

ATTORNEY GENERAL

STATE OF MONTANA

Tim Fox
Attorney General



Office of Consumer Protection
555 Fuller Avenue
P.O. Box 200151
Helena, MT 59620-0151

VIA EMAIL

Original via U.S. Mail

September 23, 2014

Mr. Gary Chumrau
Garlington, Lohn & Robinson
P.O. Box 7909
Missoula, MT 59807-7909

RE: Requests for information and documents pertaining to the sale of
Community Medical Center's assets

Dear Mr. Chumrau:

I write to catalogue the information you have produced to date and to request production of additional information and documents in order to assist the Attorney General's Office in our review of the proposed sale of Community Medical Center's (CMC) assets.

On March 31, 2014, in response to a request from this office, you provided the following governance documents of CMC:

- CMC's Restated Articles of Incorporation from 1976, as well as Articles of Amendment from 1988 and 2014; and
- CMC's current Bylaws.

In response to a request from this office, on Sept. 4, 2014 the following documents were produced by Ms. Caroline Deak to this office:

- CMC's current organizational chart;
- A list of CMC's current Board of directors; and
- A list of the committees of the Board and which directors serve on each committee.

In our telephone conversation on Friday, Sept. 19, 2014, you indicated that the "due diligence binder" is not ready to be produced to us in its entirety, but that you would supply its contents in piecemeal fashion, as the materials are ready to be produced. You represented that the binder includes the following items:

- Minutes of CMC Board meetings;
- A summary of each of the bids received by CMC to acquire its assets (This information was requested by this office on Sept. 11, 2014.);
- Internal materials prepared by Cain Brothers to assist the CMC Board in comparing the bids; and

- Communications from the public reviewed by the CMC Board (You indicated that these communications would be produced to this office after redacting names and contact information of the senders in order to protect their individual privacy.)

Thank you for the initial production, received via email on Sept. 19, 2014, including a process overview which summarizes the timeline of CMC's decision making process to sell its assets, minutes of CMC's Board of directors meetings from April 2013 through March 2014, and Finance Committee minutes from its March 2014 meeting. We look forward to receiving the balance of the items. Additionally, please supplement this production with the following items:

1. Any Board meeting minutes prior to April 2013 that contain relevant information to the sale of CMC's assets, including a discussion of the proposed transaction, search process, or circumstances that led to it. The process overview document notes that the Board began considering potential partnerships as early as February 2010.
2. Any committee meeting minutes, besides the March 2014 Finance Committee meeting minutes, that contain relevant information to the sale of CMC's assets.
3. Any materials considered by the CMC Board, or any committee of the Board, relevant to the sale of CMC's assets. For instance, the March 2014 Finance Committee minutes indicate that "Copies of all referenced materials are filed with the permanent record." No referenced materials were attached to the Finance Committee meeting minutes and it does not appear that they have been produced elsewhere.
4. Copies of any Board resolution related to the proposed transaction.

In addition to these items, please produce the following information or documents to assist this office in its review of the proposed sale of CMC's assets:

Process

5. You have advanced several grounds regarding the decision to pursue an affiliation and ultimately a sale of assets. Please fully explain, and provide any documentary evidence supporting your responses, why the proposed transaction will accomplish each of the following:
 - a. Reduce costs through service coordination and support service consolidation;
 - b. Improve quality by collaborating on the identification and adoption of best practices;
 - c. Prepare for the challenges introduced by the Affordable Care Act by acquiring the experience and competencies needed to manage capitation and population management; and
 - d. Secure access to capital for service expansion, information systems development, and physician recruitment.
6. In addition to the four grounds listed above, were there any other grounds for why the Board pursued an affiliation and ultimately a sale of assets? If so, please list the grounds and fully explain how the proposed transaction will satisfy those grounds and provide any relevant documentary evidence.
7. Information regarding CMC's strategic objectives, strengths, and weaknesses identified through the initial assessment performed by Cain Brothers.

8. Materials distributed to potential partners through Cain Brothers, including the executive summary of CMC, process letters and proposed term sheets.
9. Information produced by or relied upon by the Physician Advisory Committee in their consideration of any potential partner.

