender. **ALWAYS HOVER OVER LINKS TO VERIFY DESTINATION.**

Please see payment details attached and tracking below. Would you please provide a statement of outstanding items as it appears our team may be missing some invoices? Thanks.

Fedex track. no. 7718 4536 0600

## Mary Beth Taylor

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Wednesday, April 12, 2023 6:17 PM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick

<[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>;  
Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good evening Steward team,

Appreciate last week's additional catch up payments. Thank you. Looking for a \$500K payment this week based on our plan. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Wednesday, April 5, 2023 8:20 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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TRACKING #7717 6661 4372

## Mary Beth Taylor

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Wednesday, April 5, 2023 2:35 PM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good afternoon Steward team,

For Friday's run, wanted to reach out and let you know that we are looking for \$500K in payments for this week, since \$400K was made last week instead of \$500K.

We appreciate the consistency in payments. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Friday, March 31, 2023 4:08 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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TRK# 7717 2593 3619

Thanks,

**Mary Beth Taylor**

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Friday, March 31, 2023 9:59 AM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning Steward Team,

Following up on the payment details and tracking for this week's \$500K. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Wednesday, March 29, 2023 5:45 PM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

Good evening,

I realize that you all process AP on Friday's but wanted to make sure we were on the list this week for \$500K, per the agreed to plan. Thank you all.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Friday, March 24, 2023 5:45 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Please see payment details attached and tracking below. Thanks.

FedEx track. no. 7716 5358 5597

## Mary Beth Taylor

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, March 24, 2023 12:54 PM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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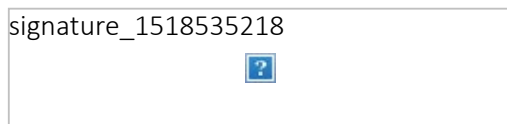
Ok. Thanks Mary Beth. Will wait for the details of the payment and tracking then. Thanks.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>  
**Sent:** Friday, March 24, 2023 10:30 AM  
**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Our ap team is working to process all payments. This generally occur on Fridays. Thanks.

## Mary Beth Taylor

Chief Accounting Officer  
Steward Health Care System LLC  
2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Friday, March 24, 2023 8:45 AM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning Steward Team,

We are still looking for an update on this week's payment of \$400K. Please let us know the details and tracking.

Moving forward, it would be good if we can receive the check on Friday of the week the agreed to payment is due. Thank you.

Thanks,

**Oon Soo Ung**  
Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung

**Sent:** Thursday, March 23, 2023 9:38 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning Steward team,

Any update on this week's payment of \$400K?

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung

**Sent:** Wednesday, March 22, 2023 9:56 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning,

Following up for this week's payment of \$400K. Please send details of payment and tracking info. Thank you.

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Friday, March 17, 2023 11:14 AM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Payment details attached and FedEx tracking below. Thanks.

Tracking #7715 8779 9230

## Mary Beth Taylor

Chief Accounting Officer  
Steward Health Care System LLC  
2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Taylor, Mary Beth  
**Sent:** Friday, March 17, 2023 10:22 AM  
**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

The team is working to process all payments today. Thanks.

## Mary Beth Taylor

Chief Accounting Officer  
Steward Health Care System LLC  
2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Friday, March 17, 2023 10:15 AM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning Steward Team,

We do need to hear back from you about this week's agreed to payment plan for \$500K. Please let me know at your earliest convenience the details and tracking info. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Thursday, March 16, 2023 10:45 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning,

I'm following up on this week's payment for \$500K. Please send me the details and tracking. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Wednesday, March 15, 2023 9:40 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Good morning everyone,

Just following up on this week's payment of \$500K. Please send me the details and tracking when you get a chance. Thank you all.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Friday, March 10, 2023 3:10 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Please see below/attached. Thanks.

TRACKING #7715 3502 0355

## Mary Beth Taylor

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, March 10, 2023 10:53 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Thank you. Will look out for the next batch when you have it available to close out this week.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Friday, March 10, 2023 8:58 AM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Tracking #7715 2333 9244

Team is working to process additional. Thanks.

## Mary Beth Taylor

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, March 10, 2023 8:48 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>;

Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning,

We sent in all the requested invoices yesterday. Any update from your end on payment details and tracking?  
Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung

**Sent:** Thursday, March 9, 2023 8:40 AM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Thank you Mary Beth. Please send me the payment and tracking details when you have them available.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Wednesday, March 8, 2023 5:10 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Checking with the team. Thanks.

**Mary Beth Taylor**

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Sent:** Wednesday, March 8, 2023 3:57 PM  
**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Hi Mary Beth,

Attached is what I have on file that is open and outstanding. I've highlighted invoices from November 2022 and prior totaling slightly more than \$2M. I think your AP team should have all these individual invoices. Let me know if you need anything else from my end.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>  
**Sent:** Wednesday, March 8, 2023 3:14 PM  
**To:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Our AP team has reached out separately requesting a statement/invoices as we do not have \$600K open to pay. Oon, if you can help us get those quickly, we will process and pay. Thanks!

**Mary Beth Taylor**

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B  
Richardson, TX 75082  
Main: 972-349-4800  
Direct: 972-349-4184  
Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>  
**Sent:** Wednesday, March 8, 2023 3:12 PM  
**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>;  
Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** Re: [EXTERNAL] RE: HNI payment

Oon:

We have approved \$600,000 to be issued today.

