

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

In Re:) CASE NO. 20-10247
)
) CHAPTER 11
Randolph Hospital, Inc. d/b/a Randolph)
) (Jointly Administered)
Health,)
)
)

Debtors.¹

**DISCLOSURE STATEMENT FOR DEBTORS' AMENDED JOINT PLAN OF
LIQUIDATION DATED ~~FEBRUARY 1~~ JUNE 30, 2021**

NELSON MULLINS RILEY
& SCARBOROUGH LLP

Jody A. Bedenbaugh, D.S.C. No. 9210
Graham S. Mitchell, D.S.C. ID No. 11763
1320 Main St., 17th Floor

Post Office Box 11070 (29211)
Columbia, SC 29201
Telephone: (803) 799-2000
Facsimile: (803) 256-7500
Jody.Bedenbaugh@nelsonmullins.com
graham.mitchell@nelsonmullins.com

HENDREN, REDWINE & MALONE,
PLLC

Jason L. Hendren (NC State Bar 26869)
Rebecca F. Redwine (NC State Bar 37012)
Benjamin E.F.B. Waller (NC State Bar
27680)
4600 Marriott Drive, Suite 150
Raleigh, NC 27612
Telephone: (919) 420-7867
Facsimile: (919) 420-0475
jhendren@hendrenmalone.com
rredwine@hendrenmalone.com
bwaller@hendrenmalone.com

Counsel for the Debtors

¹ The Debtors are Randolph Hospital, Inc. d/b/a Randolph Health, Case No. 20-10247; Randolph Specialty Group Practice ("[RSGP](#)"), Case No. 20-10248; MRI of Asheboro, LLC d/b/a Randolph MRI Center ("[MRI](#)"), Case No. 20-10249.

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Randolph Hospital, Inc. d/b/a Randolph Health (“Randolph”) and its debtor affiliates (“Debtors”), the debtors-in-possession herein, provide this Disclosure Statement pursuant to Section 1125 of title 11 of the United States Code (the “Bankruptcy Code”) in connection with the solicitation of acceptances of the Debtors' Joint Plan of Liquidation (the “Plan”). A copy of the Plan is attached hereto as Exhibit A. All capitalized terms used in this Disclosure Statement and not otherwise defined herein have the meanings ascribed to them in the Plan.²

I. INTRODUCTION

The purpose of this Disclosure Statement is to provide creditors and holders of interests with such information as would enable a hypothetical, reasonable individual or entity typical of the holders of Claims and Interests to make informed judgments on voting on the Plan.

THIS DISCLOSURE STATEMENT DOES NOT PURPORT TO BE A COMPLETE DESCRIPTION OF THE PLAN, THE FINANCIAL STATUS OF THE DEBTORS, THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE OR OF OTHER MATTERS THAT MAY BE DEEMED SIGNIFICANT BY CREDITORS OR OTHER PARTIES IN INTEREST. THIS DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED TO BE ADVICE ON THE TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS OR INTERESTS. YOU SHOULD EXAMINE THE PLAN CAREFULLY AND CONSULT YOUR OWN LEGAL AND FINANCIAL ADVISORS.

The Debtors believes that the Plan will yield to creditors an amount at least equal to what would be available for their respective Claims and Interests in a Chapter 7 liquidation. Creditors will enjoy greater recovery due to avoiding the increased costs and expenses of a

² For reference, certain of the Plan definitions are repeated in the footnotes of this Disclosure Statement.

Chapter 7 liquidation associated with fees payable to a Chapter 7 trustee and its professionals. In addition, the Debtors believe that the Plan is a more efficient, effective way to administer their assets and would maximize the value of those assets. Finally, the Plan incorporates the pending sale of the Debtors' businesses as a going concern which will both maximize the returns from the disposition and likely reduce claims against the estates. As a result of these factors, the Debtors believe that the Plan provides a superior recovery for holders of Claims. As set forth in the Plan, the Debtors have no equity holders. Accordingly, the Plan does not provide for the distribution to equity of any property.

This Disclosure Statement contains only a summary of the Plan. All creditors and other interested parties are encouraged to review the full text of the Plan and to carefully read this entire Disclosure Statement. To the extent that the terms may be inconsistent, the terms of the Plan are controlling.

Exhibits to this Disclosure Statement include the following documents:

- The Plan (Exhibit A).
- Order (I) approving this Disclosure Statement; (II) Establishing Forms and Procedures for Solicitation and Tabulation of Votes to Accept or Reject the Plan; (III) Establishing Deadline and Procedures for Filing Objections to the Confirmation of the Plan; and (IV) Granting Related Relief (Exhibit B).
- Hypothetical Chapter 7 Liquidation Analysis (Exhibit C).
- ~~Voting Procedures Order (Exhibit D)~~.

In addition, the Ballot for acceptance or rejection of the Plan is enclosed with this Disclosure Statement, if you are entitled to vote to accept or reject the Plan.

THE INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT IS BASED UPON THE BEST INFORMATION AVAILABLE AT THIS TIME, INCLUDING INFORMATION CONTAINED IN THE DEBTORS' BOOKS AND RECORDS, INFORMATION PROVIDED BY THE DEBTORS' EMPLOYEES AND OFFICERS, AND ASSISTANCE PROVIDED BY THE PROFESSIONALS EMPLOYED IN THIS CASE.

II. BRIEF SUMMARY OF PLAN

THE FOLLOWING IS A BRIEF SUMMARY OF CERTAIN PROVISIONS OF THE PLAN AND SHOULD NOT BE RELIED ON FOR VOTING PURPOSES IN LIEU OF A THOROUGH AND COMPREHENSIVE REVIEW OF THE ACTUAL PLAN ITSELF. THE SUMMARY DOES NOT PURPORT TO BE COMPLETE. CREDITORS ARE URGED TO READ THE PLAN TO ASCERTAIN THE EFFECT OF THE PLAN ON THEIR CLAIMS AND INTERESTS AND THE OTHER PROVISIONS OF THE PLAN. CREDITORS ARE FURTHER URGED TO CONSULT WITH THEIR ATTORNEYS, TAX ADVISORS, FINANCIAL CONSULTANTS, OR OTHER PROFESSIONALS IN ORDER TO UNDERSTAND MORE FULLY THE PLAN OR THE EFFECT OF THE PLAN AS TO THEIR PARTICULAR SITUATION.

In sum, the Plan (1) distributes proceeds of the Sale Transaction, (2) provides for the liquidation of the Trust Assets³ through a Liquidation Trust, (3) appoints an Advisory Committee to (i) oversee the administration of the Liquidation Trust and (ii) be a representative of the Debtors and the Estates with respect to the D&O Claims and other Tort Claims, and (4)

³ "Trust Assets" means all Remaining Assets other than (i) the Restricted Assets, (ii) the D&O Claims and other Tort Claims (all related rights and remedies, including with respect to any applicable Insurance Policies), and (iii) any other rights or assets that vest or re-vest in any of the Debtors under the terms of this Plan.

appoints a Surviving Officer of the Debtors to administer the Restricted Assets,²⁴ wind down the Debtors, and take such other actions as authorized by the Plan.

The Plan treatment of each Class is listed in the following table. ~~Unless otherwise specified, the information in the following table and in the sections below are based on information as of February 1, 2021.~~

Class	Description	Plan Treatment	Entitled to Vote
1	Secured Tax Claims	Paid in full.	Unimpaired, deemed to accept
2	Priority Non-Tax Claims	Paid in full.	Unimpaired, deemed to accept
3	Secured Term Loan Claim	Subject to the Challenge Rights, in full and final satisfaction, settlement, and release of, and exchange for, any Allowed Secured Term Loan Claim, the holder of any Allowed Secured Term Loan Claim shall be paid: (i) the proceeds from the sale of the Real Property Collateral securing the Secured Term Loan Claim in an amount equal to the value of the Term Lender's interest in the Real Property Collateral and (ii) the net proceeds of Accounts from patient services rendered prior to the closing of the Sale Transaction. <u>Any remaining Allowed Term Loan Claim after payment in full of the Allowed Secured Term Loan Claim shall be treated in Class 5.</u>	Unimpaired, deemed to accept <u>Impaired, entitled to vote</u>

²⁴ "Restricted Assets" refers to Remaining Assets to which the Debtors hold only legal title or which are donations or grants whose use is restricted by the terms of the donation or grant. A schedule of the Debtors' Restricted Assets will be filed as part of the Plan Supplement prior to the Confirmation Hearing.

4	Other Secured Claims	To the extent any Other Secured Claims exists, each holder of an Allowed Other Secured Claim shall, in full and final satisfaction, settlement, and release of, and exchange for, such Other Secured Claim, receive on the Effective Date in full satisfaction of the Secured Claim: (i) the proceeds from the Sale Transaction in an amount equal to the value of the holder's interest in the collateral securing such Claim or (ii) the Debtors will surrender the Collateral securing the Allowed Other Secured Claim to the holder. <u>Any remaining Allowed Claim after payment in full of a holder's Allowed Other Secured Claim shall be treated in Class 5.</u>	Unimpaired, deemed to accept
5	General Unsecured Claims	Unless otherwise agreed by the applicable holder of an Allowed Claim in this Class to accept different and less favorable treatment, each holder of an Allowed General Unsecured Claim shall be entitled to receive in full and final satisfaction, settlement, and release of, and exchange for, such Claim, a Pro Rata share of the Net Trust Assets ⁵ on the later of: (a) the date or dates determined by the Liquidation Trustee, to the extent there is Cash available for distribution in the judgment of the Liquidation Trustee, having due regard for the anticipated and actual expenses, the likelihood and timing of the process of liquidating; and (b) thirty (30) days after the date on which such Claim has become Allowed by a Final Order.	Impaired, entitled to vote
6	Medical Malpractice Claims	Holders of Medical Malpractice Claims shall, in full and final satisfaction, settlement, and release	Impaired, entitled to vote

⁵ “Net Trust Assets” means the Trust Assets, any other assets transferred to or earned by the Liquidation Trust, and any proceeds of the foregoing available for distribution under this Plan to holders of General Unsecured Claims after accounting for all other payments and distributions required to be made from the Liquidation Trust pursuant to the terms of this Plan (including, but not limited to, post-Effective Date fees, costs, and expenses payable from the Liquidation Trust as described in the Plan).

		of, and exchange for, such Claims be granted relief from the automatic stay provided by Bankruptcy Code Section 362 and any stay or injunction provided for under the Plan or the Confirmation Order to pursue payment of their Medical Malpractice Claims from applicable Insurance Policies. To the extent such claims are Allowed, recovery on account of such Claims shall be limited to any available proceeds of such Insurance Policies. Holders of Medical Malpractice Claims shall not receive any Cash distribution from the Liquidation Trust or otherwise under the Plan on account of such Claims.	
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The Debtors desire that the Plan be a consensual plan. The Creditors' Committee supports the Plan. **The Debtors and the Creditors' Committee hope that all classes of creditors will vote to accept the Plan by the requisite majorities required under section 1126 of the Bankruptcy Code.** In the event any class does not accept the Plan, however, the Debtors request that the Plan be confirmed by the cramdown provisions of section 1129(b) of the Bankruptcy Code with respect to such dissenting class or classes. The Debtors reserve the right to modify the Plan pursuant to section 1127 of the Bankruptcy Code, with the consent of the Creditors' Committee and the Bankruptcy Administrator, consistent with the requirement that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code.

