

COMMENTS SUBMITTED BY IREDELL HEALTH SYSTEM
REGARDING PROJECT I.D. NO. F-01178-16
DAVIS REGIONAL MEDICAL CENTER
TRANSFER 14 INPATIENT PSYCHIATRIC BEDS
FROM CHERRY HOSPITAL PURSUANT TO POLICY PSY-1 FOR A TOTAL OF 42
ADULT INPATIENT PSYCHIATRIC BEDS UPON PROJECT COMPLETION



Iredell Health System (“Iredell”) submits these comments regarding the above-referenced certificate of need application submitted by Davis Regional Medical Center (“Davis”) on May 16, 2016. Iredell supports the approval of this application only if the conditions discussed below are placed on any such approval.

By way of background, on May 15, 2007 Davis filed a certificate of need application identified as Project No. F-7869-07, to develop 12 new inpatient psychiatric beds in Statesville, Iredell County, North Carolina. This application was initially disapproved by the North Carolina Department of Health and Human Services, (the “Department”) by a decision letter and findings dated September 13, 2007. On October 12, 2007, Davis filed a petition for a contested case hearing in the Office of Administrative Hearings which challenged the disapproval of its application. Subsequently, Iredell was permitted to intervene in that contested case. Ultimately, the dispute regarding this application was resolved through a compromise settlement among Davis, Iredell and the Department which was memorialized in a Settlement Agreement approved and adopted by the Department on March 17, 2011.

Pursuant to the Settlement Agreement (Attachment 1 to these comments) the following conditions, among others, were imposed upon the approval of the application submitted by Davis:

4. While offering the services authorized in the certificate of need, if at any time the psychiatric beds at Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center are operating at full capacity, Statesville H.M.A, Inc. d/b/a Davis Regional Medical Center will continue to accept the patients referred to its Emergency Department, and will not seek to divert the psychiatric patients referred to in the preceding paragraph to the Iredell Memorial Hospital Emergency Department.

5. Prior to offering the services authorized in the certificate of need, Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall enter into a Transfer Agreement with Iredell Memorial Hospital, under the terms provided in Exhibit B hereto. The terms of that Transfer Agreement related to the provision of inpatient psychiatric services will remain in effect for so long as Davis Regional operates the services authorized in the certificate of need.

6. Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall require any psychiatrist employed by it, whose employment begins on or after the date that Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center receives the certificate of need, or whose employment contract is subject to

renewal on or after the date that Statesville H.M.A. Inc., d/b/a Davis Regional Medical Center receives the certificate of need, to maintain consulting privileges at Iredell Memorial Hospital. Any such employed psychiatrist shall be required to participate in a reasonable psychiatric call schedule at the Iredell Memorial Hospital Emergency Department and to accept call for any inpatient at Iredell Memorial requiring a psychiatric consultation. Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall also encourage any non-employed psychiatrist who is a member of its medical staff to have consulting privileges at Iredell Memorial Hospital, to participate in a reasonable psychiatric call schedule at the Iredell Memorial Hospital Emergency Department, and to accept call for any inpatient at Iredell Memorial Hospital requiring a psychiatric consultation.

7. For a period of five years after Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center commences providing the services authorized in the certificate of need, it shall provide annual reports to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section, containing the following information:

- a. The total number of psychiatric patients presenting to the Davis Regional Emergency Department;
- b. The total number of psychiatric patients admitted, by payor group;
- c. The total number of patients involuntarily admitted;
- d. The total number of patients transferred from Davis Regional to another inpatient psychiatric facility;
- e. The total number of psychiatric patients refused admission for any reason;
- f. The monthly percentage occupancy for Davis Regional's psychiatric beds; and
- g. The number of days, if any, that Davis Regional operated on diversion for psychiatric patients.

These reports shall be public records.

Attachment 1, paragraphs 4-7.

The foregoing conditions are intended to allow psychiatric services in Iredell County to be concentrated at Davis, without unnecessarily duplicating such services at Iredell, and to

make sure that those psychiatric services furnished by Davis will be accessible to patients regardless of payor group or involuntary admission. The Settlement Agreement thus comports with the basic principals governing the development of the State Medical Facilities Plan: safety and quality, access and value. See 2016 State Medical Facilities Plan, pp. 2-3. Generally, Iredell believes that the arrangement put in place by the Settlement Agreement has served the citizens of Iredell County well. However, Iredell has two specific concerns regarding this arrangement.

