Beth Israel Lahey Health, Inc.

Grant Thornton LLP
Monitoring Report

For the period of analysis covering November 29, 2018 through September 30, 2019

January 15, 2020

Grant Thornton

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I. INTRODUCTION AND ASSIGNMENT OBJECTIVES

Grant Thornton LLP ("Grant Thornton", "we", "us", "our") was retained by Beth Israel Lahey Health, Inc. ("BILH") pursuant to the provisions of our engagement letter and related scope of work executed on April 30, 2019 and August 29, 2019, respectively.

As contemplated by the Assurance of Discontinuance in the matter of the Commonwealth of Massachusetts v. Beth Israel Lahey Health, Inc., executed as of November 29, 2018 (the "AOD"), BILH has retained a third party monitor ("the Monitor") to perform the duties set forth in the AOD and on terms consistent with the AOD. The Monitor has conducted an assessment of certain financial and operational metrics of BILH, as described in further detail herein. The terms of the engagement have been approved by the Massachusetts Attorney General's Office (the "AGO"), which has been designated as a third-party beneficiary to BILH's engagement letter with Grant Thornton.[1]

Following the execution of this agreement and within ninety (90) days after March 1, 2019 (the "Closing Date"), Grant Thornton, in consultation with the AGO and with input from BILH, prepared a proposed Scope of Work (see Exhibit 1) and associated budget detailing the services to be provided by Grant Thornton. The AGO reviewed and approved the proposal.[2]

In the role of Monitor, Grant Thornton has obtained information from BILH and related parties through written documents and interviews. While Grant Thornton has performed testing on various aspects of the information provided, it is the expectation that information provided by BILH can be relied upon to be true, accurate and complete. Testing is defined within each section of the subsequent report.

In accordance with the AOD and Grant Thornton's professional standards, Grant Thornton is independent of BILH to the extent there are no known conflicts in the form of recent or current economic relationships (except for this engagement), governance conflicts or other impairments related to BILH or any of the entities listed in Exhibit A of the AOD, or to the AGO.

[1] AOD Par. 142.
[2] AOD Par. 144.

II. LIMITATIONS AND DISCLAIMERS

A. Standards of Performance

We were engaged as Monitor in accordance with the AOD. Nonetheless, and notwithstanding the specifics of the AOD, our scope of work is limited to that set forth in our engagement letter or as otherwise agreed to by the AGO and BILH. The scope of services in our engagement letter was reviewed and approved by the AGO. Our monitoring services did not and do not constitute an audit, review, or compilation in accordance with auditing and attestation standards and, consequently, we do not express an opinion on the figures included in the report. Because our services are limited in nature and scope, they cannot be relied upon to discover all documents and other information or provide all analyses that may be of importance in this matter. Accordingly, we make no representations regarding the sufficiency of our procedures for any other purposes or for the purposes of any third party recipient. Our services were provided in accordance with the Statement on Standards for Consulting Services promulgated by the American Institute of Certified Public Accountants (the "AICPA") and, accordingly, neither constitute a rendering by Grant Thornton or its partners or staff of any legal advice, nor do they include the compilation, review, or audit of financial statements, as defined by the AICPA.

Unless specifically stated herein, we did not validate the accuracy or completeness of any data or information provided to perform our procedures. The scope of the assignment has been limited to analyses of documents and data, along with information provided in interviews, which have all been provided by BILH, the AGO, or third parties at BILH's request. As such, we cannot be relied upon to discover all documents and other information or provide all analyses that may be of importance to the operations and administration of BILH. Although we have been engaged to monitor aspects of BILH's compliance with the AOD, we cannot and do not guarantee that BILH complied with the AOD or any other law or regulation. Of course, BILH and the AGO have asked us to identify indications of noncompliance with the AOD with which we became aware and we have done so herein. For the avoidance of doubt, our responsibility for the engagement was not to conduct an investigation into possible fraudulent or unlawful activity.

B. Limitations on Use and Distribution

This report is prepared solely for the purpose contemplated by the engagement letter and is restricted for the use of BILH therein. It is not intended for and should not be used or relied upon by any third parties. We have not and shall not be deemed to assume any duties or obligations to any third party. This report is limited to the specific scope of work agreed to with BILH as specified in the Engagement Letter. We understand that a copy of the report will be delivered to the AGO as a requirement of the AOD, and will be subject to public disclosure laws and may be accessible to the public via the AGO's internet site. Except as specifically contemplated by the engagement letter or as required by applicable law or the AOD, our report may not be copied, reproduced, disseminated, or distributed. In preparing this report, Grant Thornton used professional care and diligence and relied upon the information provided by BILH and other sources for our analysis. No representation or warranty, express or implied, is made by Grant Thornton as to the accuracy or completeness of the information relied upon and included in this report.

Grant Thornton acknowledges and accepts that this report was prepared for BILH at the request of the AGO in connection with the AOD and may become a public record and subject to public disclosure. Nonetheless, Grant Thornton assumes no duties or obligations to any member of the public. By reviewing this Report any third party acknowledges and agrees that the Report was prepared solely for BILH and that they may not rely on it for any purpose. This report is not to be used for any purpose other than as explicitly contemplated by the Engagement Letter and we specifically disclaim any responsibility for losses or damages incurred through the use of this report for any other purpose.

III. GLOSSARY OF TERMS

The following terms are defined in and used throughout this report. They are included here for reference purposes. The AOD has its own set of defined terms, and where possible, we used terms in this report consistently with how they are defined in the AOD.

1. **Access Period** – March 1, 2019 – February 28, 2027, the eight (8) year period following the Closing Date.[3]
2. **AGO** – Massachusetts Office of the Attorney General.
3. **AICPA** – American Institute of Certified Public Accountants.
4. **Alternative Payment Methods** – any transfer of funds from a payer to BILH pursuant to a contract for a Commercial Health Insurance Product or a Managed Medicare Health Insurance Product that is not captured by Commercial Unit Price payments or by Managed Medicare Percent of Unit Price payments, including but not limited to risk payments, quality payments, and infrastructure payments.[4]
5. **AOD** – Assurance of Discontinuance, pursuant to M.G.L. Chapters 93A, § 5 and 93, § 9.[5]
6. **Baseline Revenue** – Revenue paid to BILH by a payer for that category of services in 2018, or the revenue that was paid to BILH for that category of services in a recent trailing twelve-month period, provided that each such revenue amount during such recent trailing twelvemonth period used by BILH for this purpose is acceptable to the Covered Commercial Payer.[6]
7. **Baseline Set of Services** – Volume of each and every health care service provided by Covered BILH Providers to a Covered Commercial Payer's enrollees…in the most recently completed Contract Year.[7]
8. **BHC** – Behavioral Health Clinician.
9. **BIDCO** – Beth Israel Deaconess Care Organization, one of the three legacy physician contracting organizations.[8]
10. **BIDMC** – Beth Israel Deaconess Medical Center, Inc.
11. **BILH** – Beth Israel Lahey Health, Inc., including its corporate affiliates, subsidiaries, subdivisions, officers, directors, trustees, partners, agents, servants, employees and/or successors.[9]
12. **BILH Hospital** – Any Massachusetts licensed hospital that is owned, operated, or controlled by BILH, including all facilities and sites that operate under the license of such hospital.[10]
13. **BILHPN** – Beth Israel Lahey Health Performance Network.
14. **BILH Providers** – All health care providers that are owned or controlled by, under direct financial management of, or that jointly contracted with BILH. The term "BILH Provider" shall include all of its subdivisions, officers, directors, trustees, partners, agents, servants and/or employees (including its employed physicians and other health care professionals) and all of the physicians and other health care professionals who are members of, are affiliated with and/or participate in such BILH Provider for payer contracting.[11]
15. **Bridge Clinic** – A transitional outpatient addiction clinic that provides substance use disorder treatment to patients leaving the emergency department or patients discharged from inpatient care until the patient is placed in a community care setting.[12]

[3] AOD Par. 10.
[4] AOD Par. 11.
[5] AOD Par. 6.
[6] AOD Par. 77(g)(ii).
[7] AOD Par. 77(b).
[8] BILH 60 Day Report dated April 30, 2019 – Patients and Revenue p.2.
[9] AOD Par. 15.
[10] AOD Par. 17.
[11] AOD Par. 19.
[12] AOD Par. 20.

