

**Adventist Health Systems/West and St. Joseph Health System
Additional Responses to California Attorney General
Letter of September 28, 2018**

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Request 2:

Paragraph 4.5 of the MFA states that the JOC “shall directly negotiate and manage all relationships with payors” on behalf of the JOC participants; paragraph 8.1(i) of the JOC Operating Agreement states that the JOC Board has the authority to "develop and approve the charge master and pricing, the Payor contracting strategy and contracting arrangements with Payors for the services rendered by the JOC, the JOC-Owned Entities and the JOC Participants."

- a. Post-closing, will contracts that both St. Joseph and Adventist have with health insurance plans, including private and government health plans in California, be cancelled and renegotiated with the JOC?
- b. Post-closing, will St. Joseph and/or Adventist retain any approval rights with respect to negotiations and contracting between the JOC and the health insurance plans?
- c. Post-closing, will appropriate firewalls be erected to ensure that negotiations and contracting between the JOC and health insurance plans are independent of both Adventist and St. Joseph?
- d. Post-closing, what mechanisms will there be to prevent communications about payor contracting strategy and arrangements between the JOC and St. Joseph and Adventist?

Response to Request 2:

- a. The ST Network, LLC (or, the “JOC”) will have its own contract negotiating team. After a transition period, that team will negotiate all JOC contracts. Existing contracts may (depending on their termination date) be allowed to expire while new contracts are negotiated for the JOC, or they may be terminated. No decisions on how each contract will be handled have been made.
- b. No.
- c. Yes, to the extent necessary to ensure compliance with the antitrust laws.
- d. The JOC contract negotiating team will report to the JOC’s chief executive and not to either SJHS or AHW.

Request 3:

In the Analysis on the Possible Effect of the Proposed Transaction on Competition section of the Notice, the Applicant states that “the ST Network will increase the ability of the providers involved to compete for managed care patients.”

- a. Explain in detail how the above statement will be accomplished;
- b. Explain whether the ST Network will participate in global capitation model of payments and/or dual risk arrangements with payors, or will the entity only participate in fee for service model of payments with payors

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Response to Request 3:

a. The parties expect they will be able to better compete for managed care patients by establishing a broader and more integrated network and combining and extending the parties' complementary expertise. Please see the parties' response to Requests 10(a), (b) and (f) of the AG's August 24, 2018 letter (provided under separate cover).

The parties also expect the affiliation will allow the parties to be able to better compete for managed care patients through standardization and use of evidence-based practices and through shared population health strategies and best practices that will be applied to a broader population, both of which should help lower costs and improve the quality of the services provided. Please see the parties' response to Request 10(e) of the AG's August 24, 2018 letter.

The parties expect that the transaction will allow them compete better with Kaiser, which has a dominant share of commercial lives in the region. Kaiser has a stronghold in the commercial managed care space in the region that is entrenched through its experience, scale, reach, and brand reputation, among other factors. As discussed above, the parties anticipate that the transaction will allow them to establish a broader and more integrated network with the additional scale and complementary expertise to become a legitimate player in the managed care space.

The ST Network is considering plans to partner with Western Health Advantage to develop a more robust alternative to Kaiser for employers looking to offer a high quality, low cost HMO plan, either on its own or as an alternative to a traditional fee-for-service PPO plan. A substantial number of patients outmigrate from Lake, Mendocino, and Napa counties to Kaiser facilities. The parties expect the transaction will allow for development of a managed care option with more services available across the region such that patients in managed care plans can still receive care closer to home.

b. Yes, the ST Network plans to participate in capitated and shared risk arrangements with payers. One of the main drivers of the proposed transaction is the shift away from fee-for-service models. The broader reach and increased scale of the ST Network should allow the ST Network to undertake more of these kinds of shared risk and value-based arrangements and for it to better compete with Kaiser, as described in response to subpart a. Please also see the parties' response to Requests 10(c) and (d) of the AG's August 24, 2018 letters.

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Request 4:

In the Analysis on the Possible Effect of the Proposed Transaction on Competition section of the Notice, the Applicant states that the "ST Network will provide opportunities to expand the provision of managed Medi-Cal services to those who rely on Medi-Cal for their health care."