First, Iredell is informed and believes that Davis has routinely diverted psychiatric patients to other hospitals even though it had the capacity in its emergency department to offer appropriate care to those patients. As illustrated by Attachments 2 and 3 to the comments, which reflect the most accurate information available to Iredell, these diversions appear to be both significant and increasing. Specifically, during May, 2016 it appears that the Davis emergency department was on psychiatric diversion status for 438 hours, or approximately 59% of the total hours it was open. Additionally, during the first 20 days of June, 2016, the Davis emergency department was already on diversion for 295 hours, or approximately 62% of the total hours it was open. Iredell is informed and believes that the Davis emergency department continued to serve non-psychiatric patients during those times that it was on psychiatric diversion and that Davis has established a maximum number of psychiatric patients which it will accept in its emergency department at any time. If this information is correct, the practice of Davis to divert psychiatric patients while accepting other patients in its emergency department is inconsistent with its obligations under its Settlement Agreement with Iredell and the Department which is Attachment 1 to these comments.

Second, Policy PSY-1 of the State Medical Facilities Plan, pursuant to which Davis has submitted its currently pending application, provides in pertinent part: "Facilities proposing to operate transfer beds shall. . . commit to serve the type of short term patients normally placed at the state psychiatric hospitals." However, information contained in the Davis application indicates that Davis may be serving a different payor mix than state psychiatric hospitals. Specifically, Davis appears to be serving a higher percentage of Medicare patients as compared to state psychiatric hospitals. Payment for such services under the Medicare program is generally more favorable than the payment available for other psychiatric patients.

With respect to the application by Davis to transfer 14 additional inpatient psychiatric beds to its facility from Cherry Hospital which is currently under review, Iredell submits that this application should be approved only if the foregoing conditions are placed on any such approval, and only if Davis strictly complies with their requirements. In order to comply with the conditions, Davis should be prohibited from diverting psychiatric patients to other facilities on occasions when it is continuing to serve other patients at its emergency department. The annual reports specified by condition 7 should be required for an additional period of five years from the date on which Davis commences operation of the additional beds for which it has applied. Additionally, to comply with Policy PSY-1, Davis should be required to demonstrate that it is serving and will continue to serve the same type of patients, by payor group, as the state psychiatric hospitals. To resolve the foregoing issues, Iredell hereby respectfully requests

that a public hearing be conducted on the above-referenced application, pursuant to N.C. Gen. Stat. § 131E-185(a1)(2).

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
10 DHR 6412

STATESVILLE H.M.A., INC. D/B/A DAVIS)
REGIONAL MEDICAL CENTER,)

Petitioner,)

v.)

N.C. DEPARTMENT OF HEALTH AND)
HUMAN SERVICES, DIVISION OF)
HEALTH SERVICE REGULATION,)
CERTIFICATE OF NEED SECTION,)

Respondent,)

and)

IREDELL MEMORIAL HOSPITAL, INC.,)

Respondent-Intervenor.)

SETTLEMENT AGREEMENT

NOW COME Petitioner Statesville H.M.A., Inc., d/b/a Davis Regional Medical Center (hereinafter "Davis Regional"), Respondent North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (hereinafter the "Agency") and Respondent-Intervenor Iredell Memorial Hospital, Inc. (hereinafter "Iredell Memorial"), (collectively referred to hereinafter as the "Parties") and enter into the following settlement agreement in order to settle and compromise all claims arising out of the above-captioned contested case.

ATTACHMENT 1

RECITALS

WHEREAS, on May 15, 2007, Davis Regional filed a certificate of need ("CON") application, identified as Project I.D. No. F-7869-07, to develop 12 new inpatient psychiatric beds in Statesville, Iredell County, North Carolina (the "Davis Regional Project");

WHEREAS, the Davis Regional Project was determined complete for review and included in the next scheduled review cycle that began on June 1, 2007;

WHEREAS, by decision letter and Required State Agency Findings dated September 13, 2007, the Agency notified Davis Regional of its decision to deny the application;

WHEREAS, on October 12, 2007, Davis Regional filed a Petition for a Contested Case Hearing in the Office of Administrative Hearings, identified as Contested Case No. 07 DHR 1622, which challenged the disapproval of the Davis Regional Project;

WHEREAS, Iredell Memorial moved to intervene in case no. 07 DHR 1622, and pursuant to the Order of the Court, was permitted to intervene therein.