III. VOTING PROCEDURES AND CONFIRMATION REQUIREMENTS

A. Ballots and Voting Deadline.

A Ballot to be used for voting to accept or reject the Plan will be distributed upon approval of the Disclosure Statement by the Bankruptcy Court to those creditors entitled to vote on the Plan. Creditors must (1) carefully review the Ballot and instructions thereon; (2) execute the applicable Ballot; and (3) return the completed Ballot to the Claims and Solicitation Agent at the address listed on the ballot, so as to be received by 5:00 p.m., prevailing Eastern Time, on the deadline imposed by the Court. Ballots received after the deadline will not be considered. Moreover, Ballots received by telecopier/facsimile will not be considered.

B. Creditors Entitled to Vote.

Any creditor whose Claim is impaired under the Plan is entitled to vote, provided that (1) its Claim has been scheduled by the Debtors (and such Claim is not scheduled as disputed, contingent or unliquidated) or (2) it has filed a Proof of Claim on or before the last date set by the Court for such filing (the Bar Date) and no objection to such Proof of Claim is pending at the time of the confirmation hearing. With respect to any Class of Claims that is not impaired by the Plan, the creditors in the Class are conclusively presumed to have accepted the Plan and solicitation of acceptances or rejections of the Plan with respect to the Class is not required.

Any Claim as to which an objection has been filed (and such objection is still pending) is not entitled to vote, unless the Court temporarily allows the Claim in an amount which it deems proper for the purpose of accepting or rejecting the Plan upon motion by the creditor whose Claim is subject to objection. In addition, the vote of a creditor may not be counted if the Court determines that the creditor's acceptance or rejection was not solicited or procured in accordance with the provisions of the Bankruptcy Code.

Even though a creditor may vote to reject the Plan, such rejection of a confirmed Plan does not mean that the creditor will not be entitled to share in any distributions to be made under the Plan.

C. Definition of Impairment.

Under § 1124 of the Bankruptcy Code, a Class of Claims is impaired under a plan of reorganization unless, with respect to each Claim or Interest of such Class, the plan (1) leaves unaltered the legal, equitable, and contractual rights of the holder of such Claim, or (2) with respect to Claims subject to accelerated payment after the occurrence of a default: (i) reinstates the Claim pursuant to its original terms; (ii) cures any default, with certain exceptions set forth in § 365(b)(2); and (iii) compensates the holder of such Claim for any damages incurred as a result of any reasonable reliance by the holder of such Claim on the applicable contractual provisions or law.

D. Classes Impaired Under the Plan.

Creditors holding Claims in Classes [3](#), 5 and 6 are impaired under the Plan and are eligible, subject to the limitations set forth above, to vote to accept or reject the Plan. Creditors holding Claims in all other Classes are unimpaired under the Plan and are not entitled to vote with respect to the acceptance or rejection of the Plan.

E. Vote Required for Class Acceptance.

Bankruptcy Code § 1126(c) defines acceptance of a Plan by a Class of Creditors as acceptance by holders of two-thirds (2/3) in dollar amount and a majority in number of the Allowed Claims of that Class which actually cast ballots to accept or reject the Plan. The determination of whether a Class has accepted the Plan excludes the votes of any entity whose acceptance or rejection of the Plan was not in good faith consistent with § 1126(e).

F. Requirements for Confirmation.

In order to be confirmed (i.e., approved) by the Bankruptcy Court, the Plan or its proponent must (among other requirements set forth in § 1129 of the Bankruptcy Code):

1. Comply with the applicable provisions of the Bankruptcy Code;
2. Establish that the Plan has been proposed in good faith and not by any means forbidden by law;
3. Disclose all compensation paid or promised for professional services rendered or to be rendered in connection with the case;
4. Disclose the identity and affiliations of all officers to serve after the Plan is confirmed and the compensation of any insiders to be employed after Confirmation;
5. Propose to pay each member of a class of claimants, who has not accepted the Plan, property at least equal in value to what the claimant would receive if the Debtors' assets were liquidated under Chapter 7 of the Bankruptcy Code, and distributed to Creditors according to their rights and priorities under law;
6. Propose to pay all Administrative Claims in full;
7. Propose to pay all Priority Non-Tax Claims in full in deferred payments or cash; and
8. Propose to pay all Priority Tax Claims in full within five years after the date of the order for relief.

G. Confirmation Hearing.

The Bankruptcy Code requires that the Bankruptcy Court hold a Confirmation Hearing with notice to all Creditors. The Confirmation Hearing is scheduled for [REDACTED] at [REDACTED] August 25, 2021 at 9:30 a.m. before the Honorable Lena Mansori James. The Confirmation Hearing may be adjourned or continued by the Bankruptcy Court without further notice except for an announcement made of the adjourned or continued date made at the Confirmation Hearing.

At the Confirmation Hearing, the Bankruptcy Court shall determine whether the requirements of the Bankruptcy Code have been satisfied, in which event the Bankruptcy Court shall enter an order confirming the Plan. With respect to creditor acceptance of the Plan, if the requisite members of an impaired Class do not vote to accept the Plan as provided in Section 2 above, the Debtors may seek confirmation pursuant to § 1129(b) of the Bankruptcy Code, known as the “cramdown” procedure. Pursuant to this section, the Bankruptcy Court may confirm the Plan notwithstanding the nonacceptance by an impaired Class if at least one impaired Class votes to accept the Plan, the Plan does not discriminate unfairly, and is “fair and equitable” to each non-accepting Class.

A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if no Class receives more than it is legally entitled to receive for its Claims. The Bankruptcy Code establishes different “fair and equitable” standards for Secured Claims and Claims that are not Secured (“Unsecured Claims”).

With respect to a Secured Claim, a plan may be “fair and equitable” (1) if the holder of the impaired Secured Claim retains its liens to the extent of its Allowed Claim and receives deferred cash payments at least equal to the allowed amount of its Claim with a present value

as of the Effective Date at least equal to the value of such creditor's interest in the property securing its liens, (2) if property subject to the lien of the impaired Secured Claim is sold free and clear of that lien, with that lien attaching to the proceeds of sale, and such lien proceeds must be treated in accordance with items (1) and (3) herein, or (3) if the holder of the impaired Secured Claim realizes the "indubitable equivalent" of its Claim under the plan.

With respect to an Unsecured Claim, a plan may be "fair and equitable" if (1) each holder of an impaired Unsecured Claim receives or retains property of a value equal to the amount of its Allowed Claim or (2) the holder of any Claim or Interest that is junior to the claims of the dissenting Class will not receive any property under the plan.

IV. BACKGROUND

A. Debtors' Business and Background.

The Debtors and certain non-debtor affiliates (collectively, the "System") operate as a comprehensive healthcare system based in Asheboro, North Carolina. Randolph operates a 145-bed hospital, an extensive network of primary care and specialty physician offices, outpatient rehabilitation centers, homecare services, advanced imaging, and an accredited cancer treatment center. As of the Petition Date, the System had a medical staff of 373 active and credentialed physicians, representing eleven medical specialties, and its facilities include a nursery, an ICU, operating suites, freestanding diagnostic and treatment facilities and satellite offices, and an outpatient center. The System's diagnostic and treatment capabilities include a medical and radiation oncology program through the Randolph Cancer Center.

The local community's need for the System's services is critical. In fiscal year 2019, the System had 4,672 admissions into the hospital, 37,705 emergency room visits, 3,063 outpatient surgeries at the Outpatient Surgery Center, and 707 deliveries. As of 2016,

Randolph's share of the health care market in Randolph County is approximately 30% for general acute inpatient services, 32% for ambulatory surgical services, and 58% for emergency services.

The System's patient mix consists of individuals covered by Medicare and Medicaid, individuals with third-party insurance coverage, and individuals without insurance coverage. The Debtors' payor mix is proof of the region's need for nonprofit hospital care: for the 2019 fiscal year, Medicare and Medicare Advantage accounted for 51% of the System's gross revenue, Medicaid accounted for 15% of gross revenue, managed care and commercial insurance accounted for only 22% of gross revenue, and approximately 9% of the System's patients are uninsured (*i.e.*, self-pay or charity care). The System is committed to providing charity care; the amount of direct and indirect costs under the System's charity care policy exceeded \$3.3 million in fiscal year ending September 30, 2018.

Randolph is a nonprofit corporation, and it is exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1986, as amended. Randolph is governed by a volunteer Board of Trustees.

B. Related Entities.

Randolph has an interest in the following entities:

1. Randolph Specialty Group Practice: Randolph is the sole member of RSGP, a nonprofit corporation formed to employ physicians and advanced care practitioners in the specialties of family medicine, internal medicine, pediatrics, orthopedics, urology, otolaryngology, and gastroenterology. RSGP also operates four outpatient rehabilitation locations. RSGP is the successor to

Randolph Medical Associates and Randolph Specialty Group upon their merger in 2015. RSGP is a Debtor.

2. Piedmont Integrated Health: Randolph is the sole member of Piedmont Integrated Health, which was formed to create a clinically integrated network. This entity is dormant and is not a debtor.
 3. MRI of Asheboro, LLC: Randolph is the sole member of MRI of Asheboro, LLC (“MRI”), which offers MRI services. MRI is a Debtor.
 4. StayWell Senior Care, Inc.: Randolph is the 80% owner of StayWell Senior Care, Inc. (“StayWell”), a nonprofit corporation which operates a non-residential facility that includes an adult day health area, comprehensive medical services on site and additional services, including transportation and medications, pursuant to the PACE³⁶ model of care. The remaining ownership is held by Hospice of Randolph County (5%) and The Moses H. Cone Memorial Hospital Operating Corporation d/b/a Cone Health (together with its affiliates as defined in the Plan, “Cone”) (15%). StayWell is a non-debtor affiliate.
 5. Randolph Cancer Center, LLC: Randolph owns 60% of Randolph Cancer Center, LLC (“Cancer Center”). Cone owns the remaining 40%. Randolph and Cone formed the Cancer Center to develop and operate an oncology center in Randolph County. Cancer Center is a non-debtor.
- C. Debtors’ Skilled Work Force.