16. **CBM Program** – Centralized Bed Management Program. Lahey Health's centralized inpatient psychiatry and detoxification bed management and bed placement system wherein a centralized system or department monitors a behavioral health patient's progress through a facility's emergency department and coordinates the placement of such behavioral health patients in the inpatient unit best suited to their needs based on clinical presentation and geographic location.[13]
17. **CCA** – Community Care Alliance.
18. **CHA** – Cambridge Health Alliance.
19. **CHC Affiliate** – Community Health Center Affiliate, or Bowdoin Street Health Center, Inc.; Fenway Community Health Center, Inc.; South Cove Community Health Center, Inc.; Dimock Community Health Center, Inc.; Charles River Community Health, Inc.; or Outer Cape Health Services, Inc.[14]
20. **CHIA** – Center for Health Information and Analysis.[15]
21. **CIN** – Clinically-Integrated Network.[16]
22. **Closing Date** – March 1, 2019, the date upon which BILH became the sole member of any or all of the entities listed as First Tier Affiliates in Exhibit A of the AOD.[17]
23. **Commercial Health Insurance Product** – Any of the various health insurance plans or products and/or health benefit plan designs offered or administered by any payer and not funded by Medicare, or Medicaid, including but not limited to tiered network plans, limited network plans, self-insured health plans, indemnity plans, preferred provider organization plans, health maintenance organization plans, and point of service plans.[18]
24. **Commercial Unit Price** – The negotiated rate of reimbursement to be paid to BILH or any Covered BILH Provider in exchange for providing a specified health care service to an enrollee.[19]
25. **Commercial Unit Price Rate of Increase** – The percentage change in total Projected Revenue that would be paid, in the aggregate, to the Covered BILH Providers from one Contract Year to the immediately following (next) Contract Year for a pre-defined "market basket" of health care services.[20]
26. **Commonwealth** – The Commonwealth of Massachusetts.
27. **Community Health Center** – A non-profit, community-based organization that provides comprehensive primary and preventive health care and social services to medically underserved individuals and families (see Section 330 of the Public Health Service Act).[21]
28. **Contract Year** – A twelve (12) month period during which a Payer Contract between BILH or any Corporate Affiliate of BILH and a Covered Commercial Payer or Covered Managed Medicare Payer is in effect.[22]
29. **Covered BILH Providers** – All BILH Providers excluding the Joint Contracting Safety Net Affiliates.[23]
30. **Covered Commercial Payer** – Payers that issue health insurance policies for Massachusetts residents, including the following named payers: Harvard Pilgrim Health Care, Inc.; Tufts Health Plan, Inc.; Blue Cross and Blue Shield of Massachusetts, Inc.; Fallon Community Health Plan, Inc.; United Healthcare, Inc.; Cigna Corporation; and Aetna Health, Inc.[24]

[13] AOD Par. 22.
[14] AOD Par. 23.
[15] AOD Par. 24.
[16] AOD Par. 25.
[17] AOD Par. 26.
[18] AOD Par. 29.
[19] AOD Par. 75.
[20] AOD Par. 77(a).
[21] AOD Par. 28.
[22] AOD Par. 32.
[23] AOD Par. 35.
[24] AOD Par. 78.

31. **Covered Managed Medicare Payer** – Any Payer that contracts with BILH for any BILH Providers to provide services to that Payer's Managed Medicare enrollees.[25]
32. **DoN –** "Determination of Need Application": NEWCO-17082413-TO, amended and approved by the DPH, October 2018.[26]
33. **DPH** – Massachusetts Department of Public Health.[27]
34. **Fiscal Year** – March 1, 2019 – September 30, 2019, which is BILH's fiscal reporting year as pertaining to this report.
35. **Filing Date** – November 29, 2018, the date upon which the AOD was filed with the clerk of the Suffolk Superior Court.[28]
36. **First Tier Affiliate** – Any entity of which BILH is the sole corporate member.[29]
37. **Gateway Municipality** – A municipality with a population greater than 35,000 and less than 250,000 with a median household income below the Commonwealth's average and a rate of educational attainment of a bachelor's degree or above that is below the Commonwealth's average.
38. **HCCGB** – Health Care Cost Growth Benchmark.[30]
39. **HPC** – Massachusetts Health Policy Commission.
40. **IMPACT model** (also referred to as the "Collaborative Care" model) – A behavioral health integration model, which involves introducing primary care patients who are identified through screenings and direct referrals to an embedded behavioral health clinician.[31]
41. **Joint Contracting SNA** – Lawrence General Hospital, Cambridge Health Alliance, and any other Safety Net Hospital that may enter into an agreement with BILH pursuant to which BILH contracts with payers on its behalf. [32]
42. **LGH** – Lawrence General Hospital.
43. **Lahey** – Lahey Health System, Inc.
44. **Managed Medicare Health Insurance Product** – A managed care health insurance plan made available by a Payer only to Medicare-eligible enrollees under Title XVIII of the Social Security Act.[33]
45. **MassHealth ACO** – Accountable Care Organization health programs offered through MassHealth.[34]
46. **MAT** – Medication Assisted Treatment.[35]
47. **Monitor** – The independent third party who will monitor BILH's compliance with the AOD throughout the Monitoring Period.[36]
48. **Monitoring Period** – March 1, 2019 – February 28, 2029, the ten (10) year period following the Closing Date.[37]
49. **NEBH** – New England Baptist Hospital.
50. **NPSR** – Net Patient Service Revenue. The revenue a hospital would expect to collect for services provided less contractual allowances, as contained in the hospital's financial statements and as reported by the hospital to CHIA.[38]

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[25] AOD Par. 88.
[26] AOD Par. 128.
[27] Ibid.
[28] AOD Par. 39.
[29] AOD Par. 40.
[30] Health Care Cost Growth Benchmark, via *https://www.mass.gov/info-details/health-care-cost-growth-benchmark#benchmark-overview-*, accessed December 19, 2019.
[31] AOD Par. 45.
[32] AOD Par. 46.
[33] AOD Par. 48.
[34] AOD Par. 52.
[35] AOD Par. 53.
[36] AOD Par. 54.
[37] AOD Par. 55.
[38] BILH 60 Day Report dated April 30, 2019 – Patients and Revenue p.3.

51. **Partners** – Partners HealthCare.
52. **Payer** – Any organization or entity that contracts with health care providers and other health care organizations to provide or arrange for the provision of health care services to any person or group of persons and that is responsible for payment to such providers and other health care organizations of all or part of any expense for such health care services.[39]
53. **Payer Contract** – Contract between BILH and a payer pursuant to which BILH agrees to provide or arrange for the provision of health care services to enrollees of the Payer's Commercial Health Insurance Products and/or the Payer's Managed Medicare Insurance Products.[40]
54. **PCP** – Primary care provider.[41]
55. **Price Constraint Period –** March 1, 2019 – February 28, 2026, the seven (7) year period following the Closing Date to which the price constraint requirements apply.[42]
56. **Projected Revenue –** To calculate the Projected Revenue for a given service in each Contract Year, the negotiated Commercial Unit Price for that service in that Contract Year is applied to the volume of that service in the Baseline Set of Services.[43]
57. **Scope Period** – November 29, 2018 - September 30, 2019, the period between the Filing Date and BILH's fiscal reporting year end as pertaining to this report.
58. **SHC –** Signature Healthcare Brockton Hospital.
59. **SNA –** Safety Net Affiliate, meaning Lawrence General Hospital; Cambridge Health Alliance; or Signature Healthcare Brockton Hospital.[44]
60. **Safety Net Hospital –** Any hospital with a Medicaid payer mix greater than 20%, as reported by CHIA for the prior fiscal year.[45]
61. **System-wide Price Constraint** – Value set at the HCCGB in the calendar year the Payer Contract in effect for those Contract Years is signed, minus 0.1%.[46]
62. **Transaction Parties –** Lahey Health System, Inc., CareGroup, Inc., and their component parts, subsidiaries, and affiliates; Seacoast Regional Health Systems, Inc.; Lahey Clinical Performance Network, LLC; Lahey Clinical Performance Accountable Care Organization, LLC; and Beth Israel Deaconess Care Organization, and including all the closing entities as listed on Exhibit A of the AOD.[47]
63. **UHC –** United Healthcare of New England, Inc.
64. **Uniform Price Change –** Payer Contracts or parts of Payer Contracts in which BILH and a Covered Commercial Payer negotiate percentage price changes for categories of health care services in which all services in such category receive the same negotiated percentage price change.[48]
65. **Vertically Integrated** – A relationship between a payer and a health care system in which a health care system controls, is controlled by, or is under common control with a payer, whether by corporate membership, equity ownership, or otherwise.[49]
66. **Year End** – September 30, 2019, the final day of BILH's fiscal reporting year end.

[39] AOD Par. 58.
[40] AOD Par. 59.
[41] AOD Par. 60.
[42] AOD Par. 61.
[43] AOD Par. 77(c).
[44] AOD Par. 63.
[45] AOD Par. 64.
[46] AOD Par. 76.
[47] AOD Par. 1.
[48] AOD Par. 77(g)(i).
[49] AOD Par. 78(c)(i).

IV. EXECUTIVE SUMMARY

Following an investigation of the proposed merger of Lahey Health System, Inc. ("Lahey"), CareGroup, Inc., and Seacoast Regional Heath Systems, Inc. to form BILH, the AGO and BILH reached a resolution to mitigate concerns surrounding the risk of: (a) substantially lessened competition in the sale of health care services in certain geographic areas of the Commonwealth; (b) potential increases in total health care costs in the Commonwealth; and (c) adverse effects on access to health care services, particularly for vulnerable populations.

As part of this resolution, the parties agreed upon a set of enforceable conditions by the Commonwealth of Massachusetts (the "Commonwealth") to be tracked and verified on an annual basis by a third party for the (10) year period following the Closing Date (the "Monitoring Period"), as set forth in the Assurance of Discontinuance ("AOD"), dated November 29, 2018.

As the third party compliance monitor, Grant Thornton serves, in part, to observe BILH's compliance or lack thereof with the requirements set forth by the AOD and to report on these findings annually based on testing performed in accordance with the annual work plan (see **Exhibit 1**). The work plan was developed in consultation with the AGO and with input from BILH, and was subsequently approved by the AGO.

The AOD describes various requirements with compliance deadlines that occur throughout the Monitoring Period. This report focuses primarily on the requirements with compliance deadlines that fall within BILH's Fiscal Year ended on September 30, 2019. Where appropriate, Grant Thornton has noted BILH's progress against requirements with compliance dates that fall in future periods when adequate evidence was available for us to do so.

BILH Compliance Testing Overview:

- **A – Price Constraint –** The AOD describes a Price Constraint mechanism outlined to "…mitigate the growth of health care costs in the Commonwealth".