WHEREAS, pursuant to Rule 41(a) of the North Carolina Rules of Civil Procedure, Davis Regional dismissed its petition for a contested case hearing in Case No. 07 DHR 1622, without prejudice, on February 1, 2008. Thereafter, also pursuant to Rule 41(a), Davis Regional timely re-filed its petition to appeal the same Agency decision, in Case No. 09 DHR 0554;

WHEREAS, pursuant to a Consent Order and Voluntary Dismissal Without Prejudice (hereinafter the "First Consent Order") entered on May 18, 2009 by J. Randall May, Administrative Law Judge, Case No. 09 DHR 0554 was dismissed without prejudice, in order for the parties to engage in settlement discussions. Under the First Consent Order, Davis Regional retained the right to re-file its Petition for Contested Case Hearing on or before January 4, 2010;

WHEREAS, pursuant to the First Consent Order, Davis Regional timely re-filed its petition to appeal the Agency decision in Case No. 10 DHR 0018;

WHEREAS, pursuant to a Consent Order and Voluntary Dismissal Without Prejudice (hereinafter the "Second Consent Order") entered on October 1, 2010 by Selina M. Brooks, Administrative Law Judge, Case 10 DHR 0018 was dismissed without prejudice, in order for the parties to continue to engage in settlement discussions. Under the Second Consent Order, Davis Regional retained the right to re-file its Petition for Contested Case Hearing on or before October 15, 2010. Pursuant to the Second Consent Order, the Petition in this matter was timely filed;

WHEREAS, pursuant to N.C. Gen. Stat. § 150B-22, it is the policy of the State to settle disputes between State agencies and other persons whenever possible.

WHEREAS, the Parties reached a compromise settlement resolving the differences among them relating to the above actions, the terms and conditions of which are set forth in this Settlement Agreement.

NOW THEREFORE, pursuant to N.C. Gen. Stat. §§150B-22 and -31(b), and subject to the approval of Drexdal Pratt, Director of the Division of Health Service Regulation, the parties have decided to resolve the above contested cases in the manner set forth below.

AGREEMENT

1. Voluntary Dismissal with Prejudice. Within five (5) business days after this agreement is approved and adopted by Drexdal Pratt, Director of the Division of Health Service Regulation, Davis Regional shall file a notice of voluntary dismissal, with prejudice, in contested case no. 10 DHR 6412 in the Office of Administrative Hearings.

2. Issuance of Certificate of Need to Davis Regional. Within five (5) business days after it receives a file-stamped copy of the notice of voluntary dismissal in consolidated case no. 10 DHR 6412, the Agency shall issue Davis Regional a certificate of need for Project I.D. No. F-7869-07. The certificate of need shall contain the conditions and timetable as set out in Exhibit A to this agreement.

3. Davis Regional Acceptance of Conditions and Timetable. By executing this agreement, Davis Regional accepts the conditions and timetable which have been imposed upon its certificate of need as set forth in Exhibit A to this agreement.

4. Release. Davis Regional and Iredell Memorial hereby release the Agency, its officials, employees, and representatives from any and all liability that has arisen or might arise out of the Agency's review of Davis Regional's certificate of need application.

5. Expenses. The parties agree that each shall bear its own expenses, including attorney's fees, and that no claim for such costs or expenses shall be made by one party against the other.

6. Effect of Approval. If approved by Mr. Pratt, this agreement shall resolve all issues involved in, or arising out of, the above-referenced contested cases.

7. Effect of Disapproval. If this agreement is not approved by Mr. Pratt, the parties agree that this agreement shall be null and void and that Davis Regional shall be entitled to proceed with its contested case. In that event, Mr. Pratt's review of this agreement as provided herein shall not prejudice his authority to render the final agency decision following the hearing in this matter in accordance with Article 3 of Chapter 150B of the North Carolina General Statutes. In addition, if this agreement is not approved by Mr. Pratt, the parties agree that it shall be inadmissible at the contested case hearing for any purpose.

8. Material Compliance Determinations Regarding Davis Regional Application. Any and all determinations concerning: (a) whether Davis Regional's performance with respect to Project I.D. No. F-7869-07 materially complies with the representations in the CON Application for Project I.D. No. F-7869-07; (b) whether such performance materially complies with any conditions imposed on the Davis Regional certificate of need; and (c) whether Davis Regional is meeting, or is making good faith efforts to meet, its timetable with respect to Project I.D. No. F-7869-07, are within the

discretion of the Agency.

9. Waiver of Right to Appeal Agreement. The parties irrevocably waive any right to initiate an appeal from this agreement, assuming that any such right exists.