³⁶ PACE is an acronym for “Program for All-Inclusive Care for the Elderly.”

As of the Petition Date, the Debtors had 821 full time employees, 69 part-time employees, and 193 PRN employees. Randolph contracts with 10 employed physicians, 16 employed other medical professionals, and 82 active physicians who are not employed.

D. Debtors' Real Property and Personal Property.

The Debtors' real property is comprised of the hospital campus at 364 White Oak Street, Asheboro, NC, including an outpatient center, cancer center and labs developed in 2008; the emergency department building developed in 2000; a 1992 building housing operating rooms, the ICU, maternity, surgical units and other departments; a 1973 building housing medical records; a 1963 building with senior administration offices, lab space, cafeteria, and cardiac rehab; the original hospital building first developed in 1933; and a modular building for CT equipment. In addition, the Debtors lease various other outpatient and other facilities in and around Asheboro.

The Debtors' personal property assets include cash, accounts receivable from third party payors, Medicare, Medicare Advantage and Medicaid, and patients; medical and other equipment; supplies; furniture and fixtures; software and other information technology; and licenses, certificates of need and other intangible assets. The forced liquidation value of the machinery and equipment of Randolph Hospital, Inc. and certain affiliates as of February 10, 2020 was \$2,109,050 according to a valuation done by Collateral Evaluation Associates, Inc. The Debtors will set forth projected liquidation values in the hypothetical chapter 7 liquidation analysis which will be provided in the Plan Supplement.

E. ~~D.~~ Pre-petition Debt Structure and Other Significant Obligations.

Term Loan

On August 31, 2012, Randolph entered into a Term Loan Agreement and certain associated Term Loan Documents with Bank of America, N.A. (“BOA”) in the original principal amount of \$44.9 million. Additionally, in 2008, Randolph entered into an ISDA Master Agreement as amended and supplemented from time to time (the “Swap Agreement”) with BOA. In accordance with the terms of the Swap Agreement, Randolph and BOA entered into a transaction pursuant to the confirmation with a trade date of July 21, 2008, an initial notional amount equal to \$22.9 million and a termination date of October 1, 2037. The balance due under the Swap Agreement constitutes an obligation under the Term Loan Agreement.

Randolph’s obligations under the Term Loan Agreement are secured by Obligation No. 4 issued under that certain Master Trust Indenture dated June 1, 2007, among Randolph, RSPG, and U.S. Bank, N.A., as successor to First-Citizens Bank & Trust Company, as Master Trustee, pursuant to which Randolph granted U.S. Bank as trustee for the benefit of the Bank a security interest in certain “Pledged Assets” as defined therein.

The Term Loan Agreement is also secured by that certain Deed of Trust, Assignment and Fixture Filing dated April 24, 2014, executed by Randolph and recorded on April 28, 2014, in Book 2387, Page 73, of the Randolph County, North Carolina, Public Registry, pursuant to which Randolph granted BOA a first-priority lien on substantially all of its real property.

The Term Loan Agreement matured on February 28, 2020. The aggregate amount due under the Term Loan Agreement and SWAP Agreement, as of February 1, 2021, is approximately \$19,794,602.

Other Significant Obligations

Prior to February 28, 2003, certain Debtors and their non-Debtor affiliates offered their employees the ~~Pension~~Defined Benefit Plan. Effective February 28, 2003, the ~~Pension~~Defined Benefit Plan was frozen, with no further benefits thereafter accruing under the ~~Pension~~Defined Benefit Plan for most participants. As of January 2019, the ~~Pension~~Defined Benefit Plan had 730 total participants, 230 currently receiving benefits, 205 active employee participants who are not yet eligible, and 295 former employee participants who are not yet eligible. ~~Pursuant to the Debtors' most recent actuarial estimate, the Pension Plan has an estimated funding deficit of \$8.1 million.~~ No contributions have been made to the ~~Pension~~Defined Benefit Plan year-to-date.

The Debtors also finance and lease certain equipment and facilities under capital leases, and operating leases from, among others, Bank of America Leasing and Capital LLC. The amount of principal outstanding under certain capital leases is approximately \$810,000. Total rent expense for the fiscal year ending September 30, 2019 was approximately \$2.0 million, including intercompany rent payments.

F. ~~E.~~ Events Leading to the Commencement of the Chapter 11 Cases.

Throughout the years, Debtors have made every effort to meet the growing needs of the community in a fiscally responsible manner. Nonetheless, as a result of a number of factors, the Debtors have become financially distressed. Of course, the current situation did not develop overnight; the financial distress is the result of a number of factors that have emerged and worsened over time.

First, Randolph County's population is poorer and less healthy than North Carolina as a whole and generates a significant demand for critical health care services. Meanwhile, Debtors face ongoing downward pressure on payment rates, while staffing, pharmaceutical,

and supply costs continue to rise. The environment in North Carolina continues to create financial hardships for smaller organizations (*e.g.*, Medicaid managed care). Debtors are geographically surrounded by larger, competitive health systems that compete for well-reimbursed health services, while Debtors remain the only in-county health system and serve a disproportionate share of economically fragile patients. In addition, Debtors' aged physical plant has significant needs for infrastructure and facility modernization.

With these challenges in mind, Debtors recognized in 2015 that they could not remain standalone organizations and initiated partnership discussions at that time. Debtor Randolph entered into a Management Services Agreement ("MSA") with Cone, effective June 1, 2016. Even considering the improvements that were expected to result from the MSA with Cone, Debtors' projected financial performance remained insufficient. As a result, the Debtors made the decision to pursue a stronger form of integration.

Over the next 18 months, Debtors pursued a traditional search for full integration partners. Although Debtors held discussions with at least ten different organizations – in state, out-of-state, nonprofit, and for-profit – the search was unsuccessful. In the fall of 2018, Debtors recanvassed a number of potential partners, offering a full financial integration (*i.e.*, sale) through an insolvent transaction in an attempt to resolve concerns about Debtors' significant debt burden; that search also was unsuccessful.

Over that same 18 months, Debtors launched an aggressive margin improvement plan, which resulted in significant financial improvement – but falling short of standalone financial viability. Debtors estimate that over this 18-month period, these efforts have resulted in more than \$10 million in cumulative financial improvements. Similarly, on a consolidated basis,

Debtors' Fiscal Year 2019 operating margin improved to a negative \$3.4 million from the Fiscal Year 2018 operating margin of negative \$10.2 million.

The margin improvement plan had two purposes: to make the organization more financially attractive to potential partners and to extend the time Debtors had available to find a long-term solution for health care in Randolph County. Management believes that the margin improvement plan achieved both objectives.

Having exhausted traditional partnership alternatives, Debtors explored whether the implementation of the margin improvement plan would allow them to remain viable, standalone organizations for a period of time with the hope of eventually finding a partner. The analysis concluded that it was not possible; it would require more financial improvement than Debtors could achieve through their margin improvement plan and would not have provided any latitude for potential negative events, such as physical plant failure or loss of medical staff. Although the margin improvement plan has enabled Debtors to continue to provide high quality, lower cost services during this journey, it was not a long-term solution.

In addition to Debtors' struggles to address operating losses through the margin improvement plan, Debtors simultaneously faced the maturity of their long-term debt with BOA. Previously, Randolph had refinanced its debt into a five-year loan with a large balloon payment. When the loan matured, Randolph was faced with a sizable debt service and inadequate resources to satisfy the debt. The combined pressure of operating losses, the outstanding debt service to BOA, and loan maturity proved to be more than Debtors could overcome.

V. SIGNIFICANT POSTPETITION EVENTS

A. Appointment of Unsecured Creditors Committee.

On March 9, 2020, the Bankruptcy Administrator for the Middle District of North Carolina noticed the formation of a committee of unsecured creditors (“Creditors’ Committee”) (Doc. No. 33). The Creditors’ Committee members are (i) Canopy Partners, (ii) McKesson Corporation and (iii) Boston Scientific Corporation (Doc. No. 69).

B. Engagement of Professionals by the Debtors and Creditors’ Committee.

The Debtors have engaged the following professionals in these Chapter 11 Cases: (i) Nelson Mullins Riley & Scarborough LPP as Debtors’ co-bankruptcy counsel and general corporate counsel (Doc. No. 136); (ii) Hendren, Redwine & Malone, PLLC as Debtors’ co-bankruptcy counsel (Doc. No. 135) (iii) Jarrard Phillips Cate & Hancock, Inc. as Debtors’ communications consultants (Doc. No. 139); (iv) Ankura Consulting Group, LLP to provide restructuring services and Louis E. Robichaux IV as Debtors’ Chief Restructuring Officer (Doc. No. 143); and (v) Houlihan Lokey Capital, Inc. as Debtors’ investment banker (Doc. No. 169).

The Creditors’ Committee has engaged the following professionals in these Chapter 11 cases: (i) Spilman Thomas & Battle, PLLC as local counsel (Doc. No. 232); (ii) Sills Cummis & Gross P.C. as co-counsel (Doc. No. 233); and (iii) Gibbins Advisors, LLC as financial advisor (Doc. No. 234).

C. Appointment of Patient Care Ombudsman.

On May 11, 2020, the Bankruptcy Court appointed Melanie L. Cyganowski as the Debtors’ Patient Care Ombudsman (the “Patient Care Ombudsman”) (Doc. No. 231). The Patient Care Ombudsman filed two reports covering the periods of May 5, 2020 through and including September 2, 2020. On November 9, 2020, the Bankruptcy Court entered an Order terminating the appointment of the Patient Care Ombudsman (Doc. No. 584).

D. Postpetition Operations and Response to COVID-19 Pandemic.

Shortly after the Petition Date, the effects of the COVID-19 pandemic began to reach North Carolina. In March 2020, North Carolina Governor Roy Cooper entered several executive orders closing public places, business, schools, and prohibiting mass gatherings. In addition, on March 23, 2020, the Secretary of the NC DHHS requested that all hospitals and ambulatory surgery centers suspend all elective and non-urgent surgeries and procedures.

In response to COVID-19, the Debtors developed a plan to care for patients presenting with COVID-19 symptoms. Patients were admitted to the emergency room, stabilized, and, if testing positive for COVID-19, transferred to a larger acute care facility. The Debtors reallocated resources for their COVID-19 care plan and in response to the suspension of non-urgent procedures, which was temporary. By May 26, 2020, the Debtors had resumed nearly all elective and non-urgent procedures.

The suspension on elective and non-urgent procedures – while short-lived – had a material impact on the Debtors’ volumes and accounts receivable. Notwithstanding the decrease in volume, the Debtors’ cash position remains relatively strong due to cost savings, federal stimulus funding, and expedited state funding from DHHS’ Medicaid Reimbursement Initiative/Gap Assessment Program (“MRI/GAP”). Specifically, the Debtors have received \$14,697,455.00 in federal funding from the CARES Act Provider Relief Fund. In addition, the Debtors received an expedited net payment of \$5.8 million from the State’s MRI/GAP supplemental payment program.