Thank you,

Pat

---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Date:** Wednesday, March 8, 2023 at 10:07 AM  
**To:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>, Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>  
**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>, Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>, Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>  
**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning Steward team,

Thank you for last week's payment of \$250K.

I'm following up on this week's payment of \$400K and the catchup from last week of \$250K, for a total of \$650K. Please provide me the payment details and tracking numbers when you have it available.

Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, March 3, 2023 12:44 PM

**To:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>; Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

Patrick,

We need Steward to keep to the agreed to payment schedule. Steward is still at least \$3M+ in past due invoices. Our Board of Directors have made it clear to us that we have made significant concessions by agreeing to a payment schedule which benefits only Steward. This payment schedule needs to be adhered to or we have been instructed to send cancellation notices.

Please send a check for the total of \$650K which includes this week's \$250K shortfall on Monday, in addition to the \$250K check today. We need to get back on schedule.

Thank you.

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



---

**From:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Sent:** Friday, March 3, 2023 11:30 AM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** Re: [EXTERNAL] RE: HNI payment

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Will do everything possible, will let you know next week

---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Date:** Friday, March 3, 2023 at 11:03 AM

**To:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>, Taylor, Mary Beth

<[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>, Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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OK. Thank you Patrick for the update.

Will you be able to make up the \$250K shortfall next week? Can you issue 2 checks early next week totaling \$650k (\$400k + the \$250K shortfall for this week). I will tell you we are also very tight on cash to make payroll for our docs at your facilities for next week.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Sent:** Friday, March 3, 2023 10:13 AM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>

**Subject:** Re: [EXTERNAL] RE: HNI payment

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Good Morning OON, we were able to pay 250K this week, check will go out today. I realize we were on a 500K target for this week, however we were unable to get there, I know communication is just as important, therefore I wanted to let you know as soon as the final decision for this week was made.

---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Date:** Friday, March 3, 2023 at 10:05 AM

**To:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>, Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>

**Subject:** RE: [EXTERNAL] RE: HNI payment

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Good morning Patrick,

Would appreciate an update today with the details of the payment sent. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Sent:** Thursday, March 2, 2023 3:57 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>

**Subject:** Re: [EXTERNAL] RE: HNI payment

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Not yet, will let you know

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**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Date:** Thursday, March 2, 2023 at 1:48 PM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>, Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>

**Subject:** [EXTERNAL] RE: HNI payment

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Any update for this week's payment?

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Oon Soo Ung

**Sent:** Wednesday, March 1, 2023 1:34 PM

**To:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Cc:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Subject:** RE: HNI payment

Good afternoon Mary Beth and Patrick,

An update for this week's payment of \$500K would be appreciated when you get a chance. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



---

**From:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Sent:** Thursday, February 23, 2023 4:47 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Cc:** Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Subject:** FW: HNI payment

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Payment details attached and tracking below. Thanks.

## Mary Beth Taylor

Chief Accounting Officer

Steward Health Care System LLC

2375 N. Glenville Drive, Bldg. B

Richardson, TX 75082

Main: 972-349-4800

Direct: 972-349-4184

Cell: 615-337-5070 | [steward.org](http://steward.org)



---

**From:** SHC AP Payments - DO NOT REPLY <[SHC.APPayments@steward.org](mailto:SHC.APPayments@steward.org)>

**Sent:** Thursday, February 23, 2023 4:37 PM

**To:** Deschryver, Joseph A. <[Joseph.Deschryver@steward.org](mailto:Joseph.Deschryver@steward.org)>; Pletz, Michael <[michael.pletz@steward.org](mailto:michael.pletz@steward.org)>

**Cc:** Taylor, Mary Beth <[MaryBeth.Taylor@steward.org](mailto:MaryBeth.Taylor@steward.org)>

**Subject:** HNI payment

Paid \$403,325.62

TRK # 7713 9257 1291

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# Exhibit 5

**From:** [Mike Gonzales](#)  
**To:** [Tortorella, Laura](#)  
**Cc:** [Oon Soo Ung](#); [Putter, Joshua](#)  
**Subject:** Re: [EXTERNAL] Re: HNI  
**Date:** Thursday, August 31, 2023 12:17:08 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[AP - Check - Vendor 49528 - HNI MEDICAL SERVICES AT GLENWO - Check 206339 8-25-2023 - 60,373.25\[2\].tif](#)  
[AP - Check - Vendor 52616 - HNI PHYSICIAN SERVICES OF TX I - Check 206340 8-25-2023 - 424,278.71\[3\].tif](#)

---

Laura –

1. Can you provide some guidance on the check copies you sent?
  - a. They are watermarked “NOT A REAL CHECK”
  - b. They have no signatures
  - c. They have yet to be received

Proposal is outlined below and is contingent on receipt of \$4.7M of past due payments. As discussed, the \$4.7M payment is required within the next 2 weeks to get Steward 1) compliant with contract terms 2) to cure the breach notice that has been outstanding since February 3) to true up the payment schedule that Steward committed to in February.