10. Merger. The Parties further agree and acknowledge that this Agreement sets forth all of the terms and conditions as between the Agency and the other Parties concerning its subject matter, superseding all prior oral and written drafts, statements and representations, and that there are no terms or conditions as between the Agency and the other the Parties except as specifically set forth in this Agreement.

11. Modification or Waiver. No modification or waiver of any provision of this agreement shall be effective unless it is in writing. Any modification or waiver must be signed by authorized representatives of the parties and must be adopted and approved by the Director of the Division of Health Service Regulation.

12. No Strict Interpretation Against Draftsman. Each of the Parties has participated in the drafting of this agreement and has had the opportunity to consult with counsel concerning its terms. This agreement shall not be interpreted strictly against any one party on the ground that it drafted the agreement.

13. Recitals and Headings. All parts and provisions of this agreement, including the recitals and paragraph headings, are intended to be material parts of the agreement.

14. Authority to Settle. The undersigned represent and warrant that they are authorized to enter into this agreement on behalf of the parties to this agreement.

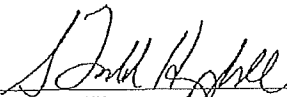
15. Ex Parte Presentation. Davis Regional and Iredell Memorial authorize counsel for the Agency to present this agreement to Mr. Pratt *ex parte*.

16. Effective Date. This agreement shall be effective as of the day and year on which it is adopted and approved by the Director of the Division of Health Service Regulation.

17. Binding Effect, This agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties have executed three original copies of this settlement agreement, with one original copy being retained by each party.

STATESVILLE H.M.A, INC. D/B/A DAVIS REGIONAL MEDICAL CENTER

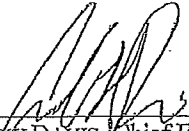
By: 

Date 3/11/11

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COUNSEL FOR STATESVILLE H.M.A, INC. D/B/A DAVIS REGIONAL MEDICAL CENTER

By: 

Date 3/11/11

ANDREW DAVIS, Chief Executive Officer
Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center

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IREDELL MEMORIAL HOSPITAL, INC.

By: Noah H. Hufstetler III

Date 15 March 2011

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COUNSEL FOR IREDELL MEMORIAL HOSPITAL, INC.

By: Edward Rush

Date 3-15-11

EDWARD RUSH, Chief Executive Officer
Iredell Memorial Hospital, Inc.

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CERTIFICATE OF NEED SECTION

By: Craig R. Smith
CRAIG R. SMITH, CHIEF
Certificate of Need Section
2704 Mail Service Center
Raleigh, NC 27699-2704

Date: 3/17/11

ROY COOPER
Attorney General for the State of North Carolina

By: June S. Ferrbell
JUNE S. FERRBELL
Assistant Attorney General
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P.O. Box 629
Raleigh, NC 27602-0629

Date: 3/17/11

Telephone: (919) 716-6860

COUNSEL FOR THE CERTIFICATE OF NEED SECTION

APPROVAL AND ADOPTION

The foregoing settlement agreement is hereby Approved and Adopted this the 17th day
of MARCH, 2011.

Daxel Pratt
Drexal Pratt, Director
Division of Health Service Regulation

EXHIBIT A

CONDITIONS

Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center
Project I.D. No. F-7869-07

1. Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall materially comply with all representations made in the certificate of need application, except as specifically amended by the conditions of approval and as modified by additional information submitted to the CON Section. In those instances in which any of these representations conflict, Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall materially comply with the last-made representation.
2. Upon completion of this project, Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall be licensed for a total of 28 inpatient psychiatric beds.
3. Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall not acquire, as part of this project, any equipment that is not included in the proposed capital expenditure in Section VIII of the application or that would otherwise require a certificate of need.
4. While offering the services authorized in the certificate of need, if at any time the psychiatric beds at Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center are operating at full capacity, Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center will continue to accept the patients referred to at its Emergency Department, and will not seek to divert the psychiatric patients referred to in the preceding paragraph to the Iredell Memorial Hospital Emergency Department.
5. Prior to offering the services authorized in the certificate of need, Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall enter into a Transfer Agreement with Iredell Memorial Hospital, under the terms provided in Exhibit B hereto. The terms of that Transfer Agreement related to the provision of inpatient psychiatric services will remain in effect for so long as Davis Regional operates the services authorized in the certificate of need.
6. Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall require any psychiatrist employed by it, whose employment begins on or after the date that Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center receives the certificate of need, or whose employment contract is subject to renewal on or after the date that Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center receives the certificate of need, to maintain consulting privileges at Iredell Memorial Hospital. Any such employed psychiatrist shall be required to participate in a reasonable psychiatric call schedule at the Iredell Memorial Hospital Emergency Department and to accept call for any inpatient at Iredell Memorial requiring a psychiatric consultation. Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center shall also encourage any non-employed psychiatrist who is a member of its medical staff to have consulting privileges at Iredell Memorial Hospital, to participate in a reasonable psychiatric call schedule at the Iredell Memorial Hospital Emergency Department, and to accept call for any inpatient at Iredell Memorial Hospital requiring a psychiatric consultation.
7. For a period of five years after Statesville H.M.A., Inc. d/b/a Davis Regional Medical Center commences providing the services authorized in the certificate of need, it shall provide

annual reports to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section, containing the following information:

- a. The total number of psychiatric patients presenting to the Davis Regional Emergency Department;
- b. The total number of psychiatric patients admitted, by payor group;
- c. The total number of patients involuntarily admitted;
- d. The total number of patients transferred from Davis Regional to another inpatient psychiatric facility;
- e. The total number of psychiatric patients refused admission for any reason;
- f. The monthly percentage occupancy for Davis Regional's psychiatric beds; and
- g. The number of days, if any, that Davis Regional operated on diversion for psychiatric patients.

These reports shall be public records.

**EXHIBIT
B**

PATIENT TRANSFER AGREEMENT
BETWEEN

STATESVILLE HMA, Inc. d/b/a DAVIS REGIONAL MEDICAL CENTER
AND
IREDELL MEMORIAL HOSPITAL, INC.

THIS PATIENT TRANSFER AGREEMENT ("Agreement") dated _____/ ("Effective Date") is entered into by and between Statesville HMA, Inc. d/b/a Davis Regional Medical Center, a North Carolina for-profit corporation located in Statesville, North Carolina ("Davis") and Iredell Memorial Hospital, Inc., a North Carolina non-profit corporation located in Statesville, North Carolina ("Iredell").

PREMISES

WHEREAS, Davis and Iredell share a mutual desire to ensure the continuity of care and treatment appropriate to the needs of each patient in their respective institutions; and

WHEREAS, Davis and Iredell further desire to enter into this Agreement to ensure that the transfer of patients between their facilities is undertaken smoothly, that quality of care is maintained, and that patient needs for confidentiality, privacy, security, counseling and communication are met.

NOW, THEREFORE, in consideration of the foregoing the receipt and sufficiency of which is hereby acknowledged, the undersigned parties agree as follows:

1. **TERM.** The term of this Agreement shall be for a period of three (3) years from the Effective Date set forth above. This agreement shall automatically renew for successive one (1) year terms unless either party provides sixty (60) days prior written notice of termination in accordance with Paragraph 2.
2. **TERMINATION.** This Agreement may be terminated by either party at any time and for any reason upon at least sixty (60) days prior written notice and by ensuring the continuity of care to patients who already are involved in the transfer process, with the exception of the transfer of psychiatric and behavioral health patients, which shall continue to be accepted by Davis for so long as Davis continues to operate the 12 additional psychiatric inpatient beds authorized by the CON Section pursuant to Project ID #P-7869-07. This Agreement shall automatically terminate upon the occurrence of any of the following:

- a. either institution has its license revoked or suspended;
 - b. either institution loses its accreditation; or,
 - c. either institution is destroyed to such an extent that the patient care provided by such institution cannot be carried out adequately.
3. TRANSFERRING VS. RECEIVING FACILITY. For purposes of this Agreement, the entity transferring the patients shall be called the "Transferring Facility;" the entity receiving the patient shall be called the "Receiving Facility." The definition of "Transferring Facility" includes the main hospital campus and all of its off-campus departments. For psychiatric and behavioral health patients, Iredell shall be considered the Transferring Facility and Davis shall be considered the Receiving Facility.
4. DUTIES OF THE TRANSFERRING FACILITY. The Transferring Facility shall:
- a. Ensure that the Receiving Facility has the capability and capacity to accept, care for and meet the patient's medical needs, except that the parties acknowledge the capability and capacity for Davis to accept, care for and meet the medical needs of psychiatric and behavioral health patients being transferred from Iredell pursuant to this Agreement.
 - b. Ensure that all transfers are consistent with promotion of the health and safety of the patient as determined by the patient's physicians and health care professionals.
 - c. Comply fully with all requirements of 42 U.S.C. §1395 dd *et seq.*, the Emergency Management Treatment and Active Labor Act ("EMTALA") and the regulations promulgated thereunder at 42 CFR 489, *et seq.*
 - d. Prior to the transfer, coordinate the transfer with the Receiving Party to ensure a smooth transfer of the patient and his/her records.
 - e. At the time of transfer, or as soon as possible thereafter, provide the Receiving Party with all pertinent medical information reasonably necessary to maintain a continuum of care. Typically, this will include the patient's name, address, a copy of the patient's history, physical examinations, name of the treating physician, physician progress notes, laboratory reports, X-ray reports, discharge summary and transfer form, among others.
 - f. Be responsible for billing the patient or other responsible party for all patient charges incurred until the transfer is completed, including transportation costs.
 - g. When transferring patients with a known infectious condition, notify the Receiving Facility and take all reasonably necessary and medically appropriate precautions to prevent the spread of disease.
 - h. If reasonably possible, provide the Receiving Facility with reasonable prior notice of the patient transfer.