E. Consensual Use of Cash Collateral and Adequate Protection.

Pursuant to a series of consent orders, the Debtors (i) have used BOA’s cash collateral on an interim basis in accordance with the terms of the consent orders, and (ii) granted BOA

certain adequate protection in exchange for the Debtors' use of BOA's cash collateral. Specifically, Debtors granted BOA a replacement lien on equipment and have made adequate protection payments to BOA consistent with the approved cash collateral budgets.

F. Bar Date.

The deadline for all creditors (except ~~a~~ governmental ~~unit~~units) to file a proof of claim was July 7, 2020 (Doc. No. 78).

G. Bid Procedures Order and Auction.

On September 8, 2020, the Bankruptcy Court entered an order (I) Approving Auction and Bidding Procedures in Connection with the Sale of Substantially All of the Debtors' Assets, (II) Permitting Debtors to Designate Stalking Horse Purchaser and Grant Bid Protections, (III) Approving Procedures Related to the Assumption and Assignment of Executory Contracts and Unexpired Leases, (IV) Scheduling Auction and Sale Hearing, (V) Approving the Form and Manner of Sale Notice, and (VI) Granting Related Relief (the "Bidding Procedures Order") (Doc. No. 445). The Bidding Procedures Order, among other things, scheduled an auction ("Auction") in connection with the sale of substantially all of the Debtors' assets, to be held in accordance with the terms of the Bidding Procedures Order.

The Debtors held the Auction on October 5 and 6, 2020. Multiple parties competitively bid at the Auction, maximizing the sale price for the Debtors' assets. Ultimately, the successful bidder was American Healthcare Systems, Inc. ("American Healthcare"), which bid an \$18.5 million purchase price, plus assumption of cure costs for assumed contracts and paid time off for hired employees. American Healthcare's bid was \$16.5 million greater than the stalking

horse's⁴⁷ \$2.0 million original stalking horse bid.⁵⁸ The successful Auction will result in a significant recovery for the Debtors' creditors.

H. ~~Sale of Assets to~~ APA with American Healthcare Systems, LLC.

On October 8, 2020, the Debtors and American Healthcare entered into an Asset Purchase Agreement ("APA") for the sale of substantially all of the Debtors' assets. On November 3, 2020, the Bankruptcy Court entered an Order Authorizing the Sale of the Debtors' Assets Free and Clear of all Liens, Claims, Encumbrances and Interests, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Certain Related Relief (the "Sale Order") (Doc. No. 563). The Sale Order, among other things, authorized the Debtors to sell the Acquired Assets free and clear to American Healthcare pursuant to the terms thereof and the APA.

I. First and Second Amendments to the APA ~~and Closing of the Sale Transaction~~.

On December 28, 2020, the Debtors and American Healthcare entered into the First Amendment to the APA (the "First Amendment"). Under the First Amendment, the Debtors amended the APA to permit American Healthcare to operate as a for-profit entity and to specify the extent and nature of the charity care services that American Healthcare will provide following the Sale Transaction.

⁴⁷ On August 28, 2020, Debtors filed the Notice of Proposed Stalking Horse Purchaser (Doc. No. 414), which identified Dava Foundation Inc. ("Dava") as the proposed stalking horse. Also on August 28, 2020, the Debtors entered into an asset purchase agreement with Dava for the sale of substantially all of the Debtors' assets for \$2.0 million. However, as noted above, Dava was not the successful bidder at the auction.

⁵⁸ The next best bidder at the Auction was Pure Health Carolina Corp., which bid a \$18.5 million purchase price, plus assumption of cure costs for assumed contracts and paid time off for hired employees. American Healthcare was the successful bidder because it agreed to make 10% of its deposit non-refundable on certain grounds, which was the highest bid on the amount of the non-refundable deposit.

On January 14, 2021, the Debtors filed a Motion requesting authority for the Debtors and American Healthcare to execute a Second Amendment (“Second Amendment”) to the APA (Doc. No. 659, the “Motion to Amend APA”).⁶ Under the ~~proposed~~ Second Amendment, the Debtors and American Healthcare will enter into a certain Interim Management Agreement and Leaseback Agreement, which will allow the closing of the Sale Transaction to proceed ~~as scheduled~~ while ensuring that American Healthcare can bill for services while it awaits regulatory approvals. ~~The parties are working to close the Sale Transaction as soon as possible and it is projected to close between mid-February 2021 and April 2021.~~

J. Amended Sale Transaction and Supplemental Sale Order.

The APA with American Healthcare is conditioned upon the Debtors and Randolph County obtaining \$20 million in funding (the “Stabilization Act Funding”) through the North Carolina Rural Health Care Stabilization Program (the “Stabilization Program”). The Debtors and Randolph County applied for Stabilization Act Funding in November 2020 and worked for months to obtain approval of the funding. After the North Carolina’s Local Government Commission (“LGC”) declined Randolph County’s request to consider the application at its April 2021 meeting and it appeared the application would be denied, the Debtors entered into negotiations with American Healthcare to remove the Stabilization Program contingency. As a result of the negotiations, the Debtors and American Healthcare negotiated a purported Third Amendment to the APA which removes the Stabilization Act Funding contingency and lowers the purchase price to \$8.75 million. Shortly thereafter, however, the LGC approved an amended application for Stabilization Act funding which

~~⁶The Motion to Amend APA is scheduled for hearing on February 4, 2021.~~

provides for \$12 million in forgivable loans payable over four years. After the \$12 million in funding was approved, the Debtors, the Committee, and American Healthcare entered into further negotiations to amend the APA to take into account the improved capital position post-closing. As a result, the Debtors and American Healthcare have agreed, in consultation with the Committee, to a \$10.2 million purchase price under the Fourth Amendment to the APA, to be paid as follow:

- a. \$9.0 million in cash at closing;
- b. \$300,000 to be paid in four (4) quarterly installments commencing on the initial Annual Payment Date, as defined in that certain Promissory Note executed and delivered by American Healthcare to Randolph County in the original principal amount of up to \$12,000,000.00 (“Note”) under the Stabilization Program, and conditioned upon American Healthcare having received the initial \$3MM (“Year One Funds”) from Randolph County under the Stabilization Program and the County having agreed to forgive collection of the Year One Funds pursuant to the terms of the Note;
- c. \$300,000 to be paid in four (4) quarterly installments commencing on the second Annual Payment Date as defined in the Note, and conditioned upon American Healthcare having received the second \$3MM (“Year Two Funds”) from the County under the Stabilization Program, and the County having agreed to forgive collection of the Year Two Funds pursuant to the Note;
- d. \$300,000 to be paid in four (4) quarterly installments commencing on

the third Annual Payment Date, as defined in the Note, and conditioned upon American Healthcare having received the third \$3MM (“Year Three Funds”) from the County under the Stabilization Program, and the County having agreed to forgive collection of the Year Three Funds pursuant to the Note; and

- e. \$300,000 to be paid in four (4) quarterly installments commencing on the fourth Annual Payment Date, as defined in the Note, and conditioned upon American Healthcare having received the final \$3MM (“Year Four Funds”) from the County under the Stabilization Program, and the County having agreed to forgive collection of the Year four Funds pursuant to the Note.

In order to obtain Bankruptcy Court approval of the Fourth Amendment and provide notice to interested parties of the right to overbid,⁹ the Debtors filed their Motion for Approval of Amended Sale Transaction and Notice of Sale on May 14, 2021 (Docket No. 830). The Bankruptcy Court enter its Order Granting Debtors’ Motion for Approval of Amended Sale Transaction and Supplementing Prior Sale Order (the “Supplemental Sale Order”) on June 4, 2021 (Docket No. 851).

In addition, pursuant to the Supplemental Sale Order and following mediation, the Debtors, Cone, American Healthcare, and the North Carolina Attorney General finalized a resolution providing for the transfer of Randolph’s interests in the Cancer Center and

⁹ The Debtors did not receive any qualified overbids in response to this Notice. The Debtors did receive a purported overbid from Pure Health Carolina Corp. dated June 1, 2021, but the purported overbid did not comply with the terms of the Notice and was thus not qualified by the Debtors in consultation with the Committee and Term Lender.

StayWell.

K. Closing of the Sale Transaction.

The closing for the Sale Transaction is scheduled for July 2020 and is a condition to confirmation of the Plan.

VI. PAYMENT OF ADMINISTRATIVE EXPENSES AND UNCLASSIFIED CLAIMS

Administrative Claims, Professional Fees, and Priority Tax Claims are unclassified under the Plan.

A. Administrative Claims.

The Plan provides for the payment of Allowed Administrative Claims in full, on or about the latest of: (a) the Effective Date, (b) such other date set by the Court, (c) the tenth Business day after the Claim is Allowed, (d) such other date as may be agreed by the holder of the Claim and the Liquidation Trustee; and (e) the date on which the Claim is otherwise due according to its terms. The Debtors estimate that the aggregate amount of Allowed Administrative Claims, excluding Professional Fees, will be approximately \$~~[*]~~3,500,000. The Administrative Claim Bar Date will be the thirtieth (30) day after the Effective Date, excluding all requests for payment of Claims for Professional Fees. The failure to file documents seeking allowance of an Administrative Claim by the Administrative Claim Bar Date shall result in the waiver of the claim.

B. Professional Fees. The Plan provides for the full payment of Allowed Professional Fees. The Professional Fees Bar date will be set under the Confirmation Order and is expected to be sixty (60) days following the Effective Date. The failure to file documents seeking allowance of a Claim for Professional Fees by the Professional Fees Bar Date shall result in the waiver of the claim.

C. Allowed Priority Tax Claims. The Plan provides for the payment of Allowed Priority Tax Claims in (a) full, without interest, on or about the latest of: (i) the Effective Date, (ii) such other date set by the Court, (iii) the tenth Business day after the Claim is Allowed, and (iv) such other date as may be agreed by the holder of the Claim and the Liquidation Trustee; or (b) receive deferred Cash payments to the extent permitted by Section 1129(a)(9) of the Bankruptcy Code with interest on the unpaid portion of the Claim at the statutory rate under applicable non-bankruptcy law or at a rate to be agreed upon by the Liquidation Trustee and the Government Unit or, if they are unable to agree, to be determined by the Bankruptcy Court.