  For the items subject to a determination of compliance as of September 30, 2019, BILH identified the Covered Commercial Payers, and payers excluded from the price constraint provisions, which Grant Thornton analysed and tested. An assessment of current managed care contracts revealed one contract, the Winchester Hospital agreement with United Healthcare for Commercial Health Insurance Products, was renegotiated and executed between the Filing Date and September 30, 2019. According to information provided by BILH, there were no managed care Medicare contract renewals executed during this period. BILH calculated the Uniform Price Change for various services categories within inpatient and outpatient service groupings. The information provided, and consistent with Grant Thornton's testing, indicated an aggregate Commercial Unit Price Rate of Increase below the System-wide Price Constraint of 3.0% established by the AOD. Based on these procedures, Grant Thornton has not identified evidence of non-compliance with the terms of AOD.

- **B – MassHealth and Hiring –** The AOD describes a requirement for BILH Providers (all health care providers that are owned or controlled by, under direct financial management of, or that jointly contracted with BILH) and facilities participating in MassHealth to maintain their participation in MassHealth indefinitely. BILH may not limit the number of MassHealth patients it collectively serves. Additionally, BILH must promote access to healthcare providers in underserved communities in eastern Massachusetts while adhering to hiring constraints specified in the AOD. For a period of one year after the Closing Date, BILH may not employ any PCP who, as of the Filing Date, is employed by or jointly contracted with a Safety Net Hospital or a Community Health Center, with limited

exceptions, such as those whose recruitment was "in-process" prior to the merger. Additionally, BILH may not solicit any department of a Safety Net Hospital for employment during the Access Period.

Based on testing procedures performed, Grant Thornton has noted no evidence that BILH caps the number of MassHealth patients it serves. The sole PCP hire employed by or jointly contracted with a Safety Net Hospital or CHC that occurred between the Filing Date and Year End was initiated prior to the Filing Date, and fell under the "in-process" exception. Grant Thornton did not observe any evidence BILH solicited for hire a department of a Safety Net Hospital. Overall, Grant Thornton did not discover any evidence of noncompliance with AOD terms related to MassHealth or hiring.

- **C – CHCs and SNAs: Investments –** During the Access Period, the eight (8) year period following the Closing Date, the AOD requires BILH to maintain historical levels of funding of $40.96 million to Community Health Centers ("CHCs") and Safety Net Affiliates ("SNAs"), while also agreeing to make additional investments of $8.8 million in direct financial support. Biannual contributions amounting to a minimum of $4.096 million must be made throughout the Access Period. Only $1 million of investments by BILH for CHCs and SNAs made between the Filing Date and Closing Date may count towards the $40.96 million.

  Grant Thornton analyzed contributions related to CHCs and SNAs as of September 30, 2019 and noted $4,509,499 of the $4.096 million biannual contribution requirement has been met as of September 30, 2019. There is no determination of compliance required by the AOD for the Scope Period of this report. A determination will be made in a subsequent report.

- **D – CHCs and SNAs: Non-Financial –** The AOD contains several requirements relating to BILH's CHC and SNA partners. BILH must renew its affiliation agreements on substantially similar terms and maintain the clinical services currently offered by affiliates which existed as of the Filing Date. Additionally, BILH must work collaboratively with CHCs and SNAs to perform needs assessments, regional planning, and investment and support planning. The AOD requires that BILH assist the SNAs with co-branding and marketing efforts as well as the recruitment of Primary Care Providers ("PCPs"), should they request it, and specifies additional requirements for Joint Contracting SNAs which are detailed further in this report.

  Grant Thornton notes no evidence of noncompliance with requirements pertaining to non-financial commitments for CHCs and SNAs. Agreements renewed during the period appear to be on substantially similar terms, clinical programs have been maintained, collaborative planning has been initiated, and the BILH affiliates have been given access to PCP recruiting assistance and co-branding. BILH appears to have met all requirements related to Joint Contracting SNAs.

- **E – Community Investments –** The AOD requires BILH to fund and distribute at least $5 million in investments throughout the Access Period to expand access to necessary health care services for communities of color and lower-income levels. This amount is in addition to the $40.96 million in commitments throughout the Access Period to CHCs and SNAs referred to in Section C.

  There is no determination of compliance required for Community Investments at this time.

- **F – Behavioral Health Investments -** The AOD requires BILH to invest at least $16.9 million to develop and expand comprehensive behavioral health services throughout the Access Period. The AOD states that the investment shall prioritize the behavioral health requirements set forth in Paragraphs 120-122.

There is no determination of compliance required for Behavioral Health investments at this time.

- **G – Governance –** The AOD requires that BILH aim to increase diversity among the BILH board members and the boards of its First Tier Affiliates in the areas of race, gender, socioeconomics, and geographic representation. Additional requirements call on BILH to include community health advocates on its board who are experienced at serving the needs of underserved and uninsured or government-payer populations in the BILH service area.

  BILH modified its bylaws in June 2019 to address governance requirements of the AOD. Included in the changes were provisions related to maintaining a commitment to diversity, geographic representation, and trustees independent of BILH. Grant Thornton confirmed this through analysis of the bylaws and trustee profiles as posted on the BILH website. Additionally, meeting agendas reviewed by Grant Thornton indicated ongoing discussions regarding diversity best practices at board meetings. BILH provided an attestation stating no donation requirement exists to serve on the board.

  BILH is in the process of making changes to its First Tier Affiliate boards. The First Tier Affiliate boards have not made changes to board membership related to racial or geographic diversity, but have instituted changes to the expiration of board member terms that may allow for such board appointments as open board seats are filled. Subsequent to the Scope Period of this report, BILH has also begun implementing governance training and education for the First Tier Affiliate boards.

  H – Behavioral Health: Non-financial – The AOD provides several requirements related to behavioral health access that BILH must meet within two to five years of the Closing Date and continuing for the remainder of the Access Period. The AOD requires BILH to extend and implement the IMPACT Model (also referred to as the "Collaborative Care" model) to 50% of BILH primary care practices within three years and to 100% within five years of the Closing Date, and to perform a study of the feasibility of expanding the IMPACT Model to the CHC Affiliates within two years of the Closing Date. The AOD also requires BILH to extend the Centralized Bed Management ("CBM") program to all hospitals and facilities with inpatient behavioral health services, and enhance the status of the Medication Assisted Treatment ("MAT") program/bridge clinics.

  Grant Thornton assessed BILH's progress towards compliance through several discussions with BILH behavioral health management as well as analysis of documents provided by BILH. There is no determination of compliance required at this time.

- **I – DPH and AGO Reports –** The AOD requires BILH to provide the AGO with copies of any reports it submits to the Department of Public Health ("DPH") as a condition of the Determination of Need approval ("DoN"). Additionally, BILH must provide to the AGO annual reports related to BILH's targeted cost savings as a result of the elimination of redundant operations, improved efficiencies related to patient care, shifting community-appropriate care to higher value sites of care, and the cost savings actually achieved during the reporting period for each of the respective reports. BILH must also identify the creation, elimination, and/or consolidation of any clinical, administrative, financial, or other operations during the reporting period and the locations impacted.

  Grant Thornton received documentation from BILH demonstrating BILH provided to the AGO and the DPH the Other Condition 9 Proposal dated September 26, 2019, as well as e-mails from the DPH and AGO confirming receipt. BILH also confirmed the sharing of required targeted cost savings reports. As such, Grant Thornton observed no evidence of noncompliance by BILH with the requirements of the AOD related to DPH and AGO reports.

- **J – Substantially Similar Services –** The AOD states that BILH shall maintain access to substantially similar clinical services for the communities served by BILH Hospitals as were offered before the Closing Date.

  Grant Thornton reviewed documentation of clinical service offerings as of the Filing Date and as of September 30, 2019. Additionally, Grant Thornton conducted interviews with BILH staff related to the availability of selected services. In the course of this testing, Grant Thornton found no evidence of noncompliance with BILH's obligations related to access for the communities served by its Hospitals as outlined in the AOD.

- **K – Other Testing Areas –** In compliance with the AOD's requirement, BILH submitted a report to the AGO within 60 days of the Closing Date and provided a copy to Grant Thornton. Based on testing described in the Scope of Work presented in Exhibit 1, Grant Thornton did not observe any evidence of noncompliance.

Finally, we would like to acknowledge that we received cooperation during the performance of our work from management and staff with whom we interacted at BILH, CHCs, and SNAs.

V. BACKGROUND AND ENGAGEMENT APPROACH

A. Background

In July 2017, Lahey Health System, Inc., CareGroup, Inc., and Seacoast Regional Heath Systems, Inc. signed an agreement to become corporately affiliated and agreed to the formation of a new corporate entity to be called Beth Israel Lahey Health. [50]

- Lahey Health System, Inc. was the parent of Lahey Clinic Hospital, Inc.; Northeast Hospital Corporation d/b/a Beverly Hospital, Addison Gilbert Hospital, and BayRidge Hospital; and Winchester Hospital.
- CareGroup, Inc. was the parent of Beth Israel Deaconess Medical Center, Inc., which includes Beth Israel Deaconess Hospital-Milton, Beth Israel Deaconess Hospital-Needham, and Beth Israel Deaconess Hospital-Plymouth, New England Baptist Hospital, and Mount Auburn Hospital.
- Seacoast Regional Health Systems, Inc. was the parent of Anna Jaques Hospital.[51]

In October 2017, the parties' affiliated contracting networks, Beth Israel Deaconess Care Organization ("BIDCO"), Lahey Clinical Performance Network ("LCPN"), and Mount Auburn Cambridge Independent Practice Association ("MACIPA") also signed an affiliation agreement that BILH would create a clinically-integrated network that would own BIDCO, LCPN, and Lahey Clinical Performance Accountable Care Organization ("ACO"), to be called Beth Israel Lahey Health Performance Network ("BILHPN"). MACIPA participates in the network but remains corporately independent. [52]

On November 29, 2018, the AGO and BILH reached a resolution to mitigate concerns about the impact of the merger on competition, health care costs, and health care access in Massachusetts. BILH agreed to abide by the AOD, which includes a series of enforceable conditions to be tracked and verified on an annual basis by a third party monitor to ensure compliance with the terms for the ten (10) years.