- i. Use qualified personnel and transportation equipment including the use of necessary and medically appropriate life support measures to ensure the timely and safe transfer of patients.
- j. Arrange for the provision of security and accountability of patient's personal effects on transfer.
- k. If medically appropriate, and if the Transferring Facility has the specialized capabilities and capacity to treat the patient, accept patient back at the Transferring Facility for further care and treatment; except that the parties acknowledge and agree that Iredell does not have the specialized capabilities and capacity to treat psychiatric and behavioral health patients, and these patients shall not be transferred back to Iredell.
- l. Comply with all applicable laws, regulations and accreditation standards, including the requirements of The Joint Commission.

5. DUTIES OF RECEIVING FACILITY. The Receiving Facility shall:

- a. Ensure that the Receiving Facility is appropriately qualified, licensed and equipped, by way of bed capacity and resources, to accept, care for and meet the patient's medical needs, except that the parties acknowledge the capability and capacity for Davis to accept, care for and meet the medical needs of psychiatric and behavioral health patients being transferred from Iredell pursuant to this Agreement.
- b. Ensure that all transfers are consistent with promotion of the health and safety of the patient as determined by the Receiving Party's physicians and health care professionals.
- c. Comply fully with all requirements of 42 U.S.C. §1395 dd *et seq.*, the Emergency Management Treatment and Active Labor Act ("EMTALA") and the regulations promulgated thereunder at 42 CFR 489, *et seq.*
- d. Upon receipt of the patient, ensure that the patient is informed of the reason for the transfer and that the patient's needs for confidentiality, privacy, counseling and security are adequately met.
- e. Perform all coordination required to ensure that the transfer is completed as smoothly and as promptly as possible.
- f. Ensure that the Transferring Facility provides all pertinent medical information reasonably necessary to maintain a proper continuum of care.
- g. Be responsible for all aspects of patient care upon acceptance of patient at the Facility and for all patient charges incurred upon arrival at the Facility.
- h. Monitor the patient carefully and transfer the patient back to the original Transferring Facility, if the Transferring Facility has the specialized capabilities and capacity to treat the patient, or to another appropriate Facility, if the Receiving Facility is not equipped or qualified to care for the patient; except that the parties acknowledge the capability and capacity for Davis to accept, care for and meet the medical needs of psychiatric and

behavioral health patients being transferred from Iredell. All charges and costs associated with such transfer shall be the responsibility of the Receiving Facility.

- i. Accept any patients for transfer who may have an infectious condition so long as the Transferring Facility has taken all reasonably necessary and medically appropriate precautions to prevent the spread of disease.
 - j. Provide security and accountability for patient's personal effects.
 - k. Comply with all applicable laws, regulations, and accreditation standards, including the requirements of The Joint Commission.
 - l. if at any time the psychiatric beds at Davis are operating at full capacity, Davis will continue to accept appropriately transferred psychiatric and behavioral health patients, and will not refuse to accept an appropriate transfer from Iredell for psychiatric and behavioral health patients. Representatives of Davis and Iredell shall meet quarterly to discuss such transfers, to ensure that clinically appropriate transfers are being made under this provision.
6. **INSURANCE.** Davis and Iredell shall maintain general and professional liability insurance with minimum coverage limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Each party shall make available to the other certificates of insurance upon request.
7. **INDEPENDENT CONTRACTORS.** Both institutions are independent contractors who shall have no liability or obligation for the acts or omissions of the other.
8. **NONEXCLUSIVE.** Nothing in this Agreement shall be construed as limiting the rights of either party to affiliate or contract with any other hospital or health care provider while this Agreement is in effect.
9. **PATIENT REFERRALS.** This Agreement does not require either Transferring or Receiving Facility to refer patients or enter into any other arrangement for the provision of any item or service offered for which Medicare or Medicaid payments may be made.
10. **BILLING.** Davis and Iredell shall coordinate as necessary to insure that billing of third party or government payors pursuant to this Agreement is consistent with all applicable legal requirements.
11. **ASSIGNMENT.** This Agreement may not be assigned by either party without the prior written consent of the other party.
12. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the undersigned parties and supersedes any and all prior agreements or

understandings, whether oral or written, relating to the subject matter of this Agreement. This Agreement may not be amended, changed or modified except by written agreement executed by both parties hereto.