VII. CLASSIFICATION AND TREATMENT OF CLAIMS

The Plan provides for treatment of six classes of claims.⁷¹⁰ The following table divides Claims into Classes and describes the anticipated treatment of each class under the Plan, including estimated recoveries based upon the information available at the time the Plan was filed. Additionally, the table identifies those Classes that are entitled to vote on the Plan. However, the estimates provided and the figures used to derive the estimates have not been audited in accordance with generally accepted accounting principles. ~~Additionally,~~ The table provides summaries only and are subject in all respects to the specific provisions of the Plan. The table uses certain assumptions about the amount of claims in a given class and certain assumptions about the value of the non-cash property that is being distributed for the benefit of the class members. Some of these assumptions are described after the chart. The Debtors believe these

⁷¹⁰ There are no classes of interests under the Plan. Randolph Hospital, Inc. d/b/a Randolph Health shall retain its Interest in MRI of Asheboro, LLC solely for the purposes of winding down the Debtors under the Plan. Upon the Debtors' dissolution, such Interest shall be eliminated. Debtors Randolph Hospital, Inc. d/b/a Randolph Health and Randolph Specialty Group Practice are nonprofit corporations and have no equity or ownership interests.

are reasonable assumptions given all available information. Importantly, however, the actual recoveries to creditors could vary significantly from the estimates set forth in the table, depending on the amount of claims in a given class that are eventually allowed, and the actual value of non-cash property (such as the Retained Causes of Action) once it is eventually converted to cash.

Class	Description	Estimated Total Amount of Claims	Estimated Recovery	Entitled to Vote
1	Secured Tax Claims	\$0 (no filed proofs of claim)	100%	No
2	Priority Non-Tax Claims	\$44,507.96 (10 filed proofs of claim)	100%	No
3	Secured Term Loan Claim	\$24,053,695.01 (Filed proofs of claim) ¹¹	[To be determined] 70 – 90%	No Yes
4	Other Secured Claims	\$29,702.91 (4 filed proofs of claim)	100% of the holder's interest in the collateral securing such Other Secured Claim, or Debtors will surrender collateral.	No
5	General Unsecured Claims	\$20,534,911.87 (210 filed proofs of claim)	[To be determined] 33 – 45%	Yes
6	Medical Malpractice Claims	To be determined	Not applicable	Yes

The amounts under “Estimated Recovery” in the chart above were derived by dividing the assumed value of the consideration available to be distributed to all holders of allowed claims in a given class by the estimated amount of all allowed claims in that class. The actual value of the Retained Causes of Action is impossible to determine at this stage, so the assumed value is zero for purposes of calculating recoveries to holders of Class 5 Claims. Holders of Class 5 Claims should not presume recoveries on Retained Causes of Action.

¹¹ Amount reflects Term Lender's total filed amount of the Term Loan Claim, not the amount of the Secured Term Loan Claim.

The estimates of total allowed claims in a given class are based on a preliminary review of the Debtors' claims register, the Debtors' schedules of assets and liabilities that have been filed with the Bankruptcy Court and other information received from the Debtors, with the assistance of the Debtors' professionals. The eventual amount of allowed general unsecured claims could be significantly different from these estimates and could result in significantly lower or higher recoveries for holders of claims in Class 5. Moreover, the estimated recoveries are calculated based on the substantive consolidation of the Debtors, which may not be granted by the Bankruptcy Court.

The range of recoveries for the Term Loan Claim is based on the Debtors' estimated range of values for the Term Lender's Collateral, including the portion of the Sale Transaction proceeds which are allocated to the Term Lender. The Debtors, Term Lender, and the Creditor's Committee are discussing a proposed consensual allocation of the Sale Transaction Proceeds, but no agreement has been reached and all parties reserve all rights as to the value of the Term Lender's Collateral and the allocation of the Sale Transaction Proceeds.

1. Summary of Classes of Claims

A. Class 1: Secured Tax Claims.

The Debtors do not believe there are any claims in this class. To the extent any claims in this class exist, all Allowed Secured Tax claims will be paid in full at the time specified in the Plan. Therefore, Class 1 is unimpaired and deemed to accept the Plan and is not entitled to vote to accept or reject the Plan.

B. Class 2: Priority Non-Tax Claims.

Class 2 consists of all Allowed Claims entitled to priority under § 507~~(a)(8)~~ of the Bankruptcy Code. The Plan provides that Class 2 Claims shall ~~either~~ be paid in full at the time

specified in the Plan. Therefore, Class 2 is unimpaired and deemed to accept the Plan and is not entitled to vote to accept or reject the Plan.

C. Class 3: Secured Term Loan Claim.

Subject to the Challenge Rights, in full and final satisfaction, settlement, and release of, and exchange for, any Allowed Secured Term Loan Claim, the holder of any Allowed Secured Term Loan Claim shall be paid: (i) the proceeds from the sale of the Real Property Collateral securing the Secured Term Loan Claim in an amount equal to the value of the Term Lender's interest in the Real Property Collateral ~~and~~; (ii) the net proceeds of Accounts from patient services rendered prior to the closing of the Sale Transaction ~~Class 3 is unimpaired and is not~~; and (iii) as further defined in the Sixteenth Interim Cash Collateral Order, all proceeds from the sale of the "Equipment" to the extent of any "Diminution in Value of the BOA Pre-Petition Collateral." Class 3 is impaired and is entitled to vote to accept or reject the Plan. Any remaining Allowed Term Loan Claim after payment in full of the Allowed Secured Term Loan Claim shall be treated in Class 5.

D. Class 4: Other Secured Claims.

To the extent any Other Secured Claims exists, each holder of an Allowed Other Secured Claim shall, in full and final satisfaction, settlement, and release of, and exchange for, such Other Secured Claim, receive on the Effective Date in full satisfaction of the Secured Claim: (i) the proceeds from the Sale Transaction in an amount equal to the value of the holder's interest in the collateral securing such Claim or (ii) the Debtors will surrender the Collateral securing the Allowed Other Secured Claim to the holder. Class 4 is unimpaired and is not entitled to vote to accept or reject the Plan. Any remaining Allowed Claim after

payment in full or other satisfaction of a holder's Allowed Other Secured Claim shall be treated in Class 5.

E. Class 5: General Unsecured Claims.

Unless otherwise agreed by the applicable holder of an Allowed Claim in this Class to accept different and less favorable treatment, each holder of an Allowed General Unsecured Claim shall be entitled to receive in full and final satisfaction, settlement, and release of, and exchange for, such Claim, a Pro Rata share of the Net Trust Assets on the later of: (a) the date or dates determined by the Liquidation Trustee, to the extent there is Cash available for distribution in the judgment of the Liquidation Trustee, having due regard for the anticipated and actual expenses, the likelihood and timing of the process of liquidating; and (b) thirty (30) days after the date on which such Claim has become Allowed by a Final Order. Class 5 is impaired and is entitled to vote to accept or reject the Plan.

F. Class 6: Medical Malpractice Claims

Holders of Medical Malpractice Claims shall, in full and final satisfaction, settlement, and release of, and exchange for, such Claims be granted relief from the automatic stay provided by Bankruptcy Code Section 362 and any stay or injunction provided for under the Plan or the Confirmation Order to pursue payment of their Medical Malpractice Claims from applicable Insurance Policies. To the extent such claims are Allowed, recovery on account of such Claims shall be limited to any available proceeds of such Insurance Policies. Holders of Medical Malpractice Claims shall not receive any Cash distribution from the Liquidation Trust or otherwise under the Plan on account of such Claims. Class 6 is impaired under the Plan and is entitled to vote to accept or reject the Plan.

2. General Claim Treatment Provisions.

All treatments of Claims in the Plan are subject to the General Claim Treatment Provisions set forth in Article 4.8 of the Plan.

VIII. IMPLEMENTATION OF THE PLAN

1. Funding for the Plan.

The Plan is a liquidating plan. The Plan will be funded from proceeds generated from the following sources: (i) the proceeds from the Sale Transaction; (ii) the net proceeds from the sale, liquidation, or other disposition of the Trust Assets; and (iii) cash on hand at the Effective Date.

2. The Liquidation Trust and Advisory Committee.

A. Establishment of Liquidation Trust

The Liquidation Trust shall be established and become effective on the Effective Date in accordance with the provisions of Article 6 of the Plan, the other provisions of the Plan and the Liquidation Trust Agreement for the purpose of administering the Trust Assets. On the Effective Date, the Trust Assets shall vest in the Liquidation Trust and shall thereafter be administered, liquidated (by sale, collection, recovery, settlement or other disposition) by the Liquidation Trustee in accordance with the Liquidation Trust Agreement and the Plan. For the avoidance of doubt, none of the Acquired Assets under the APA shall vest in or otherwise be subject to the Liquidation Trust.

B. Appointment of Liquidation Trustee

The proposed Liquidation Trustee for the Liquidation Trust shall be selected by the Debtors, in consultation with the Creditors' Committee, and identified in the Plan Supplement, along with the terms and conditions of the Liquidation Trustee's proposed compensation, which shall be subject to approval by the Creditors' Committee. If approved by the Bankruptcy

Court at the Confirmation Hearing, the person or entity so designated shall become the Liquidation Trustee on the Effective Date without further Bankruptcy Court order. The Liquidation Trustee shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the Liquidation Trust Agreement and the Plan. The Liquidation Trustee shall be the successor in interest to the Debtors with respect to the Trust Assets and any other assets subsequently transferred to the Liquidation Trust; accordingly, to the extent the Plan requires an action by the Debtors with respect to such assets, the action shall be taken by the Liquidation Trustee on behalf of the Debtors.

C. Liquidation Trust Agreement.

Prior to the Effective Date, the Debtors shall execute the Liquidation Trust Agreement. The Liquidation Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, but not limited to, any and all provisions necessary to ensure the continued treatment of the Liquidation Trust as a grantor trust. The Liquidation Trust Agreement shall also be in a form acceptable to and approved by the Creditors' Committee. For the avoidance of doubt, the terms of the Plan shall control to the extent of any conflict between the terms of the Plan and the terms of the Liquidation Trust Agreement.

D. Transfer of Trust Assets to the Liquidation Trust

As more specifically set forth in Article 6.3 of the Plan, on the Effective Date, Debtors' Estates shall transfer and shall be deemed to have irrevocably transferred to the Liquidation Trustee, for and on behalf of the beneficiaries of the Liquidation Trust, with no reversionary interest in the Debtors, the Trust Assets, free and clear of all Liens, Claims, encumbrances or interests of any kind in such property, except as otherwise expressly provided in the Plan.

E. Term of Liquidation Trust

The existence of the Liquidation Trust and the authority of the Liquidation Trustee will commence as of the Effective Date and will remain and continue in full force and effect until the earlier of (a) the date on which all of the Trust Assets are liquidated in accordance with the Plan, the funds in the Liquidation Trust have been completely distributed in accordance with the Plan, all tax returns and any other filings or reports have been filed with the appropriate state or federal regulatory authorities and the order closing these Chapter 11 Cases is a Final Order or (b) five (5) years after the date of creation of the Liquidation Trust, unless extended by the Bankruptcy Court as provided in the Liquidation Trust Agreement. At such time as the Liquidation Trust has been fully administered (i.e., when all things requiring action by the Liquidation Trustee have been done, and the Plan has been substantially consummated) and in all events within sixty (60) days after the final distribution date, the Liquidation Trustee will file an application for approval of his final report and the entry of the final decree by the Bankruptcy Court.