- a. Explain in detail how the above statement will be accomplished;
- b. What opportunities would be available for expansion of Medi-Cal services with the ST Network that are not available today?
- c. Why is formation of the ST Network necessary for the expansion of managed Medi-Cal services?

Response to Request 4:

Managed Medi-Cal services are currently offered in the counties where the ST Network will operate solely through Partnership HealthPlan. Both AHW and SJHS participate in Partnership HealthPlan. Partnership HealthPlan looks to its provider partners to expand and improve available services for its members. Partnership HealthPlan and its enrollees face the same challenges discussed in response to Requests 10(i) and 10(k) below with providing a full range of specialty services, particularly for specialty services where the parties' separate volumes have historically not supported sustainable practices. The parties anticipate the formation of the ST Network will allow the parties to offer more stable, sustainable volumes for specialists that have been challenging to recruit and retain. The increased local availability of these specialty services will be especially valuable to patients who rely on the Medi-Cal program for their health care coverage because those patients tend to have more limited ability to travel longer distances for their care.

As discussed in response to Request 10(a) below, the ST Network hopes to provide a better integrated network with more access points that can better address high-utilization mentally ill and chronically homeless populations, many of whom rely on the Medi-Cal program for their health care coverage. As discussed in response to Request 3 above, the ST Network aims to facilitate better managed care through increased reach and combined resources, which the parties expect will allow better, more efficient care for both commercial and managed Medi-Cal patients.

Request 5:

In the Analysis on the Possible Effect of the Proposed Transaction on Competition section of the Notice, the Applicant states that the "ST Network should be able to reduce the substantial outmigration that occurs today as patients will be able to access care locally that presently they travel substantial distances to obtain."

- a. Why is there substantial outmigration of patients seeking care and in which counties?
- b. What types of services or care are unavailable that accounts for such outmigration?

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- c. Post-closing how will the formation of the ST Network improve outmigration in such rural counties as Lake, Mendocino, and Humboldt, particularly if patients in rural counties are travelling longer distances to obtain tertiary care?

Response to Request 5:

Substantial outmigration is occurring from the North counties, Lake and Mendocino, and the South counties, Napa and Sonoma. At a high level, the outmigration is largely for tertiary and quaternary care that is not available in more rural locations. In 2015, approximately 47% of Lake and Mendocino Counties' discharges outmigrated for care. The primary types of services for which there was significant outmigration were cardiac services, orthopedics, and general surgery. There is significant outmigration for these services because Lake and Mendocino community clinics and hospitals are not able to service complex care needs.

Significant opportunities exist to reduce outmigration for complex tertiary and quaternary care in Lake, Mendocino and Humboldt counties as a result of the transaction. A combined network can offer more access to services through joint physician recruitment, shared medical records, and specialty referrals. Though plans are still in development, the parties have identified several strategies for how AHW and SJHS can together reduce outmigration in these rural counties. These five strategies include centers of excellence, health information sharing, care management, clinical integration, robust telemedicine offerings and value based network products. While keeping patients in their county of origin may be difficult for complex cases, the JOC will look to grow the tertiary and quaternary offerings provided in the population centers of Napa and Santa Rosa.

There is also substantial outmigration occurring in Napa and Sonoma counties. As discussed in response to Request 3, some of that outmigration is occurring because Kaiser has such a significant portion of the commercial business (44% in Napa), and Kaiser migrates its managed care patients out of Napa county for inpatient care. As discussed in response to Request 3, the parties expect the transaction will allow development of a stronger managed care alternative to Kaiser that will take care of more patients locally. The transaction should also allow the parties to better compete with providers.

Request # 6:

Section 3.3(g) of the Participating Ministry Agreement pertaining to Participating Ministry Retention of Authority states that the Participating Ministry will have "responsibility for those decisions as may be delegated to the Participating Ministry by the JOC Board from time to time.