**Let me know when we can schedule a call to review the status of the “payments” issued last week, our payment requirement and next steps on sequencing the amendments with payment.**

**GRMC:**

1. ICU – Transition providers to Steward employment
  - a. January – June '23 Program subsidy = \$1,797,213.84 or \$3,594,427.68 Annualized
  - b. Guaranteed Savings:
    - i. FTE/Volume Protection Removal = \$1,428,765.83
    - ii. Billing/Management Fees/Incentives = \$700,000.00
    - iii. **Total = \$2,128,765.83**

**We are awaiting confirmation of payment and target transition date. We will draft the release of non-solicitations/competes upon payment receipt. We are prepared to execute once payment is received.**

2. HM
  - a. Savings:
    - i. 2 FTE Changes = \$513,407.86
    - ii. HNI Fee Reduction = \$250,000
    - iii. **Total = \$763,407.86**

**We are drafting an updated amendment to include the further fee reduction and should have it complete before the end of the week. We are prepared to execute once payment is received.**

**St. Joseph's**

1. HM – Staffing adjustment with behavioral change
  - a. Staffing Changes = \$1,287,543.88 (anticipated)

b. **Total = \$1,287,543.88**

**We are awaiting final confirmation from Steward on service line changes to proceed accordingly.**

**MCSETX:**

1. HM – Staffing adjustment (**May Amendment is Complete – Savings are Annualized**)
  - a. Staffing Changes = \$974,618.34
  - b. **Total = \$974,618.34**

**Total = \$5,154,335.91**

All the best,

**Michael Gonzales**

CEO/Founder

m. 956 . 533 . 8172 / o. 512.730.3060

w. [hnihealthcare.com](http://hnihealthcare.com) / e. [mike@hnihealthcare.com](mailto:mike@hnihealthcare.com)

signature\_1512519535



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---

**From:** "Tortorella, Laura" <Laura.Tortorella@steward.org>

**Date:** Wednesday, August 30, 2023 at 1:20 PM

**To:** Michael Gonzales <mike.gonzales@hnihc.com>

**Subject:** Re: [EXTERNAL] Re: HNI

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Mike,

Can you please send me the final proposal we discussed on Tuesday?

Thanks

Laura



**From:** Mike Gonzales <mike.gonzales@hnihc.com>  
**Date:** Tuesday, August 29, 2023 at 12:47 PM  
**To:** Laura Tortorella <Laura.Tortorella@steward.org>  
**Subject:** [EXTERNAL] Re: HNI

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Thank you.

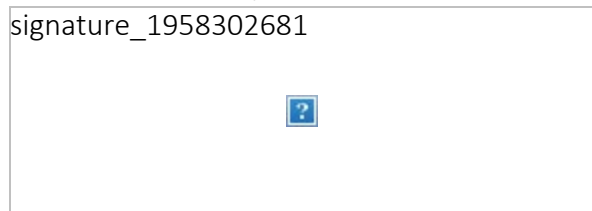
All the best,

**Michael Gonzales**  
CEO/Founder

m. 956 . 533 . 8172 / o. 512.730.3060

w. [hnihealthcare.com](http://hnihealthcare.com) / e. [mike@hnihealthcare.com](mailto:mike@hnihealthcare.com)

signature\_1958302681



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---

**From:** "Tortorella, Laura" <Laura.Tortorella@steward.org>  
**Date:** Tuesday, August 29, 2023 at 12:35 PM  
**To:** Michael Gonzales <mike.gonzales@hnihc.com>, "Putter, Joshua" <Joshua.Putter@steward.org>  
**Subject:** FW: HNI

**CAUTION:** This email originated from outside of HNI Healthcare. DO NOT click links, open attachments or provide credentials unless you can validate the sender. **ALWAYS HOVER OVER LINKS TO VERIFY DESTINATION.**

Mike,

As follow up, these were the checks cut last week. Total was \$500k

Laura

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# Exhibit 6

**From:** [Oon Soo Ung](#)  
**To:** [Putter, Joshua](#); [Lombardo, Patrick](#); [Mouton, Theresa A.](#)  
**Cc:** [Mike Gonzales](#); [Oon Soo Ung](#)  
**Subject:** RE: [EXTERNAL] HNI Healthcare AR Owing By Steward Healthcare  
**Date:** Friday, October 13, 2023 3:42:42 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Good afternoon,

Following up on a payment for this week. My understanding is that there will be a payment issued. Total outstanding owed by Steward @ 8/31/2023 is \$5,964,997. 45. Once September's invoices are sent in the next week, the AR owing by Steward will be approx. \$7.5M. We are looking for a \$4.7M payment as previously promised and agreed to by this week.

Please send check and tracking details when available.

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



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**From:** Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Sent:** Thursday, October 5, 2023 1:27 PM  
**To:** Putter, Joshua <Joshua.Putter@steward.org>; Lombardo, Patrick <Patrick.Lombardo@steward.org>; Mouton, Theresa A. <Theresa.Mouton@steward.org>  
**Cc:** Mike Gonzales <mike.gonzales@hnihc.com>; Oon Soo Ung <oonsoo.ung@hnihc.com>  
**Subject:** RE: [EXTERNAL] HNI Healthcare AR Owing By Steward Healthcare

Thank you for the update Josh. This is unexpected and puts HNI in a much more difficult position from a cash flow perspective this week and into next.

Will you be making both the \$700,000 payment and the agreed to \$4,000,000 catch up payment early next week then? While I appreciate where Steward is, we have made accommodations for only Steward's benefit in the spirit of partnership, with minimal progress towards a full catch up of what is owed.