B. BILH Overview

BILH is a health system comprised of academic medical centers, teaching hospitals, an orthopedic hospital, primary care and specialty care providers, ambulatory surgery centers, urgent care centers, community hospitals, specialty hospitals, homecare services, behavioral health services, and addiction treatment programs. Together, the BILH network brings together more than 4,000 physicians and 35,000 employees in a shared mission to expand access to care and advance the science and practice of medicine.[53]

BILH currently functions under an organizational structure and operating model driven by four interconnected domains to design meaningful partnerships across organizations, care settings, specialties, and geographies to ensure patients receive the care they need in communities where they live and work. The four domains are: (i) physician enterprise, (ii) hospital and ambulatory services group, (iii) population health enterprise, and (iv) network of administrative and operational system-level support services. [54]

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[50] Massachusetts Health Policy Commission Cost and Market Impact Review – Final Report dated September 27, 2018, p.1.
[51] Determination of Need Application, "NEWCO-17082413-TO," amended and approved by the DPH, October 2018.
[52] Massachusetts Health Policy Commission Cost and Market Impact Review – Final Report dated September 27, 2018, p.8.
[53] About BIDMC via *https://www.bidmc.org/about-bidmc* accessed December 17, 2019.
[54] BILH Announces Organizational Structure and Members of Senior Leadership Team via *https://www.bilh.org/in-the-news/2019/2/7/beth-israel-lahey-health-merger-clears-final-approval-with-conditions* accessed December 17, 2019.

Effective as of the Closing Date, the BILH health system is comprised of BILH as the system parent, and its First Tier Affiliates, and all of their related health centers and hospitals:

First Tier Affiliates:[55]

- Anna Jaques Hospital
- Beth Israel Deaconess Medical Center, Inc. ("BIDMC")[56]
- Beth Israel Deaconess Hospital – Milton
- Beth Israel Deaconess Hospital – Needham
- Beth Israel Deaconess Hospital – Plymouth
- Lahey Clinic Foundation, Inc.[57]
- Mount Auburn Hospital
- New England Baptist Hospital ("NEBH")
- Northeast Hospital Corporation[58]
- Northeast Behavioral Health Corporation
- Winchester Hospital

The BILH health system also includes several affiliated heath centers and hospitals located throughout Eastern Massachusetts:

Community Health Centers ("CHC Affiliate" or "CHCs"):[59]

- Bowdoin Street Health Center, Inc. (under the BIDMC license)
- Fenway Community Health Center, Inc.
- South Cove Community Health, Inc.
- Dimock Community Health, Inc.
- Charles River Community Health, Inc.
- Outer Cape Health Services, Inc.

Safety Net Affiliates ("SNAs"):[60]

- Cambridge Health Alliance ("CHA")
- Lawrence General Hospital ("LGH")
- Signature Healthcare Brockton Hospital ("SHC")

[55] AOD Exhibit A.
[56] CareGroup, Inc. will merge into BIDMC (AOD Exhibit A).
[57] Lahey Health System, Inc. will merge into Lahey Clinic Foundation, Inc.; which is currently and will remain the sole member of Lahey Clinic, Inc. and Lahey Clinic Hospital, Inc. (AOD Exhibit A).
[58] Northeast Hospital Corporation includes Beverly Hospital, Addison Gilbert Hospital, BayRidge Hospital, Lahey Outpatient Center, Danvers, Lahey Health Behavioral Services and Lahey Health Senior Care. Beverly Hospital About Us via *https://www.beverlyhospital.org/about-us* accessed December 17, 2019.
[59] AOD Par. 23.
[60] AOD Par. 63.

C. Engagement Approach

i. Procedures overview

The execution of our scope-of-work, which is presented in its entirety in Exhibit 1, included the following broad procedures:

- Gaining an understanding of BILH's initial baselines (e.g., payer contracts, existing clinical services, physicians, MassHealth participation, etc.).
- Gaining an understanding of the BILH health system organizational, governance, risk, and management structures.
- Reading and evaluating relevant policies and regulations related to our scope of work.
- Gaining an understanding of and evaluating BILH's financial performance.
- Understanding relevant aspects of the BILH Performance Network.
- Evaluating and testing relevant processes and operations (clinical, administrative, financial, etc.) related to our scope of work and how they have evolved.
- Analyzing relevant reports and supporting documentation.
- Analyzing BILH contracts (e.g., payer, risk, etc.) related to our scope.
- Gaining an understanding of and evaluating relevant marketing and advertising programs.
- Interviewing relevant BILH employees.
- Holding discussions with representatives from the AGO.

Grant Thornton utilized various testing techniques to obtain insight into BILH's processes, procedures, and strategies addressing the requirements in the AOD. In response to each of the requirements, Grant Thornton assessed whether BILH complied with each requirement during the current reporting period.

ii. Interviews

During the course of our engagement, Grant Thornton interviewed the following individuals:

#	Title of Individual	Interview Date(s)
1	BILH Executive Vice President, Chief Population Health Officer	May 21, 2019 October 21, 2019 October 28, 2019
2	BILHPN Chief Business Officer	May 21, 2019 October 21, 2019
3	President of Behavioral Services	May 21, 2019 October 28, 2019
4	BILH Chief Strategy Officer	May 21, 2019 October 16, 2019
5	BILH Vice President of Revenue Analysis & Regulatory Reporting	May 21, 2019 October 15, 2019
6	BILH Executive Vice President, Chief Financial Officer	May 21, 2019
7	BILH Chief Integration Officer	May 22, 2019
8	BILH Vice President of Community Benefits & Community Relations	May 22, 2019 October 16, 2019
9	Chair of BILH Board of Trustees	May 22, 2019
10	BILH General Counsel	May 23, 2019
11	Executive Director, South Cove CHC	November 14, 2019
12	President Signature Medical Group, SHC	November 18, 2019
13	Executive Director, Charles River CHC	November 18, 2019
14	Interim CEO & Chief Medical Officer, CHA	November 19, 2019
15	Interim President & CEO, LGH	November 19, 2019
16	Executive Director, Bowdoin Street Health Center	November 21, 2019
17	Senior Vice President of Network Development, CHA	November 25, 2019
18	Director of Patient Access, BIDMC	December 9, 2019
19	Chief Administration Officer of Dept. Medicine, BIDMC	December 9, 2019
20	Executive Director, Ambulatory Services, BIDMC	December 9, 2019
21	Senior Vice President and Chief Financial Officer, BIDMC	December 9, 2019
22	Consultant, Baker Newman Noyes	December 9, 2019
23	Director of Patient Access, Lahey	December 9, 2019
24	Customer Service, Lahey	December 9, 2019
25	Vice President and Associate Chief Nurse, BayRidge Hospital	December 10, 2019
26	Director of Emergency Psych Services, BayRidge Hospital	December 10, 2019
27	Manager of Patient Accounts, Amesbury Health Center	December 11, 2019
28	Supervisor of Access & Scheduling, Amesbury Health Center	December 11, 2019
29	Scheduler, Amesbury Health Center	December 11, 2019
30	Chief Financial Officer, BID-Plymouth	December 12, 2019
31	Vice President, Ambulatory Services & Process Improvement, BID-Plymouth	December 12, 2019
32	Central Scheduling Manager, BID-Plymouth	December 12, 2019

VI. FINDINGS BY SCOPE OF WORK AREA

A. Price Constraint

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD enumerates in Paragraphs 72-89 various requirements for price constraints that BILH must comply with during the first seven years following the Closing Date, a period defined as the Price Constraint Period. The requirements apply to those commercial Payers which comprise at least 90% of the BILH's commercial revenue, and associated contracts with those Payers being renegotiated to take effect during a fiscal year within the Price Constraint Period.

i. Price Constraint

a. Paragraphs 72-78[61]

Paragraphs 72-78 describe the Price Constraint mechanism outlined to "mitigate the growth of health care costs in the Commonwealth" [Paragraph 72], including the definition of key terms, requirements for contracts subject to the Price Constraint, key factors in setting these requirements, the mechanism to determine which payers are covered by the constraint, and the methodology for measuring compliance with the price constraints. Please refer to the specific AOD paragraphs for details of the requirements.
Date Due: Price Constraint Period (March 1, 2019 – February 28, 2026)

Testing Approach

As it pertains to the price constraint requirements in the AOD, the following terms are defined in the AOD, with consistent definitions provided below related to their use in this report.