13. **GOVERNING LAW.** This Agreement shall be deemed to have been made under and shall be construed and interpreted in accordance with the laws of the State of North Carolina.

14. **COUNTERPARTS.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. **ACCESS TO RECORDS.** In the event, and only in the event, that Section 952 of P.L. 96-499 (49 U.S.C. section 1395x(V)(I)) is applicable to this Agreement, the parties agree that, until the expiration of four (4) years after the furnishing of services pursuant to this Agreement, the parties shall make available, upon written request, to the Secretary of the Department of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, the Agreement and any books, documents and records that are necessary to certify the nature and extent of the cost of services provided pursuant to this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed by their duly authorized officers as of the Effective Date set forth above.

STATESVILLE HMA, INC., d/b/a DAVIS
REGIONAL MEDICAL CENTER

By: 

Title: 

Date: 3/11/11

IREDELL MEMORIAL HOSPITAL, INC.

By: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed by their duly authorized officers as of the Effective Date set forth above.

STATESVILLE HMA, INC., d/b/a DAVIS
REGIONAL MEDICAL CENTER

By: _____

Title: _____

Date: _____

IREDELL MEMORIAL HOSPITAL, INC.

By: Edward Rush

Title: CEO

Date: 3-15-11

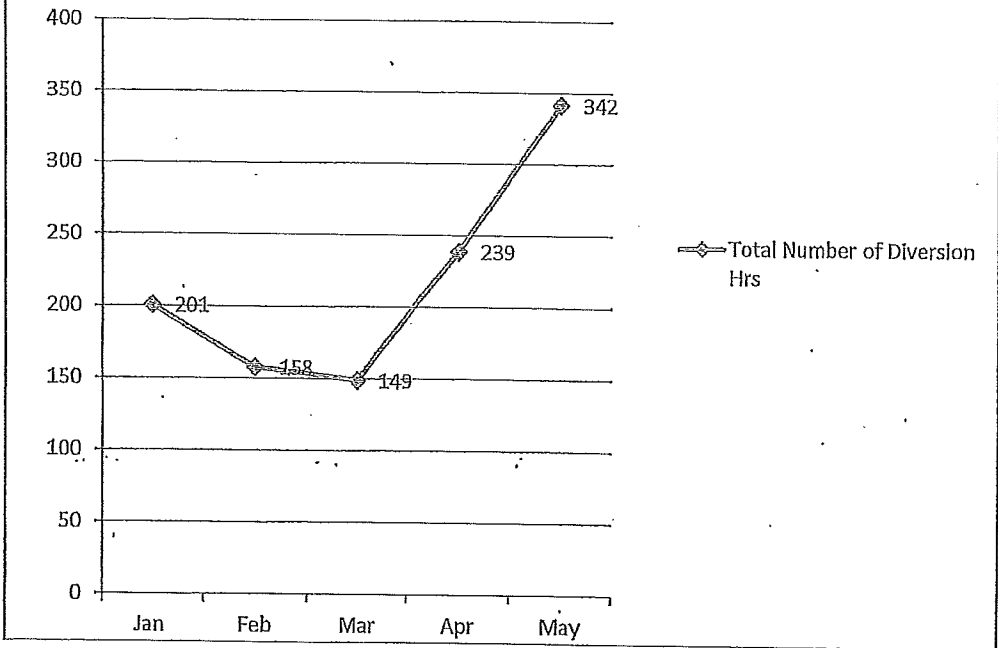
Davis Diversion Hours		% of Time on Diversion		Diversion Hrs		Date		Diversion Hrs		Date		Diversion Hrs		Date	
Month/Year	Total Hrs	Total Hrs	Diversion %	Date	Diversion Hrs	Date	Diversion Hrs	Date	Diversion Hrs	Date	Diversion Hrs	Date	Diversion Hrs	Date	Diversion Hrs
Jan-16	201	201	27%	1/1/2016	24	2/1/2016	24	3/1/2016	0	4/1/2016	0	5/1/2016	0	4/1/2016	0
Feb-16	158	158	23%	1/2/2016	24	2/2/2016	12	3/2/2016	0	4/2/2016	0	5/2/2016	0	4/2/2016	0
Mar-16	149	149	20%	1/3/2016	15	2/3/2016	0	3/3/2016	0	4/3/2016	0	5/3/2016	0	4/3/2016	0
Apr-16	239	239	33%	1/4/2016	0	2/4/2016	0	3/4/2016	0	4/4/2016	0	5/4/2016	0	4/4/2016	0
May - 16 (MTD)	342	342	59%	1/5/2016	0	2/5/2016	0	3/5/2016	0	4/5/2016	0	5/5/2016	0	4/5/2016	0
Totals*	1089	1089	32%	1/6/2016	0	2/6/2016	0	3/6/2016	16	4/6/2016	0	5/6/2016	0	4/6/2016	0