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



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**From:** Putter, Joshua <[Joshua.Putter@steward.org](mailto:Joshua.Putter@steward.org)>

**Sent:** Thursday, October 5, 2023 2:44 PM

**To:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>; Mouton, Theresa A. <[Theresa.Mouton@steward.org](mailto:Theresa.Mouton@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>

**Subject:** RE: [EXTERNAL] HNI Healthcare AR Owing By Steward Healthcare

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Mike and Oon,

We will not be able to make a payment this week. It is solely due to a lack of cash flow this week.

We plan on paying early next week.

Sincerely,

Josh

Josh Putter  
South Region President (TX/LA/AR/AZ)  
Steward Health Care LLC  
[joshua.putter@steward.org](mailto:joshua.putter@steward.org)  
Cell: 941-380-6513



**“Effective teamwork begins and ends with communication”**

**Mike Krzyzewski**

**Run to the sound of the guns  
(Be aggressive in solving problems)**

---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Thursday, October 5, 2023 12:58 PM

**To:** Putter, Joshua <[Joshua.Putter@steward.org](mailto:Joshua.Putter@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>; Mouton, Theresa A. <[Theresa.Mouton@steward.org](mailto:Theresa.Mouton@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** [EXTERNAL] HNI Healthcare AR Owing By Steward Healthcare

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Good afternoon Steward Team,

I'm following up on this week's agreed to payment. We are requesting a payment of **\$700,000**, \$500,000 for this week's payment and the shortfall of \$100,000 each for the past 2 weeks. While the agreed to weekly amount was \$500,000, we had only received \$400,000 each week for the past 2 weeks.

Please send copies of checks and tracking details when available.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



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**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Friday, September 29, 2023 10:39 AM

**To:** Putter, Joshua <[Joshua.Putter@steward.org](mailto:Joshua.Putter@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: Trade AR Collection Report - as of 09.15.2023

Good morning,

I am following up on this week's \$500,000 payment. Please send check copies and tracking details. Thank you.

Thanks,

**Oon Soo Ung**

Chief Financial Officer

signature\_1518535218



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---

**From:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Sent:** Wednesday, September 20, 2023 4:01 PM

**To:** Putter, Joshua <[Joshua.Putter@steward.org](mailto:Joshua.Putter@steward.org)>; Lombardo, Patrick <[Patrick.Lombardo@steward.org](mailto:Patrick.Lombardo@steward.org)>

**Cc:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>; Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** RE: Trade AR Collection Report - as of 09.15.2023

Good afternoon Josh and Patrick,

Just following up on what I understand is a \$500,000 payment for this week. Can you please email copies of the checks and tracking information when you get a chance. Thank you.

Thanks,

***Oon Soo Ung***

Chief Financial Officer

signature\_1518535218



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**From:** Mike Gonzales <[mike.gonzales@hnihc.com](mailto:mike.gonzales@hnihc.com)>

**Sent:** Monday, September 18, 2023 11:38 AM

**To:** Putter, Joshua <[Joshua.Putter@steward.org](mailto:Joshua.Putter@steward.org)>

**Cc:** Oon Soo Ung <[oonsoo.ung@hnihc.com](mailto:oonsoo.ung@hnihc.com)>

**Subject:** FW: Trade AR Collection Report - as of 09.15.2023

Josh – for our call tomorrow.

All the best,

**Michael Gonzales**

CEO/Founder

m. 956 . 533 . 8172 / o. 512.730.3060

w. [hnihealthcare.com](http://hnihealthcare.com) / e. [mike@hnihealthcare.com](mailto:mike@hnihealthcare.com)

signature\_170803658



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# 7

## Order Granting Motion for Expedited Discovery



3. Contracts for sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including contracts for the sale of hospitals owned by Steward Health Care in Utah.
4. Closing documents for sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including closing documents related to the sale of hospitals owned by Steward Health Care in Utah.
5. Documents and communications related to, showing, or purporting to show Defendants' decision to sell assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including documents and communications related to the sale of hospitals owned by Steward Health Care in Utah.
6. Defendants' communications to investors in The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including communications related to the sale of hospitals owned by Steward Health Care in Utah.
7. Communications with third parties regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present.
8. Documents and communications related to, showing, or purporting to show the inability and/or failure of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates, to pay other providers/vendors, for the period January 1, 2023, to present.
9. All non-privileged documents and communications related to HNI's demand(s) for payment, including documents and communications from January 1, 2023, to present, involving Joe Deschryver, Sanjay Shetty, M.D., Joshua Putter, Theresa Mouton, Laura Tortorella, Patrick Lombardo, Natalie Hibble, Mary Beth Taylor, and/or Michael Pletz.

It is further,

**ORDERED** that within fifteen (15) days of this Order, corporate representatives for Defendants are ordered to appear for deposition. It is further,

**ORDERED** that within fifteen (15) days of this Order, a representative of each of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC shall appear for deposition on the following topics:

1. The sale of any assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including the sale of hospitals owned by Steward Health Care in Utah.
2. The financial condition of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, and their subsidiaries/affiliates, for the period January 1, 2023, to present.
3. Communications with any third parties regarding the sale of assets/property owned by The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates for the period January 1, 2023, to present, including the sale of hospitals owned by Steward Health Care in Utah.
4. HNI's demand(s) for payment, for the period April 1, 2023, to present.
5. Defendants' communications with Plaintiffs since January 1, 2023, regarding the outstanding invoices identified in the Petition.
6. Defendants' communications with Plaintiffs since January 1, 2023, regarding Defendants' agreement to make weekly/lump-sum payments, as alleged in the Petition, and negotiations between the parties' related to same.
7. The payment and/or non-payment of outstanding invoices owed to HNI.
8. The inability and/or failure of The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC, or any of their subsidiaries/affiliates to pay other providers/vendors, for the period January 1, 2023, to present.