- Baseline Revenue means, for each category of services, the revenue paid to BILH by that Payer for that category of services in 2018, or the revenue that was paid to BILH for that category of services in a recent trailing twelve-month period, provided that each such revenue amount during such recent trailing twelvemonth period used by BILH for this purpose is acceptable to the Covered Commercial Payer.[62]
- Baseline Set of Services means the volume of each and every health care service provided by Covered BILH Providers to a Covered Commercial Payer's enrollees…in the most recently completed Contract Year.[63]
- Covered BILH Providers means all BILH Providers excluding the Joint Contracting SNAs.[64]
- Covered Commercial Payer means Harvard Pilgrim Health Care, Inc.; (ii) Tufts Health Plan, Inc.; (iii) Blue Cross and Blue Shield of Massachusetts, Inc.; (iv) Fallon Community Health Plan, Inc.; (v) UnitedHealthcare, Inc.; (vi) Cigna Corporation; and (vii) Aetna Health, Inc.; and additional Payers, as necessary, so that the volume of payments pursuant to Commercial Health Insurance Products (see **Section A(i)(d)**) to Covered BILH Providers that the System-wide Price Constraint applies to

[61] AOD Par. 72-78.
[62] AOD Par. 77(g)(ii).
[63] AOD Par. 77(b).
[64] AOD Par. 35.

collectively account for at least 90% of such commercial payments to the Covered BILH Providers.[65]

- Covered Managed Medicare Payer means any Payer that contracts with BILH for any BILH Providers to provide services to that Payer's managed Medicare enrollees.[66]
- Commercial Unit Price means the negotiated rate of reimbursement to be paid to BILH or any Covered BILH Provider in exchange for providing a specified health care service to an enrollee.[67] This negotiated rate is paid on a unit basis.[68]
- Commercial Unit Price Rate of Increase means the percentage change in total Projected Revenue that would be paid, in the aggregate, to the Covered BILH Providers from one Contract Year to the next Contract Year for a pre-defined "market basket" of health care services.[69]
- Contract Year means any twelve-month period during which a Payer Contract between BILH or any Corporate Affiliate of BILH and a Covered Commercial Payer or Covered Managed Medicare Payer is in effect.[70]
- Payer means any organization or entity that contracts with health care providers and other health care organizations to provide or arrange for the provision of health care services to any person or group of persons and that is responsible for payment to such providers and other health care organizations of all or part of any expense for such health care services.[71]
- Payer Contract means a contract between BILH and a Payer pursuant to which BILH agrees to provide or arrange for the provision of health care services to enrollees of the Payer's Commercial Health Insurance Products and/or the Payer's Managed Medicare Insurance Products (managed care health insurance plan made available by a Payer only to Medicare-eligible enrollees under Title XVIII of the Social Security Act[72].)[73]
- Projected Revenue means the negotiated Commercial Unit Price for a service in each Contract Year, applied to the volume of that service in the Baseline Set of Services.[74]
- Uniform Price Change means the same negotiated percentage price change for all health care services in a category, and applies to Payer Contracts or parts of Payer Contracts in which BILH and a Covered Commercial Payer negotiate percentage price changes for categories of health care services.[75]

The System-wide Price Constraint, as defined in Paragraph 76, is set at the Health Care Cost Growth Benchmark ("HCCGB") in the calendar year the Payer contract in effect for those Contract Years is signed, minus 0.1%. Paragraph 73 specifies that, for any Contract Year of a Payer Contract executed on or after the Filing Date, the Commercial Unit Price Rate of Increase for Covered BILH Providers agreed to in any Payer Contract with any Covered Commercial Payer shall not be greater than the System-wide Price Constraint.

[65] AOD Par. 78(a)-(b).
[66] AOD Par. 88.
[67] AOD Par. 75.
[68] Ibid.
[69] AOD Par. 77(a).
[70] AOD Par. 32.
[71] AOD Par. 58.
[72] AOD Par. 48.
[73] AOD Par. 59.
[74] AOD Par. 77(c).
[75] AOD Par. 77(g)(i).

The Massachusetts Health Policy Commission ("HPC") has set the HCCGB for the years 2018-2022 at 3.1%.[76] BILH must ensure the Commercial Unit Price Rate of Increase, calculated on an annual aggregated basis across all Covered BILH Providers, does not exceed the System-wide Price Constraint. Compliance with the System-wide Price Constraint is measured prospectively at the time the contract is signed.

Grant Thornton obtained a table of Fiscal Year 2018 Net Patient Service Revenue ("NPSR") by Payer, as prepared by BILH. NPSR is the revenue a hospital would expect to collect for services provided less contractual allowances, as contained in the hospital's financial statements and as reported by the hospital to CHIA.[77] Grant Thornton agreed total revenue to the audited financial statements of the relevant entities. No further testing of the NPSR by provider or Payer was conducted. From this analysis, Grant Thornton determined that Blue Cross Blue Shield of Massachusetts, Inc.; Harvard Pilgrim Health Care, Inc.; Tufts Associated Health Maintenance Organization, Inc. /Total Health Plan, Inc.; United Healthcare of New England, Inc. ("UHC"); CIGNA Healthcare of Massachusetts, Inc.; Aetna Health Inc.; and Fallon Community Health Plan, Inc. together represent 91.4% of BILH's total NPSR. These Payers are consistent with those listed in Paragraph 78(a) and represent the Covered Commercial Payers as of September 30, 2019. There were no additions or departures of Payers from this list between the Filing Date and September 30, 2019.

BILH also provided exhibits which identified Allways Health Partners, the Payer entity controlled by Partners HealthCare ("Partners"), as a Vertically Integrated Payer, per the definition included in Paragraph 78(c)(i), which states that Vertically Integrated means "a relationship between a Payer and a Health Care System where a Health Care System controls, is controlled by, or is under common control with a Payer, whether by corporate membership, equity ownership, or otherwise."[78] Grant Thornton analyzed the following criteria:

- Common control – There is common corporate control between the Partners provider entities and the Partners insurance entities.
- Market share – Per the 2017 CHIA report on healthcare expenditures, Partners maintains a 27.4% market share.[79]
- Service locations – Based on a review of the public website of Partners, the organization has service locations in the counties identified in Paragraph 78(c).

As a Vertically Integrated Payer, Allways Health Partners was excluded from the price constraint analysis. No other Vertically Integrated Payers were identified by BILH.

Additionally, as part of testing for Paragraphs 72-78, Grant Thornton reviewed a summary of managed care contracts provided by BILH to identify any contracts scheduled to expire between the Filing Date and September 30, 2019. BILH designated contracts as either "evergreen" (generally defined as auto-renewing on an annual basis) or "negotiated renewal" (generally defined as a contract that is effective for a specified time period with rates and terms renegotiated at the end of that term). For contracts on the summary schedule, Grant Thornton performed the following testing:

[76] Health Care Cost Growth Benchmark, via *https://www.mass.gov/info-details/health-care-cost-growth-benchmark#benchmark-overview-*, accessed December 19, 2019.
[77] BILH 60 Day Report dated April 30, 2019 – Patients and Revenue p.3.
[78] AOD Par. 78(c)(i).
[79] CHIA Annual Report on the Performance of the Massachusetts Health Care System, 2019.

1. Grant Thornton reviewed a set of 10 randomly selected contracts listed in the inventory. Through validation of contract and amendment terms, Grant Thornton determined that the contract inventory appeared to correctly define the contracts currently in place and scheduled to expire between the Filing Date and September 30, 2019.
2. The review of the contract inventory also indicated that the contract between Winchester Hospital and UHC, a Covered Commercial Payer, was due for negotiation between the Filing Date and September 30, 2019.

Subsequently, Grant Thornton analyzed base contracts, amendments, and financial and contract schedules related to the Winchester Hospital-UHC agreement. This analysis included:

1. Identification of contractual reimbursement terms. Based on the information provided, the UHC contract included reimbursement terms consistent with common fee-for-service mechanisms (i.e., per diems, case rates, fee schedules, etc.).
2. The negotiated increase allowed for Uniform Price Changes by service category. This amendment also included language restricting Winchester Hospital price increases, and restrictions limiting UHC reimbursements to charged amounts.
3. Grant Thornton's analysis of the AOD Exhibit C Price Constraint work sheet prepared by BILH included developing an understanding of the Baseline Revenue, Uniform Price Changes for various categories of service, Projected Revenue, and the aggregate Commercial Unit Price Rate of Increase. "Exhibit C" is BILH's formal summary of "Alternative calculation of the Commercial Unit Price Rate of Increase with Baseline Revenue of most recently completed Contract Year" and "…of trailing twelve-month period," included in the AOD.

   Based on the predecessor agreement information and the summation of the Projected Revenue, BILH calculated price increases for various services categories within inpatient and outpatient service groupings. The information provided, and consistent with Grant Thornton's testing, indicated the Commercial Unit Price Rate of Increase fell below the 3.0% limit established by the AOD.

Result

Grant Thornton testing identified the Covered Commercial Payers consistent with the terms of the AOD. Based on the distribution of revenues, the list of Covered Commercial Payers represented 91.4% of BILH's total NPSR, as indicated above. No additional Payers were included as Covered Commercial Payers.

BILH's schedule of current managed care contracts indicated that the Winchester Hospital agreement with UHC for commercial benefit plans was renegotiated and executed between the Filing Date and September 30, 2019. Based on the aforementioned testing and analysis on the terms of this contract, Grant Thornton did not observe instances of non-compliance with the System-wide Price Constraint. No other contracts appear to have been renegotiated with execution dates between the Filing Date and September 30, 2019.

Grant Thornton notes no instances of noncompliance with the conditions of Paragraphs 72-78 of the AOD.

b. Paragraphs 79-80[80]

Paragraph 79 of the AOD outlines Price Constraint requirements "if a health care provider becomes a Covered BILH Provider during the Price Constraint Period…" while Paragraph 80 outlines requirements "if a provider departs BILH during the Price Constraint Period…" In the respective paragraphs, the AOD outlines how to calculate the Commercial Unit Price increase based on the change that occurred.
Date Due: Price Constraint Period (March 1, 2019 – February 28, 2026).