Conflicts of Interest and Post-Closing Employment and Board Positions

10. CMC's conflict of interest policy and any disclosure statements executed by CMC Board members, officers, or key employees.
11. In the process of pursuing an affiliation and ultimately a sale of assets, were any conflicts of interest (or apparent conflicts) identified with respect to any CMC Board member, officer, or key employee?
 - a. If so, fully explain each of the conflicts (or apparent conflicts), identify the director(s), officer(s), or key employee(s) involved, and explain how the conflicts (or apparent conflicts) were resolved.
12. What understandings, if any, have been reached for the continued employment of key employees of CMC?
13. What understandings, if any, have been reached for the appointment of any of CMC's directors on:
 - a. Any Board of the buyer;
 - b. The CMC Foundation; or
 - c. Any charitable entity that will receive any portion of the net proceeds of the sale of CMC assets?
14. List any special benefits that will accrue to any director, officer, or key employee of CMC or any entity related to CMC as a result of the transaction.
15. Copies of any agreements that involve directors, officers, or key employees of CMC relating to the transaction.

Valuation and Financial Information

16. Copies of all valuations, appraisals, studies, reports, and opinions used in assessing the proposed transaction.
17. Copies of CMC's five most recent IRS Forms 990 and audited financial statements.
18. Financial projections and other records that may be used to assess future earnings and valuations, including but not limited to budgets or projections made for specific service line expansions (e.g. Radiation Oncology).
19. Current financial information for each service line and the corresponding future financial projections for each service line.
20. Please provide a list of the five most expensive improvements, renovations and/or upgrades attained by CMC in the previous three years acquired for the purposes of expanding CMC's patient care offerings (e.g. linear accelerator radiation oncology machine). Include a basic description of the purpose and utility of the improvements, renovations or upgrades and the upfront costs to CMC, including purchase price of equipment and technology necessary for each respective improvement, renovation or upgrade.
21. Please provide a prioritized list of CMC's current needed or anticipated capital improvements and the estimated cost needed to accomplish each of the improvements.

Buyer Information

22. Fully explain the extent of unrestricted assets of RCHP – Billings – Missoula, LLC and how those assets constitute adequate financial resources sufficient to meet all of its post-closing obligations under the Asset Purchase Agreement. Provide any relevant documentary evidence that supports your response.
23. Information regarding the existing presence of Billings Clinic, RCHP, or any affiliate of either entity in any Montana market.
24. Information regarding previous purchases of nonprofit operations or assets by Billings Clinic, RCHP, or any affiliate of either entity.
25. Describe RCHP – Billings – Missoula, LLC's plans for the strategic initiatives commitment described in Section 10.12 of the Asset Purchase Agreement.
26. A copy of the physician recruitment plan.
27. A post-closing organizational chart.

Charitable Purpose and Post-Closing Transfer of Charitable Assets

28. A complete description of CMC's charity care policy and procedures.
29. Information regarding any existing foundations or other charitable funds that support, or are related to, CMC. How will the proposed transaction affect the structure and purposes of any such foundation or charitable funds?
30. Information and documents relating to donor-restricted assets and procedures proposed to ensure future compliance with restrictions.
31. Explain how a \$500,000 distribution to the University of Montana is similar to the charitable mission of CMC and how it will be used to benefit a similar geographic area as that which CMC serves?
32. Identify the nonprofit organization(s) that will receive CMC's charitable assets after the transaction. If more than one organization will receive CMC's charitable assets after the transaction, identify what amount or percentage of the assets will go to each.
33. How will the nonprofit organization(s) that will receive CMC's charitable assets ensure that the future use of these assets will serve CMC's charitable mission and geographic service area?
34. Will any of CMC's directors, officers, or key employees have any affiliation with the nonprofit organization(s) that will receive CMC's charitable assets after the transaction? If so, please identify the director, officer, or key employee and fully explain the affiliation.
35. Historic versions of CMC's governing documents, including Articles of Incorporation and Bylaws, that have not already been provided to this office.

Please provide the requested documents as soon as possible and production can certainly be made on a rolling basis. However, in order for this office to expeditiously review the material and advance our review of the proposed transaction within the time agreed upon by the parties, **please provide the requested information no later than October 31, 2014.** We look forward to receiving the

Mr. Gary Chumrau
September 23, 2014
Page 5

information and thank you in advance for your continued cooperation. Please do not hesitate to contact me at (406) 444-2026 or khubbard@mt.gov if you have any questions regarding these requests.

Sincerely,



KELLEY L. HUBBARD
Assistant Attorney General

c: Kevin Heaney, Esq. (via e-mail and U.S. Mail)
MaryEllen Pickrell, Esq. (via e-mail and U.S. Mail)