SIGNED on the 16<sup>th</sup> day of January, 2023.

  
\_\_\_\_\_  
HONORABLE JUDGE PRESIDING

First Amended Order Granting Motion for Expedited Discovery

CAUSE NO. 23DCCV1824

|  |   |                                    |
|--|---|------------------------------------|
| HNI MSO, INC., AND HNI PHYSICIAN SERVICES OF TEXAS, INC.,  | § | IN THE DISTRICT COURT              |
|  | § |                                    |
|  | § |                                    |
| <i>Plaintiffs,</i>   | § |                                    |
|  | § |                                    |
| vs.  | § | 58 <sup>TH</sup> JUDICIAL DISTRICT |
|  | § |                                    |
| THE MEDICAL CENTER OF SOUTHEAST TEXAS, LP D/B/A THE MEDICAL CENTER OF SOUTHEAST TEXAS, STEWARD HEALTH CARE SYSTEM, LLC, AND STEWARD HEALTH CARE HOLDINGS, LLC, | § |                                    |
|  | § |                                    |
|  | § |                                    |
| <i>Defendants.</i>   | § | OF JEFFERSON COUNTY, TEXAS         |

**FIRST AMENDED ORDER GRANTING PLAINTIFFS’ EMERGENCY MOTION FOR EXPEDITED DISCOVERY**


On this day, the Court heard Plaintiffs HNI MSO, Inc. and HNI Physician Services of Texas, Inc.’s Emergency Motion for Expedited Discovery (the “Motion”). After considering the Motion, any response, the evidence, and arguments of counsel, the Court finds that the Motion should be **GRANTED**. It is, therefore,

**ORDERED** that within ten (10) days of this Order Defendants The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC shall produce the following documents:

1. Documents and communications related to the payment and/or non-payment of outstanding invoices owed to Plaintiffs by Defendants including documents and communications from January 1, 2023, to present, involving Joe Deschryver, Sanjay Shetty, M.D., Joshua Putter, Theresa Mouton, Laura Tortorella, Patrick Lombardo, Natalie Hibble, Mary Beth Taylor, and/or Michael Pletz.
2. Contracts for the sale of hospitals owned by Steward Health Care System, LLC, and/or Steward Health Care Holdings, LLC, in the State of Utah, for the period January 1, 2023, through the present.

3. Closing documents for the sale of hospitals owned by Steward Health Care System, LLC, and/or Steward Health Care Holdings, LLC, in the State of Utah, for the period January 1, 2023, through the present.
4. Documents reflecting the funds generated by the sale of hospitals owned by Steward Health Care System, LLC, and/or Steward Health Care Holdings, LLC, in the State of Utah, for the period January 1, 2023, through the present, including documents reflecting the amount of funds obtained in connection with the sale and the disposition of those funds (*e.g.*, how those funds were allocated or otherwise used after closing).
5. Documents and communications related to Plaintiffs' demand(s) for payment, including documents and communications from January 1, 2023, to present, involving Joe Deschryver, Sanjay Shetty, M.D., Joshua Putter, Theresa Mouton, Laura Tortorella, Patrick Lombardo, Natalie Hibble, Mary Beth Taylor, and/or Michael Pletz.

SIGNED on the \_\_\_\_\_ day of 1/16/2024



HONORABLE JUDGE PRESIDING



# 9

Defendants' Emergency Motion for Reconsideration and To Stay

CAUSE NO. 23DCCV1824

HNI MSO, INC., and HNI PHYSICIAN  
SERVICES OF TEXAS, INC.,  
*Plaintiffs,*

§ IN THE DISTRICT COURT  
§

vs.

§ 58TH JUDICIAL DISTRICT  
§

THE MEDICAL CENTER OF SOUTHEAST  
TEXAS, LP D/B/A THE MEDICAL CENTER  
OF SOUTHEAST TEXAS, STEWARD  
HEALTH CARE SYSTEM, LLC, and  
STEWARD HEALTHCARE HOLDINGS,  
LLC,  
*Defendants.*

§ OF JEFFERSON COUNTY, TEXAS  
§  
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**DEFENDANTS’ EMERGENCY MOTION FOR RECONSIDERATION  
AND TO STAY THE FIRST AMENDED ORDER GRANTING PLAINTIFFS’  
EMERGENCY MOTION FOR EXPEDITED DISCOVERY**

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Defendants respectfully request the Court reconsider its January 16, 2024 First Amended Order Granting Plaintiff’s Emergency Motion for Expedited Discovery (the “First Amended Order”), and request a stay of said order until the Court rules on this Emergency Motion for Reconsideration.

The purpose of this Motion is not to relitigate, rather to ensure that Defendants’ objections have been heard regarding the specific requests for production contained in Plaintiffs’ proposed first amended order. Defendants seek clarity because that proposed order was filed late, and the issues changed and narrowed while Plaintiffs’ motion was pending.