F. Rights and Powers of the Liquidation Trustee.

As more specifically set forth in Article 6.7 of the Plan, the Liquidation Trustee shall have all the rights and powers set forth in the Liquidation Trust Agreement, including without limitation the right to (1) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Plan and the Liquidation Trust Agreement; (2) liquidate Trust Assets; (3) investigate, prosecute, compromise, and/or abandon all Retained Causes of Action (other than D&O Claims and Other Tort Claims); (4) resolve Disputed Claims subject to the terms of the Plan; (5) file objections to Disputed Claims and to prosecute, settle, compromise, withdraw, or resolve such objections subject to the terms of the Plan; (6) pay expenses incurred in carrying out Liquidation Trustee's powers and duties under the Liquidation Trust Agreement, including professional fees, consistent with the terms of the Plan; (7) make distributions from the Trust Assets in accordance with the provisions of the Plan and the Liquidation Trust Agreement and open and maintain bank accounts, deposit funds, and draw checks to make such disbursements and pay expenses; (8) establish and administer any necessary reserves for Disputed Claims that may be required; (9) resolve any non-material matter or take any non-material action (as such terms are described in Article 6.7 of the Plan) without further application to or order of the Bankruptcy Court; and (10) resolve any material matter or take any material action (as such terms are described in Article 6.7 of the Plan) that has been approved by the Advisory Committee without further application to or order of the Bankruptcy Court. The Liquidation Trustee shall be vested with all rights, powers, and authority of a debtor in possession and trustee under the Bankruptcy Code with respect to the Retained Causes of Action (other than the D&O Claims and other Tort Claims) as of the Effective Date.

G. Costs and Expenses of Liquidation Trust.

All costs and expenses associated with the administration of the Liquidation Trust, including costs and expenses associated with objecting to, settling, estimating or otherwise resolving Claims that are Disputed, adjudicating the Retained Causes of Action, and the Liquidation Trustee's acting as the disbursing agent after the Effective Date shall be the responsibility of and solely paid by the Liquidation Trust.

H. Advisory Committee

On the Effective Date, the Creditors' Committee shall be replaced by the Advisory Committee, which shall oversee the Liquidation Trustee's administration of the Liquidation Trust and be deemed a representative of the Debtors and the Estates with respect to the D&O Claims and other Tort Claims (which shall revert in the Debtors on the Effective Date along with all related rights and remedies, including with respect to any applicable Insurance Policies) in accordance with the provisions of Articles 6.5, 6.6, 6.7 and 6.8 of the Plan and the other provisions of the Plan and the Liquidation Trust Agreement.

3. The Surviving Officer.

The Surviving Officer shall be appointed to administer the Restricted Assets, wind down the Debtors, and take such other actions as authorized by the Plan. The proposed Surviving Officer shall be selected by the Debtors, in consultation with the Creditors' Committee, and identified in the Plan Supplement, along with a disclosure of the proposed terms and conditions of the Surviving Officer's compensation, which shall be subject to approval by the Creditors' Committee. If approved by the Bankruptcy Court at the Confirmation Hearing, the person or entity so designated shall become the Surviving Officer on the Effective Date without further Bankruptcy Court order. The Surviving Officer shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the Plan.

From and after the Effective Date, the Surviving Officer or his successor shall continue to serve in his capacity as the sole officer, director, and responsible person of the Debtors through the earlier of (a) the date the Debtors are dissolved in accordance with the Plan; and (b) the date the Surviving Officer resigns or is replaced or terminated. In the event that the Surviving Officer resigns or is terminated or unable to serve as a director, then a successor Surviving Officer shall be selected by the Surviving Officer, subject to the approval of the Advisory Committee, and the terms and conditions of such successor Surviving Officer's compensation shall be subject to the approval of the Advisory Committee. The successor Surviving Officer shall then be deemed to be the Surviving Officer for all purposes under this Plan.

4. Substantive Consolidation.

The Plan ~~shall serve as a motion by the Debtors seeking entry of a Bankruptcy Court order substantively consolidating all of the Estates~~ is a joint plan of the Debtors, with all rights to recover from the Remaining Assets to be governed by the terms of the Plan. The Plan constitutes the Debtors' motion, as part of confirmation of the Plan, seeking that the Debtors' Estates be substantively consolidated into a single consolidated Estate for all purposes associated with Confirmation and Consummation under the Plan. To the extent the Court confirms the Plan, entry of the Confirmation Order shall constitute the approval, pursuant to section 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the ~~Chapter 11 Cases solely for the purposes of voting on, Confirmation of and distributions under the Plan and for no other purpose.~~ Debtors for Plan purposes. Substantive consolidation is an equitable doctrine and, in the absence of consent, courts have

considered a number of tests or factors when determining whether to apply the doctrine.¹² The Debtors believe substantive consolidation is appropriate because distributions under the Plan on a consolidated basis are consistent with the equities of the case and does not harm any of the parties. Rather, the Debtors assert that substantively consolidating results in a higher distribution to general unsecured creditors. Moreover, substantive consolidation is appropriate in this case because creditors dealt with the Debtors as a consolidated entity and not as individual debtor entities. The Debtors have substantial identity – Randolph is the sole member of RSGP and MRI. All Debtors are part of the integrated “Randolph Health” system. The Debtors operations are very interconnected, with Randolph handling accounting and disbursements for the health care system. As a result, untangling the Debtors’ operations for individual plans would cause an administrative burden. Nonetheless, the Bankruptcy Court may decline to order substantive consolidation of the Debtors. The Debtors reserve the right to seek confirmation of the Plan, with or without substantive consolidation, with any modifications that the Bankruptcy Court may order related to the foregoing.

¹² See, e.g., *Drabkin v. Midland-Ross Corp. (In re Auto-Train Corp., Inc.)*, 810 F.2d 270, 276 (D.C. Cir. 1987) (stating the proponent of substantive consolidation must show: (i) there is a substantial identity between the entities to be consolidated and (ii) consolidation is necessary to avoid some harm or to realize some benefit and, once this showing is made, a presumption arises that creditors have not relied solely on the credit of one of the entities involved and the burden shifts to the objecting creditor to show: (i) it has relied on the separate credit of one of the entities to be consolidated and (ii) it will be prejudiced by the substantive consolidation); *Union Sav. Bank v. Augie/Restivo Baking Co., Ltd. (In re Augie/Restivo Baking Co., Ltd.)*, 860 F.2d 515, 518 (2d Cir. 1988) (stating the proponent must show (i) "whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit" or (ii) "whether the affairs of the debtors are so entangled that consolidation will benefit all creditors"); *In re Owens Corning*, 419 F.3d 195, 211 (3d Cir. 2005) (applying the following two part test for substantive consolidation: (i) whether the entities "disregarded separateness so significantly that their creditors relied on the break-down of entity borders and treated them as one legal entity" or (ii) whether the entities' "assets and liabilities are so scrambled that separating them is prohibitive and hurts all creditors.") The Fourth Circuit has stated, “It is well settled that courts will not be blinded by corporate forms nor permit them to be used to defeat public convenience, justify wrong or perpetrate fraud, but will look through the forms and behind the corporate entities involved to deal with the situation as justice may require.” *Stone v. Eacho (In re Tip Top Tailors, Inc.)*, 127 F.2d 284, 289 (4th Cir. 1942).

5. Preservation of Causes of Action.

As more specifically set forth in Article 5.7 of the Plan, the Liquidation Trustee (and with respect to the D&O Claims and other Tort Claims, the Debtors, through the Advisory Committee) shall retain and may (but are not required to) enforce all Retained Causes of Action, whether arising before or after the Petition Date, and the Liquidation Trustee's (and with respect to the D&O Claims and other Tort Claims, the Advisory Committee's) rights to commence, prosecute or settle such Retained Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. Subject to the terms of the Plan, the Liquidation Trustee shall have the sole right and authority to pursue, prosecute, litigate to judgment and settle the Retained Causes of Action (other than the D&O Claims and other Tort Claims, which shall be pursued, prosecuted, litigated to judgment, and/or settled consistent with Article 6.8 of the Plan).

Any and all Retained Causes of Action shall vest in the Debtors or the Liquidation Trust, as applicable, notwithstanding the rejection of any executory contract or unexpired lease during the Chapter 11 Cases or pursuant to the Plan. Subject to the terms of the Plan, including Articles 6.7 and 6.8, the Liquidation Trustee, as representative of the Debtors with respect to Retained Causes of Action (other than the D&O Claims and other Tort Claims), shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, assert as a set-off or other defenses as to a Claims, abandon, settle, compromise, release, withdraw or litigate to judgment any Retained Causes of Action (other than the D&O Claims and other Tort Claims) and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order or approval of the Bankruptcy Court.

6. Dissolution of the Creditors' Committee.

Upon the Effective Date, the Creditors' Committee shall be dissolved automatically, the retention and employment of the Creditors' Committee's Professionals shall be deemed terminated, and the members of the Creditors' Committee shall be deemed released and discharged of and from all further authority, duties, responsibilities, and obligations related to and arising from and in connection with the Chapter 11 Cases, other than for purposes of filing and/or objecting to final fee applications filed in these Chapter 11 Cases. The Creditors' Committee shall be replaced by the Advisory Committee as of the Effective Date as further described in the Plan.

7. Debtors After Confirmation.

On and after the Effective Date, the Surviving Officer shall have all right and authority necessary to wind up each of the Debtors, and all remaining officers, directors, and trustees of the Debtors shall be deemed to have resigned. Except as otherwise specifically provided in the Plan, all Restricted property of a Debtor shall remain with that Debtor pursuant to Section 1125(a)(5) of the Bankruptcy Code, and shall be free and clear of all Claims, Liens, classes, encumbrances, and interests. The Debtors shall continue in existence for the purpose of (i) administering their rights and obligations under the Plan; (ii) filing all final cost reports reflecting its operations prior to closing of the Sale Transaction; (iii) filing appropriate tax returns; (iv) dissolving any dormant non-debtor affiliates; and (v) as otherwise necessary to windup their affairs. In addition, the Surviving Officer on behalf of Randolph may take all acts necessary to consent to changes to the Bylaws of the Randolph Hospital Community Health Foundation on account of the Sale Transaction and the eventual dissolution of Randolph. Further, the Surviving Officer, on behalf of the Debtors, shall distribute the

Restricted Assets in accordance with applicable non-bankruptcy law. At such time as the Debtors have completed the actions set forth in the Plan, and at each of their respective sole discretion the Debtors will be dissolved in accordance with applicable state law.