Testing Approach
Grant Thornton requested full provider rosters from BILH, inclusive of facilities and individual physicians. Based on the information provided, no facilities joined or exited BILH between the Filing Date and September 30, 2019. While some physician providers were recruited to BILH, the only contract renegotiated with an effective date between the Filing Date and September 30, 2019 was the Winchester Hospital agreement with UHC.

Result
Based on the information provided, there were no additions or deletions to BILH that were impacted by the requirements in Paragraphs 79 and 80. As such, Grant Thornton notes no instances of noncompliance with these paragraphs.

c. Paragraph 81[81]

Paragraph 81 outlines the procedure that should be utilized to complete revenue projections "[if] BILH and a Covered Commercial Payer agree to a change in Unit Price or a Uniform Price change…occurs during a Contract Year".
Date Due: Price Constraint Period (March 1, 2019 – February 28, 2026).

Testing Approach
For this testing period, only one contract (the agreement between Winchester Hospital and UHC) was renegotiated with an effective date between the Filing Date and September 30, 2019. Grant Thornton notes that the changes occurred in alignment with the expected term of the contract and contract amendments. As such, no additional testing was required.

Result
There is no determination of compliance for Paragraph 81 required at this time.

[80] AOD Par. 79-80.
[81] AOD Par. 81.

d. Paragraph 82[82]

Paragraph 82 outlines approaches to compliance with the Price Constraint in the event that "BILH and a Covered Commercial Payer [enter] into an agreement that provides payment for a Commercial Health Insurance Product to BILH or a Covered BILH Provider through one or more Alternative Payment Methods…".
Date Due: Price Constraint Period (March 1, 2019 – February 28, 2026).

Testing Approach
A Commercial Health Insurance Product is any of the various health insurance plans or products and/or health benefit plan designs offered or administered by any Payer and not funded by Medicare, or Medicaid, including but not limited to tiered network plans, limited network plans, self-insured health plans, indemnity plans, preferred provider organization plans, health maintenance organization plans and point of service plans.[83]

Alternative Payment Methods is any transfer of funds from a payer to BILH pursuant to a contract for a Commercial Health Insurance Product or a Managed Medicare Health Insurance Product that is not captured by Commercial Unit Price payments or by Managed Medicare Percent of Unit Price payments, including but not limited to risk payments, quality payments, and infrastructure payments.[84] Managed Medicare Health Insurance Products is any means a managed care health insurance plan made available by a Payer only to Medicare-eligible enrollees under Title XVIII of the Social Security Act.[85]

For this testing period, only one contract (the agreement between Winchester Hospital and UHC) was renegotiated with an effective date between the Filing Date and September 30, 2019. This agreement is based solely on Commercial Unit Price provisions.

Result
There is no determination of compliance for Paragraph 82 required at this time.

[82] AOD Par. 82.
[83] AOD Par. 29.
[84] AOD Par. 11.
[85] AOD Par. 48.

ii. Constraint on Managed Medicare Unit Price Payments and Alternative Payment Methods

a. Paragraphs 83-88[86]

Paragraphs 83-88 outline the approach for demonstration of compliance with the Price Constraint related to the "negotiated rate of reimbursement to be paid to BILH or any Covered BILH provider in exchange for providing a specified health care service to an enrollee of a Covered Managed Medicare Payer's Managed Medicare Health Insurance Plan…"
Date Due: Price Constraint Period (March 1, 2019 – February 28, 2026).

Testing Approach
These paragraphs were not applicable in this reporting period. No managed Medicare contracts were renegotiated with execution dates between the Filing Date and September 30, 2019.

Result
There is no determination of compliance for Paragraphs 83-88 required at this time.

b. Paragraph 89[87]

Paragraph 89 outlines the approach for demonstration of compliance with the Price Constraint related to Managed Medicare contract agreements which include Alternative Payment Methods.
Date Due: Price Constraint Period (March 1, 2019 – February 28, 2026).

Testing Approach
This paragraph was not applicable in this reporting period. No managed Medicare contracts were renegotiated between the Filing Date and September 30, 2019.

Result
There is no determination of compliance for Paragraph 89 required at this time.

[86] AOD Par. 83-88.
[87] AOD Par. 89.

B. MassHealth and Hiring

Summary provided for convenience of the reader. The language of the AOD prevails.

As stated in the AOD, BILH agreed to several provisions that either maintain or extend BILH participation in MassHealth over different time periods governed by the AOD. The AOD stipulates that all facilities and providers participating in MassHealth as of the Filing Date are expected to continue to do so throughout the term of the AOD, and BILH may not cap the number of MassHealth patients it collectively serves. BILH also agreed to make a good faith effort to have all physicians and other licensed providers apply to participate in MassHealth within three years of the Filing Date.

Additionally, BILH has agreed to target underserved populations by marketing, advertising and promoting access to BILH Providers participating in MassHealth in specific geographies in eastern Massachusetts and the Boston neighborhoods of Mission Hill, Roxbury, Dorchester and Mattapan. "BILH Providers" means all health care providers that are owned or controlled by, under direct financial management of, or that jointly contracted with BILH. [88]

The AOD also includes a focus on the hiring practices of BILH following the merger, with specific limitations on physician and department hiring from any Safety Net Hospital or Community Health Center to a BILH Hospital. As defined by the AOD, "BILH Hospital" means any Massachusetts licensed hospital that is owned, operated, or controlled by BILH and includes all facilities and sites that operate under the license of such hospital.[89] BILH has agreed not to employ any Safety Net Hospital or Community Health Center PCPs who were employed or jointly-contracted by these entities as of the Filing Date, with some approved exceptions, within one year of the Closing Date. Similarly, BILH is prohibited by the AOD from soliciting the transfer of any departments from a Safety Net Hospital throughout the Access Period.

i. MassHealth

a. Paragraphs 92-93[90]

> Paragraph 92: "BILH Facilities participating in MassHealth as of the Filing Date shall maintain their participation in MassHealth indefinitely."
> *Date Due:* Indefinitely, monitored annually.
>
> Paragraph 93: "All health care providers employed by BILH who participate in MassHealth as of the Filing Date shall continue to participate in MassHealth so long as they are qualified to do so."
> *Date Due:* Indefinitely, monitored annually.

Testing Approach

In its proposal submitted to the DPH as part of the DoN Condition 10 requirement, BILH offered a definition for "participation" in MassHealth that is subject to DPH's approval. For purposes of AOD compliance with Paragraphs 92-93, and in the absence of any formal or legal definition for "participation" in MassHealth, Grant Thornton performed its testing based on BILH's proposed definition.

[88] AOD Par. 19.
[89] AOD Par. 17.
[90] AOD Par. 92-93.

BILH assembled inventories of MassHealth participation among its facilities and providers based on the proposed definition, and provided copies to Grant Thornton. BILH documents indicated all BILH Hospitals and affiliate hospitals in the BILH system (Lahey, BIDMC, BID-Milton, BID-Needham, BID-Plymouth, Mount Auburn Hospital, New England Baptist Hospital, Anna Jaques Hospital, Addison Gilbert Hospital, BayRidge Hospital, Beverly Hospital, and Winchester Hospital) were participating as of year-end.

Additionally, Grant Thornton obtained an attestation from BILH that all providers participating in MassHealth as of September 30, 2019 were also participating as of the Filing Date. Similarly, BILH's Chief Integration Officer stated that all BILH facilities, which all participated as of the Filing Date, continued to participate in MassHealth as of September 30, 2019. During site visits to several BILH facilities, Grant Thornton inquired about each facility's participation in MassHealth, and noted no exceptions in which a facility was not participating.

Result
Grant Thornton finds no evidence of noncompliance by BILH with Paragraphs 92 and 93 during this reporting period, which require BILH to maintain indefinitely the level of its providers and facilities participating in MassHealth as of the Filing Date. Grant Thornton will continue to evaluate BILH's MassHealth participation and the DPH's disposition towards the proposed definition of participation in future reporting periods.

b. Paragraph 94[91]

Paragraph 94: "BILH shall make a good faith effort to have all physicians and other licensed providers who are employed by BILH, and all other BILH Providers, apply to participate in MassHealth (if they are eligible for such participation) within three (3) years of the Filing Date."
Date Due: Within 3 years of Closing Date (March 1, 2022).

Testing Approach
In addition to the AOD, BILH must comply with an additional set of requirements for MassHealth participation in accordance with its DoN filed with the DPH. Condition 10 of the DoN requires BILH to "develop a plan for review and approval by the Department through which, within two years of the approval of the DoN, all employed physicians and other licensed providers who are authorized to participate in MassHealth, shall have applied to participate in MassHealth."[92]

[91] AOD Par. 94.
[92] Determination of Need Application, "NEWCO-17082413-TO," amended and approved by the DPH, October 2018.

BILH has formed a proposal for the DoN Condition 10 requirement and shared it with Grant Thornton, which was submitted on December 12, 2019. The proposal outlined the process BILH will follow to achieve network-wide enrollment in MassHealth for all of its providers. Per the proposal, BILH stated an intent to follow the timeline required by the DPH to have all providers apply to enroll in MassHealth by October 10, 2020, which is more than one year earlier than the AOD requirement of November 29, 2021.[93]

Result
Paragraph 94 requires that BILH comply within three years of the Filing Date and, as such, no determination of compliance is required for this paragraph at this time.

c. Paragraph 95[94]

Paragraph 95: "Consistent with M.G.L. ch. 151B, § 4(10) and 130 CMR 450.202, BILH shall be prohibited indefinitely from capping the number of MassHealth patients it collectively serves."
Date Due: Indefinitely, monitored annually.