Plaintiffs’ requests numbered 2, 3, and 4<sup>1</sup> seek confidential and sensitive documents regarding transactions between the alleged debtor’s parent companies and wholly-unrelated third parties which took place in Utah (the “Utah Transaction”). The responsive documents:

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<sup>1</sup> Request for Production #2 seeks “Contracts for the sale of hospitals owned by Steward Health Care System, LLC, and/or Steward Health Care Holdings, LLC, in the state of Utah, for the period January 1, 2023, through the present.”

(1) contain confidential and sensitive information, and

(2) this information is irrelevant because it has no bearing on the injunctive relief requested by Plaintiffs, or any tendency to make a fact related to their underlying claims in the lawsuit more or less probable.

Accordingly, the Court should—at least—sustain Defendants’ objections to requests for production 2, 3, and 4 in the First Amended Order. Defendants have already begun work to promptly comply with all other aspects of the First Amended Order.

**I. Plaintiffs’ Requests for Production Nos. 2, 3, and 4 seek confidential and sensitive information regarding a Utah transaction between the Med Center’s parent companies and wholly unrelated third parties.**

Defendants can briefly summarize the background for this motion, to put Plaintiffs’ requests into context. Plaintiffs’ pleadings seek relief against the Med Center’s parent companies on allegations of fraudulent transfer. However, Plaintiffs do not even allege a transfer occurred between the Med Center and either of the parent companies sued in this case. Moreover, while Plaintiffs feigned an emergency, they did not pursue a Temporary Restraining Order. Instead, Plaintiffs sought a broad range of discovery from all three Defendants. After reading Defendants’ Response to the emergency motion, Plaintiffs evidently realized how broad its discovery requests were, because they submitted an amended proposed order with only five requests for production.

However, they did not narrow their requests enough. The target of requests for production 2, 3, and 4 are confidential transactions between the Med Center’s parent companies and third-

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Request for Production #3 seeks “Closing Documents for the sale of the hospitals owned by Steward Health Care System, LLC, and/or Steward Health Care Holdings, LLC, in the state of Utah, for the period January 1, 2023, through the present.”

Request for Production #4 seeks “Documents reflecting the funds generated by the sale of hospitals owned by Steward Health Care System, LLC, and/or Steward Health Care Holdings, LLC, in the state of Utah, for the period January 1, 2023, through the present, including documents reflecting the amount of funds obtained in connection with the sale and the disposition of those funds (*e.g.*, how those funds were allocated or otherwise used after closing).”

parties who are wholly unrelated to this case, and seek documents which contain sensitive data. This Court should protect this sensitive and confidential information.

As a general matter, confidential and proprietary information is not discoverable, especially when the information encompasses matters not relevant to the underlying lawsuit. *See In re Skyhawk Sec., LLC*, No. 09-20-00146-CV, 2021 WL 377691, at \*1 (Tex. App.—Beaumont Feb. 4, 2021, no pet.)(mem. op.) (granting mandamus relief for ordering production of confidential “[i]tems such as customer lists, pricing information, client information, and buyer contracts...”).

The Utah Transaction documents contain a strict confidentiality clause which survives “the execution and delivery of [the] Agreement...” The Purchase Agreement requires that the terms and status of the Purchase Agreement and other “Transaction Documents,” the “Contemplated Transactions,” and even “the identity of the other Parties and Guarantors” shall remain confidential and are not subject to disclosure. Section 6.15(b). The Confidentiality Agreement also states that the parties may disclose Confidential Information only “in an action or Proceeding brought by a Party or Guarantor in pursuit of its rights or in exercise of its remedies” under the Purchase Agreement (“Party” and “Guarantor” being defined therein as parties to the Purchase Agreement). Section 6.15(c). Accordingly, under its very terms, no Defendant may disclose the Utah Transaction documents—or any of the confidential and sensitive information therein—as part of this lawsuit because this lawsuit does not assert rights or remedies under the Utah Transaction.

Among other information, the documents Plaintiffs seek by requests 2, 3, and 4 contain confidential and sensitive information regarding:

- the number of outside parties involved in the transaction;

- the sensitive financial information contained in the Purchase Agreement, including information regarding the purchasers—who, again, are third parties with whom Plaintiffs have no relationship;<sup>2</sup>
- sensitive financial information regarding estimated working capital of Utah facilities, and the subcategories breaking down same;
- sensitive tax information;
- the financial arrangement for financing the sale of assets under the Purchase Agreement, including funding sources and allocation of said funds;
- complicated master leases with further third parties, containing another layer of confidentiality;
- information sensitive to anti-competition agreements and laws, including lists and statuses of employees, compensation agreements, fee agreements, and provider financial data;<sup>3</sup>
- sensitive medical and healthcare licensing information and agreements;
- confidential power-of-attorney documents;
- sensitive intellectual property and related assignment agreements;
- supply-chain information and agreements; and
- confidential IT and Security procedures and agreements.

All of this information falls squarely within the Purchase Agreement’s Confidentiality Agreement. Thus, the Agreement prohibits the Defendants from disclosing these documents or the sensitive information contained therein. Defendants file this Motion to make clear that the First Amended Order requires them to violate the confidentiality of this sensitive financial transaction, and ask this Court to reconsider this aspect of its order.

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<sup>2</sup> See *In re Wood*, No. 01-06-00014-CV, 2006 WL 648774, at \*5-6 (Tex. App.—Houston [1st Dist.] Mar. 14, 2006, no pet.) (mem. op.) (granting mandamus relief for ordering the production of irrelevant and sensitive financial information; “the financial documents that the trial court ordered disclosed are not only irrelevant, but highly personal and sensitive.”).