8. Conditions to Confirmation.

The following are conditions precedent to confirmation of the Plan:

- (a) The Bankruptcy Court shall have entered a Final Order approving a Disclosure Statement with respect to the Plan in form and substance satisfactory to the Debtors;
- (b) The Sale Transaction under the APA has closed;
- (c) ~~(b)~~ The proposed Confirmation Order shall be in a form and substance reasonably acceptable to the Debtors and the Creditors' Committee; and
- (d) ~~(e)~~ The Plan Supplement and all exhibits, schedules and other attachments to the Plan shall be in form and substance reasonably acceptable to the Debtors and the Creditors' Committee.

9. Conditions to the Effective Date.

The following are conditions precedent to the occurrence of the Effective Date:

- (a) The Confirmation Date shall have occurred;
- (b) The Confirmation Order shall be a Final Order;
- (c) The Liquidation Trust shall have been established and the Liquidation Trustee shall have accepted the terms of his service and compensation, and such terms and compensation shall have

been approved by the Bankruptcy Court in the Confirmation Order;

- (d) The Surviving Officer shall have been appointed and the Surviving Officer shall have accepted the terms of his service and compensation, and such terms and compensation shall have been approved by the Bankruptcy Court in the Confirmation Order;
- (e) All other actions, documents, and agreements determined by the Debtors to be necessary to effectuate the Plan shall have been effected or executed, and all such documents shall be in form and substance reasonably acceptable to the Debtors and the Creditors' Committee; and
- (f) The Debtors shall have received any authorization, consent, regulatory approval, ruling, letter, opinion, or other documents that may be necessary to implement the Plan or that is required by law, regulation, or order.

The Debtors will file and serve notice of the occurrence of the Effective Date upon the completion of the above conditions.

10. Objections to Claims.

Prior to the Effective Date, the Debtors may file objections to Claims in accordance with § 502 of the Bankruptcy Code. Following the Effective Date, and in accordance with Article 8 of the Plan, the Debtors, Liquidation Trustee and the Advisory Committee may object to the allowance of Claims. Any objections to Claims must be filed by the latest of: (a)

one hundred and eighty (180) days following the Effective Date; (b) ninety days after the filing of a Proof of Claim, amended Proof of Claim, or request for payment of an Administrative Claim; or (c) such other date as may be approved by the Bankruptcy Court. The Claim objection deadline may be extended by the Bankruptcy Court.

The fact that the Debtors, Liquidation Trustee or Advisory Committee have not objected to a particular Claim does not mean that the Debtors, Liquidation Trustee or Advisory Committee will not object to such Claim. Accordingly, the Debtors make no representations either in the Plan or this Disclosure Statement as to the validity of any Claim filed, and Creditors should not make any assumption based upon the fact that no objection has yet been filed to any individual Claim.

11. Executory Contracts and Unexpired Leases.

a. Executory Contracts and Unexpired Leases.

On the Confirmation Date (except as provided herein for certain payor agreements and provider agreements), but subject to the occurrence of the Effective Date, all executory contracts and unexpired leases of the Debtors entered into prior to the Petition Date that have not been previously assumed or rejected, have not been assumed and assigned to the Purchaser, or are not the subject of a pending motion to assume or reject, shall be deemed rejected by the Debtors pursuant to the provisions of section 365 of the Bankruptcy Code. For certain payor agreements and provider agreements which shall be disclosed on the Plan Supplement, the effective date of rejection shall be the IMA Termination Date, which is expected to be October 1, 2021. The Confirmation Order shall constitute an order approving the foregoing rejections. _

Pursuant to the Bidding Procedures Order, the Debtors have filed with the Bankruptcy Court the notices of assigned executory contracts and leases in connection with the Sale Transaction, which notices may be amended, withdrawn, and supplemented prior to the closing of the Sale Transaction as provided in the Bidding Procedures Order. Nothing in the Plan shall waive the requirement to provide notice of assigned executory contracts and leases in connection with the Sale Transaction prior to closing, which the Debtors have scheduled to occur prior to the deadline for voting on the Plan.

b. Insurance Policies.

On the Effective Date, the Debtors' rights with respect to all Insurance Policies (including all Insurance Policies that may have expired prior to the Petition Date, all Insurance Policies in existence on the Petition Date, all Insurance Policies entered into by any Debtor after the Petition Date, and all Insurance Policies under which any Debtor holds rights to make, amend, prosecute, or benefit from any claim) shall revert in the applicable Debtor(s) as necessary for the Advisory Committee to pursue and prosecute the D&O Claims and other Tort Claims. To the extent that any such Insurance Policies are not necessary for the pursuit and prosecution of any D&O Claims or other Tort Claims, such Insurance Policies shall be transferred to the Liquidation Trust from the Effective Date until the Liquidation Trust's dissolution, unless any such Insurance Policy is otherwise canceled by the Liquidation Trustee with the approval of the Advisory Committee. The Debtors do not believe that any Insurance Policies issued to the Debtors prior to the Petition Date constitute executory contracts, and notwithstanding any provision of this Plan providing for the rejection of executory contracts, any Insurance Policy that is deemed to be an executory contract shall neither be rejected nor assumed by operation of this Plan and shall be the subject of a specific motion by the

Liquidation Trustee or Advisory Committee, as applicable, to assume or reject the Insurance Policy pursuant to and subject to the provisions of Section 365 of the Bankruptcy Code following the Effective Date to the extent the Liquidation Trustee or Advisory Committee seeks to assume or reject such insurance Policy. The Confirmation Order shall constitute a determination that no default by any Debtor exists with respect to any of the Insurance Policies requiring payment of a Cure Amount, and that nothing in any prior order of the Bankruptcy Court, any prior agreements, or this Plan shall be construed or applied to modify, impair, or otherwise affect the enforceability of the Insurance Policies or any coverage thereunder with regard to any Claims or Causes of Action, including the D&O Claims. The Plan shall be liberally construed to protect the interests of the Estates and all creditors in all Causes of Action and to limit any Claims against the Estates. Notwithstanding anything to the contrary herein, any insurance policy acquired for the benefit of a Debtor (or any officers, directors, or trustees of the Debtors) before or after the Petition Date shall remain in full force and effect after the Effective Date according to its terms.

12. Employee Benefit Plans.

All employee benefit plans, policies, and programs implemented by the Debtors and not previously terminated by the Debtors or otherwise addressed by a separate Final Order as of the Effective Date shall be terminated as of the Effective Date. Except as otherwise provided in the Plan, employee benefit plans, policies, and programs shall include all health care plans, disability plans, severance benefit plans, life, accidental death and dismemberment insurance plans (to the extent not executory contracts assumed under the Plan), and pension/retirement plans (including the Debtors' 403(b) program). If the termination of any such plan, policy, or program gives rise to a Claim by an employee, such Claim shall be forever barred and shall not be enforceable against the Debtors or their Estates, affiliates, successors, estates, or properties, or the Liquidation Trust, unless a Proof of Claim is filed and served on the Debtors, the Liquidation Trustee, and the Advisory Committee within thirty (30) days after the Effective Date.

The Debtors expect the Pension Benefit Guaranty Corporation ("PBGC") to terminate the Defined Benefit Plan. In the absence of termination by the PBGC, the Debtors will initiate a distress termination of the Defined Benefit Plan. The PBGC has filed a number of claims relating to the Defined Benefit Plan and its purported termination, to which the Debtors, the Liquidation Trustee, and the Advisory Committee reserve all rights to object.

13. Causes of Action Created by the Bankruptcy Code.

In addition to rights to sue third parties (generally referred to as "causes of action") that the Debtors' estates may have under other state and federal laws, the Bankruptcy Code creates certain causes of action that allow the Debtors to recover certain transfers (i.e., those

determined to be “preferences” and “fraudulent conveyances”) they made prior to the Petition Date, as described below. These are referred to as “Chapter 5 Actions” in the Plan.

a. **Preferences**

A debtor may recover a transfer of property it made prior to its bankruptcy filing if that transfer was: (a) in payment of a pre-existing debt; (2) allowed the transferee to receive more than it would have received had the transfer not been made and the debtor had been liquidated under chapter 7 of the Bankruptcy Code; and (c) made during the 90 days immediately prior to its bankruptcy filing (or, if the transferee was an insider, during the one year immediately prior to the bankruptcy filing).

There are certain statutory defenses to preference actions. A transfer made in the ordinary course of the debtor’s and transferee’s business and according to ordinary business terms may not be recoverable. Furthermore, if the transferee gave, subsequent to the transfer, new value to the debtor (for which the transferee was not paid), the new value constitutes an offset against the amount of any recovery. If a transfer is recovered by the debtor, the transferee has a general unsecured claim against the debtor to the extent of the recovery.

b. **Fraudulent Transfers**

Under the Bankruptcy Code and under various state laws, a debtor may recover a transfer of property it made while insolvent or that rendered it insolvent if and to the extent the debtor received less than reasonably equivalent value for such property. Transfers made up to six years prior to the bankruptcy filing may be recovered under some state statutes.

c. **Transfers By the Debtors**

The Debtors’ Schedules are required to include a listing of payments the Debtors made in the 90 days immediately preceding the Petition Date as well as a listing of all payments to

insiders. The Debtors have not yet analyzed the recoverability of its transfers, but the Liquidation Trustee will do so after the Effective Date.

Accordingly, the Debtors cannot estimate potential recoveries, if any, from possible litigation surrounding such payments, if any. Under the Plan, Chapter 5 Actions will be transferred to the Liquidation Trust, unless those causes of action are released or otherwise resolved before the Effective Date or under the Plan.

14. Reservation of Causes of Action Against Cone.

Under the Plan, the Debtors have reserved all potential causes of action against Cone for the benefit of the Liquidation Trust. The potential causes of action include, without limitation, Chapter 5 Actions and causes of action for breach of contract. During the one year preceding the Petition Date, the Debtors paid Cone at least \$16,232,550.64. The Debtors have not yet fully investigated the recoverability of the transfers to Cone or the viability of any other causes of action. Accordingly, the Debtors cannot estimate potential recoveries, if any, from potential causes of action against Cone.

15. ~~12.~~ Effect of Confirmation.

a. Binding Effect.

From and after the Effective Date, the rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person. The provisions of the Plan shall bind all holders of Claims against the Debtors, whether or not they have accepted the Plan.

b. Releases.

The Plan provides that upon entry of the Confirmation Order, the Released Parties¹³ are deemed released and discharged by the Debtors, the Liquidation Trust, the Liquidation Trustee and the Estates from any and all Claims, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, relating in any way to the Debtors, the Debtors' Chapter 11 Cases, and the subject matters thereof.