Testing Approach
BILH's Chief Integration Officer stated during meetings with Grant Thornton that BILH does not have any policies placing a cap on the number of MassHealth patients that it serves.

Grant Thornton visited a sample of BILH Hospital locations to understand these locations' policies related to patient acceptance and scheduling of MassHealth patients. During interviews with the patient access and scheduling teams at Lahey, BIDMC, BayRidge Hospital, Amesbury Health Center (a member of Anna Jaques Hospital), and Beth Israel Deaconess-Plymouth, Grant Thornton found no instances when patient insurance status had any bearing on a patient's access to services, whether they be commercially-insured or a MassHealth or governmentally-insured patient.

Result
Grant Thornton observed no evidence that BILH placed caps on the number of MassHealth patients it serves, and as such, Grant Thornton finds no evidence of noncompliance with the requirement in Paragraph 95 between the Closing Date and September 30, 2019.

[93] BILH Proposal to the Massachusetts Department of Public Health Regarding Provider Participation in the MassHealth Program (Condition 10 Proposal), dated December 12, 2019.
[94] AOD Par. 95.

d. Paragraphs 96-97[95]

> Paragraph 96: "To increase the percentage of MassHealth patients in its payer mix, BILH shall create, implement and adequately fund a new program of marketing and advertising that targets underserved populations in specific geographies throughout Eastern Massachusetts and highlights and promotes access to BILH Providers for MassHealth patients. BILH, with input from the AGO, shall determine the scope and scale of such a program, as well as its geographic and demographic priorities."
> *Date Due:* Access Period, monitored annually.
>
> Paragraph 97: "As part of its efforts to serve MassHealth patients, NEBH shall create, implement and adequately fund a marketing, advertising and outreach program, including but not limited to the development of a multi-channel, micro-targeted campaign with a mix of transit advertising, print and digital advertising, and targeted outreach to housing developments (all utilizing multilingual messaging), focusing on the Boston neighborhoods of Mission Hill, Roxbury, Dorchester, and Mattapan."
> *Date Due:* Access Period, monitored annually.

Testing Approach

In accordance with Paragraph 96, BILH developed a marketing and advertising plan with the purpose of expanding access to MassHealth patients in the BILH service area. This plan was detailed in a report provided to the DPH as a requirement of BILH's DoN.[96] In this report, BILH states that it plans to use a combination of traditional and digital advertising, along with media outreach, to provide information about BILH medical, surgical, and behavioral health services as well as educational content targeted at MassHealth enrollees.

Similarly, NEBH developed a marketing plan to expand access of its orthopedic program for MassHealth patients, as required by Paragraph 97. This plan was included in the same report provided to DPH as the BILH marketing plan for MassHealth. This plan is scheduled to be implemented in FY2020, and will target residents in the Mission Hill, Roxbury, Dorchester, and Mattapan communities. Goals of the plan include improving access and building awareness of NEBH services, which will be accomplished through multilingual and multimedia outreach in these regions.

Result

BILH developed marketing plans to increase access for MassHealth patients in its service area, and for NEBH specifically. The AOD does not specify a time period for complying with these efforts, but does indicate BILH should seek input from the AGO. Grant Thornton will assess and report on these activities in future periods, and will indicate if and when the threshold has been met to meet these requirements. As such, no compliance determination is made at this time.

[95] AOD Par. 96-97.
[96] BILH Proposal to Expand Access and Treatment of Patients Participating in the MassHealth Program (Condition 9 Proposal), submitted to DPH, dated September 26, 2019.

ii. Hiring

a. Paragraphs 103-104[97]

> Paragraph 103: "For a period of one year after the Closing Date, BILH shall not employ any PCP who as of the Filing Date is employed by or jointly contracted with (i) a Safety Net Hospital, or (ii) a Community Health Center, provided, however, that this "no hire" provision shall not apply:
>
> a. to a PCP who is employed by or jointly contracted with a hospital which is contractually affiliated with or owned by a Health Care System that has 10% or more statewide commercial market share by Net Patient Service Revenue, as calculated by CHIA for the prior fiscal year; or
>
> b. to any PCP with whom BILH has a non-disclosure agreement, letter of intent, or executed agreement already in place as of the Closing Date, provided further, however, that for any employment arrangement that would otherwise violate this provision but for this "in process" exception, BILH will provide the AGO and the HPC with evidence that negotiations over terms were already underway as of the Filing Date."
>
> *Date Due:* For a period of 1 year after the Closing Date (March 1, 2020).
>
> Paragraph 104: "During the Access Period, except with the assent of the hospital, BILH shall not solicit, or cause the solicitation, for employment any Department that is part of a Safety Net Hospital. For purposes of this paragraph, a "Department" shall mean all or a substantial majority of hospital medical staff in a clinical department or division, such that the departure of such a group of medical staff members would render the hospital incapable of continuing to provide that clinical service, including specialty and sub-specialty services."
>
> *Date Due:* Access Period (March 1, 2019 – February 28, 2027).

Testing Approach

Grant Thornton obtained physician hiring inventories provided by BILH of all PCPs, including those from Safety Net Hospitals and Community Health Centers, hired or in the process of being hired prior to the Filing Date. A "Safety Net Hospital" is any hospital with a Medicaid Payer mix greater than 20%, as reported by Center for Health Information and Analysis (CHIA) for the prior fiscal year.[98] A "Community Health Center" is a non-profit, community-based organization that provides comprehensive primary and preventive health care and social services to medically underserved individuals and families. These inventories included the PCPs' current or former employers, future employment location, date that hiring discussions were underway, and if and when employment began. BILH also provided a case list of potential recruitments to the AGO.

Grant Thornton conducted interviews with leadership of BILH's SNAs to understand any departmental changes and PCP transfers from an SNA to a BILH facility, and the circumstances surrounding any such transfer. Grant Thornton interviewed the President of Signature Medical Group at SHC; the Interim President and CEO at LGH; the Interim CEO and Chief Medical Officer at CHA; and the Senior Vice President for Network Development

[97] AOD Par. 103-104.
[98] AOD Par. 64.

at CHA. According to those interviewed, BILH did not solicit PCP or department transfers between the Closing Date and September 30, 2019.

BILH noted one PCP whose recruitment was "in process" as of the Closing Date and, as such, falls under the exclusion described in Paragraph 103(b). Grant Thornton confirmed with the AGO that they were notified of this "in process" exception, and that BILH did not violate any terms of the AOD in hiring this PCP. The AOD's prohibition on hiring of PCPs employed by or jointly contracted by Safety Net Hospitals or Community Health Centers applies to the period of one year after the Closing Date. This requirement ends on March 1, 2020.

BILH described two cases in which a specialist was potentially solicited from an SNA, which could have been applicable to the requirement in Paragraph 104 prohibiting the hiring of departments from a Safety Net Hospital. Grant Thornton reviewed the terms of these transfers – one breast surgeon from CHA and one vascular surgeon from LGH – both of which were noted on the case list of inquiries brought to the AGO, and learned through the interviews with SNA leaders that the respective SNAs were involved in the hiring discussions and provided their consent.

Result
Grant Thornton observed no instances of BILH hiring PCPs or departments of Safety Net Hospital between the Closing Date and September 30, 2019 that were not conducted according to the terms required by Paragraphs 103 and 104. As such, Grant Thornton notes no evidence of noncompliance with these Paragraphs as of September 30, 2019.

C. CHCs and SNAs: Investments

Summary provided for convenience of the reader. The language of the AOD prevails.

In Paragraphs 98 and 99 of the AOD, BILH commits to maintaining historical funding to CHCs and SNAs of $40.96 million, while also agreeing to additional investments of $8.8 million in direct financial support. The AOD also calls for an additional $5 million in investments to expand access to health care within communities of color and low-income communities by establishing new collaborative relationships with CHCs and SNAs, including, but not limited to, those located in Gateway Municipalities and other underserved areas of eastern Massachusetts (See **Section E** of this report).[99] The requirements for each investment category are separate and distinct. Only $1 million of the investments by BILH for CHCs and SNAs made between the Filing Date and Closing Date may count towards the $40.96 million. These investments must be made without reducing historical levels of support from BILH.[100]

[99] "Gateway Municipality" refers to a municipality with a population greater than 35,000 and less than 250,000 with a median household income below the commonwealth's average and a rate of educational attainment of a bachelor's degree or above that is below the commonwealth's average, as defined in M.G.L. c. 23A, § 3A.
[100] AOD Par. 98.

a. Paragraphs 98-99[101][102]

> Paragraph 98: "Consistent with the Transaction Parties' historical clinical and financial support for CHC Affiliates and Safety Net Affiliates, BILH shall fund and distribute at least $40.96 million in the aggregate to CHC Affiliates and Safety Net Affiliates during the Access Period, provided, however, that up to $1 million of such funds may be expended in the time period between the Filing Date and Closing Date. The distributions shall be made on a timely and reasonably consistent annual basis and shall not at any point fall below $4.096 million over any two-year period during the Access Period."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2027); Between Filing Date and Closing Date (November 29, 2018 - March 1, 2019); Initial two year period during the Access Period (March 1, 2019 – February 28, 2021)
>
> Paragraph 99: "BILH shall also fund and distribute at least $8.8 million in additional direct financial support to CHC Affiliates and Safety Net Affiliates during the Access Period. The distribution of this $8.8 million shall (i) begin as soon as possible and, in any event, no later than two (2) years after the Closing Date, and (ii) continue on a timely and reasonably consistent basis throughout the Access Period and in accordance with planning processes described in Paragraphs 106(a) and 112(b). BILH shall not fund this $8.8 million from a reduction in other historical spending used to benefit underserved populations."
> *Date Due:* Two years after Closing Date (March 1, 2021).