<sup>3</sup> See *In re Houstonian Campus, L.L.C.*, 312 S.W.3d 178, 183–84 (Tex. App.—Houston [14th Dist.] 2010, no pet.) (granting mandamus relief for ordering the production of confidential personnel and membership files; “personnel and membership files are kept in the strictest confidence.”).

**II. The documents sought are wholly irrelevant to the injunctive relief requested and Plaintiffs' asserted claims in the lawsuit.**

On the other side of the scale, Plaintiffs have pleaded no valid reason why they should receive these sensitive documents. The purpose of Plaintiffs' request for emergency discovery is, ostensibly, to aid Plaintiffs in preparing for and conducting a Temporary Injunction hearing against the Med Center (a Beaumont hospital) and two of its parent companies. The emergency discovery, however, must be limited to information related to the injunctive relief requested. *See e.g., In re Quality Cleaning Plus, Inc.*, No. 05-22-01053-CV, 2022 WL 16549069, at \*3 (Tex. App.—Dallas Oct. 31, 2022, no pet.)(mem. op.) (granting mandamus relief where emergency discovery sought for a TCPA hearing was not related to the allegations raised in the TCPA dismissal motion set for hearing). It is not.

The Texas Rules of Civil Procedure provide for discovery of “any matter that is not privileged and is relevant to the subject matter of the pending action[.]” Tex. R. Civ. P. 192.3(a) (emphasis added). However, “discovery requests must be reasonably tailored to include only matters relevant to the case.” *In re Alford Chevrolet-Geo*, 997 S.W.2d 173, 180 (Tex. 1999); *see also In Re CSX Corp.*, 124 S.W. 3d 149, 152 (Tex. 2003). Discovery may not be used as a fishing expedition or for the purpose of harassment. *See K Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989). “Overbroad requests for irrelevant information are improper whether they are burdensome or not[.]” *In re Allstate Cty. Mut. Ins. Co.*, 227 S.W.3d 667, 670 (Tex. 2007).

Plaintiffs seek the injunctive relief of (1) a writ of attachment on Defendants' assets, or (2) a deposit of money into the registry of the Court, and Plaintiffs seek this relief under a theory of

fraudulent transfer.<sup>4</sup> Why, then, do Plaintiffs seek transaction documents between the Beaumont hospital's parent companies and wholly unrelated third parties regarding a wholly unrelated transaction that took place in Utah? These confidential and sensitive documents would do absolutely nothing to inform the Court or Plaintiffs regarding the merits of whether a writ of attachment should attach to any Defendant's assets or whether Defendants should be ordered to place money into the registry of the Court. These documents would also not further Plaintiff's efforts to show a fraudulent transfer from the Med Center to either parent company. The Med Center has no involvement in the Utah transaction. None.

Plaintiffs have vaguely alleged that the Utah transaction played a role in causing them to expect payment, but they have not connected this vague allegation to any legal claim they have pleaded against these Defendants. The record does not contain any evidence that any of the named Defendants promised to pay Plaintiffs with the proceeds from the sale of hospitals in Utah. The only exhibits Plaintiffs put into the record are email chains in which Plaintiffs congratulate Defendants on the Utah sale<sup>5</sup> and one email where Plaintiffs claim their *own* board of directors approved a payment plan that included larger payments from Defendants after the Utah transaction closed.<sup>6</sup> There is nothing in the record, unless you count Plaintiffs' blind conjecture, showing any Defendant offered, approved, or ratified a plan to include proceeds from the Utah transaction flowing to Plaintiffs. Plaintiffs' speculation should not override the Defendants' interest in protecting their confidential and sensitive documents.

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<sup>4</sup> Plaintiffs' own Petition acknowledged the Steward Defendants as "the largest private, tax-paying hospital operator in the country." See Plaintiffs' Original Petition, at ¶ 26 (citing Exhibit 7 thereto). It does not flow logically that Plaintiffs are actually worried about the Steward Defendants solvency; thus, there is no exigency to obtain the injunctive relief requested.

<sup>5</sup> See May 2, 2023 email from Plaintiffs' C.F.O, Oon Soo Ung, in Exhibit 4 to Plaintiffs' Reply motion.

<sup>6</sup> See May 8, 2023 email from Oon Soo Ung, in Exhibit 4 to Plaintiff's Reply motion.

Even if such a plan was ratified by Defendants, the documents Plaintiffs seek with requests 2, 3, and 4 are still irrelevant to any item at issue in this case. The documents would do nothing to show a transfer from the Beaumont hospital to its parent companies; would do nothing to show the Med Center is insolvent; would do nothing to show Plaintiffs' entitlement to any proceeds from the Utah transaction; and would do nothing to show that either a writ of attachment or deposit to the registry of the Court is merited.

These three requests for production are completely irrelevant to any item at issue in this case. These requests were not reasonably calculated to lead to the discovery of evidence that would be admissible in this case, rather they were calculated to harass the Medical Center and its parent companies, and possibly to leverage a quick settlement.