				1/7/2016	0	2/7/2016	0	3/7/2016	24	4/7/2016	24	5/7/2016	24	4/7/2016	24
				1/8/2016	0	2/8/2016	0	3/8/2016	12	4/8/2016	12	5/8/2016	12	4/8/2016	12
				1/9/2016	0	2/9/2016	8	3/9/2016	0	4/9/2016	0	5/9/2016	0	4/9/2016	0
				1/10/2016	0	2/10/2016	6	3/10/2016	0	4/10/2016	0	5/10/2016	0	4/10/2016	0
				1/11/2016	0	2/11/2016	0	3/11/2016	0	4/11/2016	0	5/11/2016	0	4/11/2016	0
				1/12/2016	0	2/12/2016	7	3/12/2016	0	4/12/2016	0	5/12/2016	0	4/12/2016	0
				1/13/2016	0	2/13/2016	0	3/13/2016	0	4/13/2016	0	5/13/2016	0	4/13/2016	0
				1/14/2016	0	2/14/2016	0	3/14/2016	0	4/14/2016	0	5/14/2016	0	4/14/2016	0
				1/15/2016	0	2/15/2016	0	3/15/2016	0	4/15/2016	12	5/15/2016	0	4/15/2016	12
				1/16/2016	0	2/16/2016	0	3/16/2016	0	4/16/2016	24	5/16/2016	0	4/16/2016	24
				1/17/2016	0	2/17/2016	0	3/17/2016	0	4/17/2016	0	5/17/2016	0	4/17/2016	0
				1/18/2016	24	2/18/2016	0	3/18/2016	0	4/18/2016	0	5/18/2016	18	4/18/2016	18
				1/19/2016	0	2/19/2016	0	3/19/2016	0	4/19/2016	0	5/19/2016	24	4/19/2016	24
				1/20/2016	0	2/20/2016	0	3/20/2016	0	4/20/2016	0	5/20/2016	24	4/20/2016	24
				1/21/2016	0	2/21/2016	0	3/21/2016	0	4/21/2016	20	5/21/2016	0	4/21/2016	20
				1/22/2016	0	2/22/2016	15	3/22/2016	0	4/22/2016	0	5/22/2016	15	4/22/2016	15
				1/23/2016	0	2/23/2016	6	3/23/2016	0	4/23/2016	0	5/23/2016	24	4/23/2016	24
				1/24/2016	0	2/24/2016	24	3/24/2016	24	4/24/2016	8	5/24/2016	12	4/24/2016	12
				1/25/2016	6	2/25/2016	5	3/25/2016	24	4/25/2016	24	5/25/2016	12	4/25/2016	12
				1/26/2016	24	2/26/2016	15	3/26/2016	15	4/26/2016	9	5/26/2016	11	4/26/2016	11
				1/27/2016	12	2/27/2016	24	3/27/2016	24	4/27/2016	0	5/27/2016	0	4/27/2016	0
				1/28/2016	16	2/28/2016	12	3/28/2016	12	4/28/2016	0	5/28/2016	19	4/28/2016	19
				1/29/2016	20	2/29/2016	0	3/29/2016	0	4/29/2016	0	5/29/2016	24	4/29/2016	24
				1/30/2016	12			3/30/2016	0	4/30/2016	0	5/30/2016	8	4/30/2016	8

* Data Subject to Documented
 Diversion Hrs On Supervisor Report

1/31/2016	24		3/31/2016	0	5/31/2016
Total Hrs	201	158	149	239	

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2016 Davis Regional Total Diversion Hours Per Month



2016 Davis Regional Percentage of Diversion Hours Per Month