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- a. Would responsibilities for negotiating and managing payor contracting be delegated to the Participating Ministry from time to time?
- b. What other JOC responsibilities and/or decisions does St. Joseph and Adventist anticipate will need to be delegated to the Participating Ministry?

Response to Request # 6:

- a. No.
- b. As specified in Section 3.1 of the Participating Ministry Agreement (“PMA”), the JOC Board will have full and complete authority, power, and discretion over the management of the business and affairs of St. Joseph Health Northern California, LLC (the “Participating Ministry”) and its hospitals (“Hospitals”), subject to the Participating Ministry Retained Rights specified in Section 3.3 of the PMA and as otherwise specified in Section 3.1 of the PMA. Section 3.3 of the PMA provides, *inter alia*, that: (i) the Participating Ministry is and shall remain the owner, provider and licensee of the Hospitals during the term of PMA and shall exercise the powers and discharge the responsibilities associated therewith; (ii) nothing in the PMA is intended or shall be construed to alter or adversely affect the Participating Ministry’s rights and responsibilities as owner, provider, or licensee of the Hospitals; and (iii) the Participating Ministry and the medical staffs of the Hospitals shall retain authority and remain responsible for the Participating Entity Retained Rights enumerated in Section 3.3 (a) through (g). Except as provided for in the PMA, SJHS and AHW have not yet determined what other JOC responsibilities or decisions will need to be delegated to the Participating Ministries.

Request # 7:

Sections 3.1(k) and 3.3(g) of the Participating Entity Agreement allow the JOC Board the right to delegate certain decisions to the Participating Entities from time to time.

- a. Would responsibilities for negotiating and managing payor contracting be delegated to the Participating Entities from time to time?
- b. What other JOC responsibilities and/or decisions does St. Joseph and Adventist anticipate will need to be delegated to the Participating Entities?

Response to Request # 7:

- a. No.
- b. As specified in Section 3.1 of the Participating Entity Agreement (“PEA”), the JOC Board will have full and complete authority, power, and discretion over the

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management of the business and affairs of each Participating Entity and each Participating Entity's hospital[s] ("Hospitals"), subject to the Participating Entity Reserved Rights specified in Section 3.3 of the PEA and as otherwise specified in Section 3.1 of the PEA. Section 3.3 of the PEA provides, *inter alia*, that: (i) each Participating Entity is and shall remain the owner, provider and licensee of its Hospital(s) during the term of PEA and shall exercise the powers and discharge the responsibilities associated therewith; (ii) nothing in the PEA is intended or shall be construed to alter or adversely affect the Participating Entity's rights and responsibilities as owner, provider, or licensee of its Hospital(s); and (iii) the Participating Entity and the medical staffs of its Hospital(s) shall retain authority and remain responsible for the Participating Entity Reserved Rights enumerated in Section 3.3 (a) through (g). Except as provided for in the PEA, SJHS and AHW have not yet determined what other JOC responsibilities or decisions will need to be delegated to the Participating Entities.

Request 8:

Do the professional services agreements ("PSAs") that St. Joseph and/or Adventist have with your respective medical groups prohibit referrals of patients to non-affiliated hospitals, outpatient care and home health care services?

- a. If so, does the Sacred Trust Network intend to remove such prohibitions from its PSAs with medical groups?

Response to Request 8:

The PSAs that AHW has with its medical groups, Adventist Health California Medical Group, Inc. and Physicians Network Medical Group, Inc. do not prohibit referrals of patients to non-affiliated hospitals, outpatient care and home health services.

The PSAs that SJHS has with its medical groups in Northern California, Humboldt Medical Specialists, Inc., Annadel Medical Group, Inc., and Queen of the Valley Medical Associates, Inc., do not prohibit referrals of patients to non-affiliated hospitals, outpatient care and home health care services.

Request 9:

Do the PSAs that St. Joseph and/or Adventist have with medical groups prohibit physicians with privileges at St. Joseph and Adventist hospitals from holding privileges at any non-affiliated acute care hospitals or from participating in any other physician-hospital networks, health plans or integrated delivery systems?

- a. If so, post-closing, does the Sacred Trust Network intend to remove such prohibitions from its PSAs with medical groups?