### **Conclusion**

Plaintiffs' Requests for Production Nos. 2, 3, and 4 seek confidential and sensitive Utah transactions between the Med Center's parent companies and wholly unrelated third-parties. The documents are protected by the terms of the Purchase Agreement, by Texas law, and are not subject to disclosure in this case. And even if these documents were subject to disclosure, the documents sought are not discoverable under the Texas Rules of Civil Procedure because they would have no bearing on any claim or defense at issue in this case, and are wholly irrelevant to the injunctive relief requested. Accordingly, Defendants respectfully request the Court sustain their objections to Requests for Production Nos. 2, 3, and 4 of the First Amended Order. Alternatively, if the Court does not have capacity to conduct an emergency hearing on this matter prior to Friday, January 26, 2024, Defendants ask the Court to stay the First Amended Order until this Motion is heard.



Respectfully submitted,

By: /s/ J. Michael Rose

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**ATTORNEYS FOR DEFENDANTS THE  
MEDICAL CENTER OF SOUTHEAST  
TEXAS, L.P., STEWARD HEALTH CARE  
SYSTEM, LLC, and STEWARD  
HEALTHCARE HOLDINGS, LLC**

**CERTIFICATE OF SERVICE**

In accordance with the Texas Rules of Civil Procedure, I certify that a true and correct copy of the foregoing pleading was served on all counsel of record electronically through the Court's electronic filing system on January 22, 2024.

/s/J. Michael Rose

# 10

Proposed Orders on  
Defendants' Emergency Motion for Reconsideration and To Stay





documents responsive to all Requests for Production to which the Court has not sustained Defendants' objections.

It is further, **ORDERED** that this Second Amended Order supersedes the Court's January 16, 2024 First Amended Order Granting Plaintiffs' Emergency Motion for Expedited Discovery.

SIGNED on the \_\_\_\_ day of \_\_\_\_\_, 2024.

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HONORABLE JUDGE PRESIDING

11

Affidavit of Ryan Cunningham

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

ON THIS DAY, before me, the undersigned authority, appeared RYAN A. CUNNINGHAM, who after being duly sworn did state under oath as follows:

“My name is RYAN A. CUNNINGHAM. I have been duly licensed to practice law in the courts of the State of Texas since 2017. I am over the age of 18 years, have never been convicted of a crime, and am competent to make this Affidavit. I am an attorney at the law firm of Locke Lord LLP, located at 600 Travis Street, #2800, Houston, Texas, 77002, and am one of the attorneys of record for Relators/Defendants The Medical Center of Southeast Texas, LP d/b/a The Medical Center Of Southeast Texas, Steward Health Care System, LLC, and Steward Health Care Holdings, LLC (collectively, “Relators”) in the above-titled and numbered cause. I hereby affirm the facts contained in this Affidavit are true, correct, and within my personal knowledge.

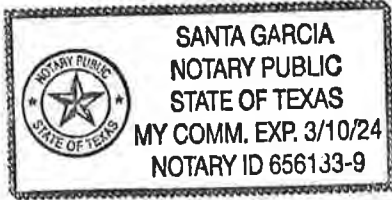
After filing the Emergency Motion for Reconsideration and to Stay the First Amended Order on Monday, January 22, 2024, I and my legal assistant telephoned the Clerk of the 58<sup>th</sup> District Court of Jefferson County the next morning—Tuesday, January 23, 2024—to request a hearing date on our Emergency Motion. The Clerk said there was availability to have the hearing on Thursday, January 25, 2024 at 9am, but that she needed to check with the Judge before that was official. The clerk called me back about fifteen minutes later and told me the Judge said he would not reconsider our emergency motion. I asked for clarification as to whether the Judge meant he would not reconsider his earlier order or if he meant he would not give us a hearing on the emergency motion to reconsider. The Court’s clerk replied that he would not give us a hearing. I then asked if the Judge would consider staying the First Amended Order until our Emergency Motion could be heard. The Court clerk replied that the Judge would not stay the First Amended Order. I next explained that we would file two proposed orders: one with a space for the Judge to either sustain or overrule our objections to items 2, 3, and 4 of the First Amended Order, and another proposed order granting a stay of the First Amended Order. I then stated we needed to file these orders, and if the Judge wants to deny those, asked that he sign an order to that effect. I was instructed that I could file our proposed orders.

Further Affiant sayeth not.



RYAN A. CUNNINGHAM

SUBSCRIBED AND SWORN TO BEFORE ME on January 25, 2024, to certify which witness my hand and seal of office.



*Santa Garcia*  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS



### Automated Certificate of eService

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cdove@lockelord.com  
Envelope ID: 83806591  
Filing Code Description: Sworn Record  
Filing Description: Record for Petition for Writ of Mandamus  
Status as of 1/25/2024 3:57 PM CST

Associated Case Party: The Medical Center of Southeast Texas, LP

| Name            | BarNumber | Email                         | TimestampSubmitted   | Status |
|-----------------|-----------|-------------------------------|----------------------|--------|
| Chris Dove      |           | cdove@lockelord.com           | 1/25/2024 3:51:07 PM | SENT   |
| Michael Rose    |           | mrose@lockelord.com           | 1/25/2024 3:51:07 PM | SENT   |
| Ryan Cunningham |           | ryan.cunningham@lockelord.com | 1/25/2024 3:51:07 PM | SENT   |

Associated Case Party: HNI MSO, Inc.

| Name           | BarNumber | Email                             | TimestampSubmitted   | Status |
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| Bill Richey    |           | billrichey@griffinandmatthews.com | 1/25/2024 3:51:07 PM | SENT   |