The Plan further provides that as of the Effective Date, each holder of a Claim or Interest who has voted to accept the Plan and failed to mark its ballots as opting out of the release in Section 11.4 of the Plan shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever, released and discharged the Released Parties from all Claims, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, relating in any way to the Debtors, the Debtors' Chapter 11 Cases, and the subject matters thereof.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any Causes of Action held by the Pension Benefit Guaranty Corporation against any Person, including any Released Party or Exculpated Party, arising from a breach of

¹³ “Released Parties” means (i) the Creditors’ Committee and its members, attorneys, financial advisors, and other Professionals and (ii) the Debtors’ attorneys, investment bankers, Ankura Consulting Group, LLP and Louis E. Robichaux IV, and other Professionals, each solely in their respective capacities as such. For the avoidance of doubt, notwithstanding anything to the contrary in this Plan, neither Cone nor the Debtors’ current or former Directors and Officers are Released Parties; provided, however, that any current or former Directors and Officers of any of the Debtors against whom the Advisory Committee does not bring any D&O Claim or other Tort Claim on or prior to the D&O Release Date shall be deemed a Released Party for all purposes under the Plan.

fiduciary duty under Title I of The Employee Retirement Income Security Act of 1974 (“ERISA”).

c. Exculpation.

The Exculpated Parties¹⁴ shall not have nor shall they incur any liability to any Person for any act taken or omission made in connection with or in any way related to negotiating, formulating, implementing, confirming, consummating or administering the Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document created in connection with or related to the Plan or the Chapter 11 Cases, including, without limitation, relating to the powers and duties conferred upon the Exculpated Parties by the Plan, or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or any other act taken or omission made in connection with the Chapter 11 Cases; provided that the foregoing provisions of this Section shall have no effect on the liability of any Exculpated Parties that results from any act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct.

¹⁴ “Exculpated Parties” means the (i) the Debtors, (ii) the Creditors’ Committee, (iii) the members of the Creditors’ Committee solely in their capacity as members of the Creditors’ Committee, (iv) the Purchaser, solely in its capacity as the Purchaser under the APA, (v) the Liquidation Trustee, (vi) the Surviving Officer, (vii) the Advisory Committee, (viii) the members of the Advisory Committee solely in their capacity as members of the Advisory Committee, and (ix) their respective current and former officers, directors, members, managers, employees, attorneys, advisors, and other professionals, each solely in their respective capacities as such from and after the Petition Date. Cone is not an Exculpated Party.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any Causes of Action held by the Pension Benefit Guaranty Corporation against any Person, including any Released Party or Exculpated Party, arising from a breach of fiduciary duty under Title I of The Employee Retirement Income Security Act of 1974 (“ERISA”).

d. Injunction.

Except as otherwise provided in the Plan or Confirmation Order, as of the Effective Date, to the extent of the releases, exculpations, and limitations of liability set forth in this Article 11, all Persons are permanently enjoined from taking any of the following actions against the Released Parties or any of their respective successors or assigns, or any of their respective assets or properties, on account of any claim or Cause of Action: (1) commencing or continuing in any manner any action or other proceeding with respect to any claim or Cause of Action; (2) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order with respect to any claim or Cause of Action; (3) creating, perfecting or enforcing any lien or encumbrance with respect to any claim or Cause of Action; or (4) commencing or continuing any action that does not comply with or is inconsistent with the Plan; provided, however, nothing in this injunction shall preclude the holder of a Claim from pursuing any available insurance or from seeking discovery in actions against third parties.

e. Limitation on Liability.

Neither the Liquidation Trustee, the Surviving Officer, nor the Advisory Committee or its members will be liable for any act they may do or omit to do in such capacities under the Plan and the Liquidation Trust Agreement, as applicable, while acting in good faith and in the exercise of their reasonable business judgment; nor will such parties be liable in such capacities

any event except for gross negligence or willful misconduct. The foregoing limitation on liability also will apply to any professional employed by the Liquidation Trustee, the Surviving Officer, or the Advisory Committee and acting on their behalf under the Plan or the Liquidation Trust Agreement. The Liquidation Trustee and the Advisory Committee (and its members), and any professional employed by the Liquidation Trustee or the Advisory Committee and acting on their behalf under the Plan or the Liquidation Trust Agreement, shall be entitled to indemnification out of the assets of the Liquidation Trust against any losses, liabilities, expenses (including attorneys' fees and disbursements), damages, taxes, suits, or claims that they may incur or sustain by reason of being or having been employed by the Liquidation Trustee or Advisory Committee, or for performing any functions incidental to such service, except for any act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct.

f. Retention of Jurisdiction.

Notwithstanding entry of the Confirmation Order or the Effective Date having occurred, the Court will retain jurisdiction to the fullest extent permitted by law, including jurisdiction to enter any orders or to take any action specified in the Plan.

16. ~~13.~~ Modification or Withdrawal of the Plan.

The Debtors may alter, amend, or modify the Plan under § 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date, so long as the Plan, as modified meets the requirements of §§ 1122 and 1123 of the Bankruptcy Code. The Debtors may also alter, amend, or modify the Plan under § 1127(b) of the Bankruptcy Code, following the Confirmation Date but prior to the Effective Date. The Debtors may revoke or withdraw the Plan prior to Confirmation Date. If the Plan is revoked or withdrawn prior to the

Confirmation Date, the Plan shall be of no force or effect, and shall be deemed null and void. If the Plan is revoked or withdrawn prior to the Confirmation Date, nothing contained herein shall in any way effect or prejudice the rights of the Debtors with regard to Claims, Retained Causes of Action, or any other rights or interests.

17. ~~**14.**~~ **Risk Factors.**

Holders of Claims against the Debtors should read and consider carefully the following factors as well as the other information in this Disclosure Statement and the Plan, prior to voting to accept or reject the Plan. However, the factors listed below are not necessarily the only risks involved with the Confirmation and implementation of the Plan.

a. Closing of Sale Transaction.

If the Sale Transaction is not consummated, there can be no assurance that these Chapter 11 Cases will continue rather than be converted to Chapter 7 for liquidation. In fact, the Debtors believe that, absent consummation of the Sale Transaction, the likely result may be liquidation of the Debtors, in which case creditors would likely receive less than under the Plan.

b. Resolution of Causes of Action.

The distributions available to holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, resolution of the Remaining Assets, including litigation of the Retained Causes of Action. Subject to the terms of the Plan, the Liquidation Trustee shall have the sole right and authority to pursue, prosecute, litigate to judgment and settle the Retained Causes of Action (other than the D&O Claims and other Tort Claims, which shall be pursued, prosecuted, litigated to judgment, and/or settled consistent with Article 6.8 of the Plan). Therefore, the resolution and ultimate recoveries realized from

the Remaining Assets and Retained Causes of Action cannot be known by the Debtors at this time.

Also, the estimated Claims and creditor recoveries that are set forth in this Disclosure Statement are based on various assumptions, and the actual Allowed amounts of Claims may significantly differ from the estimates. Should one or more of the underlying assumptions ultimately prove to be incorrect, the actual Allowed amounts of Claims may vary from the estimated Claims contained in this Disclosure Statement. Moreover, the Debtors cannot determine with any certainty at this time, the number or amount of Claims that will ultimately be Allowed. Such differences may materially and adversely affect, among other things, the percentage recoveries to holders of Allowed Claims and Interests under the Plan.

18. ~~15.~~ Alternatives to Plan Confirmation and Implementation.

The Chapter 11 Cases have not been substantively consolidated, and one or more (or perhaps all) of the Chapter 11 Cases could be converted to Chapter 7 if the respective Estates were administratively insolvent or failed to meet any of the mandatory requirements for confirmation of the Plan. In such event, the Debtors' Chapter 11 Cases would be converted to Chapter 7, the Bankruptcy Court would appoint three Chapter 7 Trustees, and the Trustees would proceed to liquidate any remaining assets, abandon any assets that had no net liquidation value, object to claims as deemed necessary, and pursue causes of action in the discretion of the Trustees. A hypothetical Chapter 7 liquidation analysis is attached hereto as Exhibit C.

The Chapter 7 Trustees also would retain professionals to represent each trustee, such as attorneys and accountants, and the statutory commission payable to each Chapter 7 Trustee and the fees and expenses of each of the Trustees' professionals would be administrative

expenses having priority over any outstanding unsecured claims or other administrative expenses incurred prior to the date of conversion to Chapter 7.

In sum, in a Chapter 7 scenario, the additional expenses associated with Chapter 7 would likely result in a reduced dividend to creditors in the Chapter 11 Cases. Accordingly, the Debtors believe that the distribution set forth in the proposed Plan will be greater than could be obtained in Chapter 7.

19. ~~16.~~ Tax Consequences.

The federal income tax consequences of the Plan are subject to significant uncertainties, and this summary does not address foreign, state or local tax consequences of the Plan, nor does it purport to address the federal income tax consequences of the Plan to special classes of taxpayers.

Creditors holding Allowed General Unsecured Claims may receive cash payments as provided in the Plan in amounts which will result in less than full payment. The extent to which the unpaid balance of such claims (or any portion of the underlying claim which is asserted but is not allowed by the Bankruptcy Court) can be deducted for income tax purposes by the holder of such claim, as well as the timing for recognition of revenues, gains or losses for income tax purposes, is dependent upon the particular creditor and cannot be addressed by the Debtors due to the multiplicity of factors which may be involved. The amount and character of the income (gain or loss) will depend upon the nature of the claim of each particular creditor.

20. ~~17.~~ Conclusion.

The Debtors believe that the Plan is in the best interests of the Estates and their creditors and recommends that you vote for acceptance of the Plan.

[SIGNATURE PAGE FOLLOWS]

Dated: ~~February 1~~ June 30, 2021

RANDOLPH HOSPITAL, INC. d/b/a RANDOLPH
HEALTH

By: _____
Name: _____
Title: _____

By: /s/ Louis E. Robichaux IV
Name: Louis E. Robichaux IV
Title: Chief Restructuring Officer

RANDOLPH SPECIALTY GROUP PRACTICE

By: /s/ Louis E. Robichaux IV
Name: Louis E. Robichaux IV
Title: Chief Restructuring Officer

By: _____
Name: _____
Title: _____

MRI OF ASHEBORO, LLC d/b/a RANDOLPH MRI
CENTER

By: /s/ Louis E. Robichaux IV
Name: Louis E. Robichaux IV
Title: Chief Restructuring Officer

By: _____
Name: _____
Title: _____

Summary report:	
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Intelligent Table Comparison: Active	
Original filename: 48925 9007 Disclosure Statement- Final - 4839-8696-8282 7 (002).docx	
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<u>Move To</u>	0
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
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Embedded Excel	0
Format changes	0
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