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Response to Request 9:

The PSA that AHW has with its medical group, Adventist Health California Medical Group, Inc. does not prohibit physicians with privileges at AHW hospitals from holding privileges at any non-affiliated acute care hospitals. The PSA that AHW has with its medical group, Physicians Network Medical Group, Inc. prohibits physicians with privileges at AHW hospitals from holding privileges at any non-affiliated acute care hospitals within 20 miles of an AHPN clinic or AHW outpatient service location. Both PSAs prohibit physicians from participating in other physician-hospital networks, health plans or integrated delivery systems without prior written approval.

The PSAs that SJHS has with its medical groups in Northern California, Humboldt Medical Specialists, Inc., Annadel Medical Group, Inc., and Queen of the Valley Medical Associates, Inc., do not prohibit physicians with privileges at SJHS hospitals from holding privileges at non-affiliated acute care hospitals. SJHS's PSAs with these medical groups do prohibit physicians from participating in any other physician-hospital networks, health plans or integrated delivery systems without prior written approval.

Post-closing, neither party intends to remove the prohibition from its PSAs with medical groups, though the parties' hospitals would be affiliated. The exclusivity with AHW and SJHS hospitals is necessary given the hospitals cannot directly hire physicians under California law. The provision permits the parties to closely coordinate and align healthcare services across the Northern California region to best meet the needs of the local populations and encourages physician commitments to the population health initiatives the hospitals are striving to achieve together.

Request 10:

Do contracts that St. Joseph and/or Adventist have with health plans contain provisions that prohibit contracting with non-affiliated hospitals, health system or other providers?

Response to Request 10¹:

AHW's contracts for the top 10 commercial payers by revenue in the Northern California region do not contain provisions that prohibit contracting with non-affiliated hospitals, health systems or other providers.

¹ Adventist and St. Joseph are responding to requests 10-13 based on review of contracts with the top 10 commercial payers by revenue in the Northern California region. These top 10 commercial payers constitute the vast majority of the parties' commercial business in the region, and identifying and reviewing each and every contract with a payer would be an unduly burdensome exercise the parties do not believe would provide information relevant to the review and assessment of the proposed transaction.

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SJHS's contracts for the top 10 commercial payers by revenue in the Northern California region do not contain provisions that prohibit contracting with non-affiliated hospitals, health systems or other providers.

Request 11:

Do contracts that St. Joseph and/or Adventist have with health plans require payors to contract with all affiliated hospitals within the St. Joseph or Adventist Health systems as a condition for having a contract for services at any St. Joseph or Adventist facility?

Response to Request 11:

AHW's contracts for the top 10 commercial payers by revenue in the Northern California region do not require payors to contract with all affiliated hospitals within the Adventist Health system as a condition for having a contract for services at any AHW facility.

SJHS's contracts for the top 10 commercial payers by revenue in the Northern California region do not require payors to contract with all affiliated hospitals within the St. Joseph system as a condition for having a contract for services at any SJHS facility.

Request 12:

Does St. Joseph and/or Adventist have contracts with health plans that include Most Favored Nation ("MFNs") clauses to the benefit of St. Joseph, Adventist, or any health plan?

Response to Request 12:

AHW's contracts for the top 10 commercial payers by revenue in the Northern California region do not have MFN clauses to the benefit of AHW or any health plan.

SJHS's contracts for the top 10 commercial payers by revenue in the Northern California region do not have MFN clauses to the benefit of SJHS or any health plan.

Request 13:

Does St. Joseph and/or Adventist have contracts with health plans that include "anti-tiering" or "anti-steering" clauses which prohibit the health plans from steering members to lower cost health care providers?

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Response to Request 13:

AHW's contracts for the top 10 commercial payers by revenue in the Northern California region do not have "anti-tiering" or "anti-steering" clauses which prohibit the health plans from steering members to lower cost health care providers.

SJHS's contracts for the top 10 commercial payers by revenue in the Northern California region do not have "anti-tiering" or "anti-steering" clauses which prohibit the health plans from steering members to lower cost health care providers.