Testing Approach

Grant Thornton obtained an understanding of BILH's financial relationships and investments with CHCs and SNAs. During the period between the Filing Date and September 30, 2019, BILH provided direct financial support to the following CHCs and SNAs: Charles River Community Health Center, The Dimock Center, Fenway Community Health Center, Outer Cape Health Services, South Cove Community Health Center, and CHA. Based on discussions with BILH's Vice President of Revenue Analysis & Regulatory Reporting, BILH's investments in SNAs are based, in part, out of agreements with hospitals in which BILH leases physician staff to SHC at subsidized rates (SHC) or the coverage of non-physician costs (LGH).[103][104] Further, as part of its investments, BILH absorbs the losses of the operations of Bowdoin Street Health Center, a CHC under the license of BIDMC.[105]

These financial relationships between BILH and the CHCs and SNAs are listed in the table below.

[101] AOD Par. 98.
[102] AOD Par. 99.
[103] Affiliated Physicians Group/Lawrence General Hospital Leased Physicians Agreement, dated February 6, 2015.
[104] Affiliated Physicians Group/Signature Healthcare Medical Group Fourth Amended Leased Physicians Agreement, dated October 1, 2017.
[105] Bowdoin Clinic Revenue - Email from BILH (Attestation) dated December 16, 2019.

Organization	Type	Form of Support
Charles River Community Health Center	CHC	Direct payment support
The Dimock Center	CHC	Direct payment support
Fenway Community Health Center	CHC	Direct payment support
Outer Cape Health Services	CHC	Direct payment support
South Cove Community Health Center	CHC	Direct payment support
Bowdoin Street Health Center	CHC	BILH schedule outlining absorption of loss
Cambridge Health Alliance	SNA	Direct payment as prescribed by Donor Commitment Agreement
Lawrence General Hospital	SNA	Direct payment to LGH for physicians shared with APG
Signature Healthcare	SNA	Direct support for clinical services

Further, Grant Thornton obtained and analyzed leased physician agreements between Affiliated Physicians Group ("APG") and LGH, and between APG and SHC, to gain an understanding of the financial implications of contracts with respect to BILH's investment in SNAs. Grant Thornton also obtained a Donor Commitment Agreement between BIDMC and CHA.[106]

Grant Thornton subsequently tested the existence of the investments by agreeing the invoice and voucher documentation to the investment schedule provided by BILH for the Scope Period. For purposes of tracking BILH investments in CHCs and SNAs, payments are tabulated on a Cash Basis. Payments are considered part of BILH's investment in CHCs and SNAs once paid, not as of the invoice date.

With respect to Bowdoin Street Health Center, Grant Thornton analyzed a series of related financial schedules provided by BILH that depict excess expenses over revenue for periods analyzed (Filing Date to Closing Date and Closing Date to September 30, 2019). The primary schedule was generated from BIDMC's financial systems, and displayed gross patient service revenues and direct expenses (e.g., salaries, supplies, etc.) for the cost centers that comprise the Bowdoin Street Health Center.

Net revenue information from BILH's decision support system provided inpatient and outpatient net revenue for BIDMC for which the sum agreed to BIDMC's internal financial statements. BIDMC also provided an itemized list of net revenue for various outpatient services, the sum of which agreed to the total outpatient net revenues.[107] BILH provided additional net revenue detail for services provided at the Bowdoin Street Health Center, the sum of which agreed to the amount shown for the clinic on the itemized list of outpatient services.[108] BILH's VP of Revenue Analysis and Regulatory Reporting attested that net revenue for services provided at the clinic were not recorded elsewhere within BIDMC.[109] No further testing was performed on net revenue.

BILH allocated three categories of BIDMC overhead to the clinic, and did not to allocate other categories of overhead costs that are more hospital-centric and are less related to the operation of a clinic.

[106] Cambridge Health Alliance Donor Commitment Agreement, dated December 1, 2018.
[107] Bowdoin Street Health Center Financial Summaries for FY15-FY19.
[108] Ibid.
[109] Bowdoin Street Health Center Revenue - Email from BILH (Attestation), dated December 16, 2019.

BIDMC Overhead Allocations to the Bowdoin Street Clinic	
Included	**Excluded**
Fringe Benefits Admitting and Billing Hospital Administration	Facilities Maintenance and repairs Cleaning services Food and dietary Social services Central services/supplies

BILH allocated costs to Bowdoin Street Health Center by multiplying the respective unit cost multiplier for each overhead category from BIDMC's Fiscal Year 2018 Medicare Cost Report by the allocation metric for each overhead category.[110] Grant Thornton traced these amounts from the schedules prepared by BILH to BIDMC's Fiscal Year 2018 Medicare Cost Report and noted their agreement.

Based on the above testing for net revenue, direct expenses, and indirect expenses provided by BILH, Grant Thornton did not observe any discrepancies in its stated investment in Bowdoin Street Health Center for the periods analyzed.

Result
There is no determination of compliance required by the AOD as of September 30, 2019. A determination will be made in a subsequent report.

Grant Thornton notes investments in CHCs and SNAs for the period between November 29, 2018 and February 28, 2019 of $1,845,497, an amount in excess of the $1 million permitted to count toward the $40.96 million investment requirement set forth in Paragraph 98 of the AOD.

BILH contributed an additional $3,509,499 between March 1, 2019 and September 30, 2019, amounting to $4,509,499 total investment of the required $40.96 million investment to be made toward CHCs and SNAs over the Access Period.

$4,509,499 of the $4.096 million biannual contribution requirement had been disbursed as of September 30, 2019.

[110] BIDMC Fiscal Year 2018 Medicare Annual Cost Report.

D. CHCs and SNAs: Non-Financial

Summary provided for convenience of the reader. The language of the AOD prevails.

In addition to financial commitments, the AOD also calls on BILH to make various operational commitments to its CHCs and SNAs. These include renewing CHC affiliation agreements on substantially similar terms to those in place at the Filing Date; involving the CHCs in collaborative planning for use of investments, business planning and regional community needs assessments; and expanding investments in health centers in specific areas of eastern Massachusetts.

Related specifically to SNAs, BILH shall assist with the recruitment of PCPs and specialists to their hospitals, and must offer its branding and marketing to the SNAs. BILH is also prohibited from employing PCPs employed or jointly contracted by Safety Net Hospitals or CHCs as of the Filing Date until the first anniversary of the Closing Date (with some exceptions permitted), and is not permitted to solicit the employment of a Safety Net Hospital department during the Access Period. BILH must also create a model for joint system and regional planning with SNAs, set mutually agreed upon priorities for investments, and include SNA personnel in meaningful planning of community needs assessments within one year of the Closing Date.

BILH must also refrain from various contracting activities with Joint Contracting SNAs, including incentivizing SNA physicians to move into risk-sharing arrangements with BILH Hospitals, treating referrals by CIN physicians to SNAs as leakage (or otherwise discouraging CIN physicians from referring to SNAs), or entering into contracts with reimbursement levels for SNAs that fall below thresholds defined in Paragraph 117. As defined in the AOD, a CIN is an entity, however named, that jointly negotiates contracts with Payers on behalf of BILH health care facilities and providers and contractual affiliates.[111]

i. Community Health Centers ("CHCs")

a. Paragraph 105[112]

> Paragraph 105: "BILH shall make good faith efforts to continue and renew affiliation agreements with the CHC Affiliates on substantially similar terms to those in place as of the Filing Date and in accordance with its financial obligations in Paragraphs 98-99. If a CHC Affiliate chooses to discontinue its affiliation with BILH, any obligation of BILH towards that CHC Affiliate under this Assurance, including financial obligations under Paragraphs 98-99, shall cease and any funds that BILH would have used to meet its financial obligations to that CHC Affiliate shall be reallocated towards BILH's other obligations under Paragraphs 98 or 99."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2027).

[111] AOD Par. 95.
[112] AOD par. 105.

Testing Approach
Grant Thornton obtained the current Memorandum of Understanding for each CHC and notes that between the Filing Date and September 30, 2019, all of the CHC affiliation agreements continued and remained in effect, and none were renewed on new terms.

Result
Grant Thornton notes no evidence of BILH's noncompliance with the requirement in Paragraph 105 that BILH renew its affiliation agreements with CHCs on "substantially similar terms," as new contracts were not executed during this reporting period. This requirement will be reassessed, as applicable, in subsequent reporting periods as affiliation agreements are renewed.

b. Paragraph 106[113]

Paragraph 106: "Within one (1) year of the Closing Date, and continuing throughout the Access Period:

a. BILH shall engage in a collaborative process with each CHC Affiliate to establish goals and priorities for BILH's investments in Community Health Centers, including new investments made pursuant to Paragraph 99; and
b. BILH shall ensure meaningful participation of personnel from the CHC Affiliates in regional clinical needs assessments and other relevant BILH business planning in the CHC Affiliates' service areas."

Date Due: Within 1 year of Closing Date (March 1, 2020), monitored annually.

Testing Approach
Grant Thornton obtained the bylaws for the Community Care Alliance ("CCA"), a committee consisting of each of the CHCs affiliated with BILH (Bowdoin Street Health Center, Charles River Community Health Center, The Dimock Center, Fenway Community Health Center, Outer Cape Health Services, and South Cove Community Health Center), whose chief purpose is to facilitate an integrated network of health centers to deliver care to patients from primarily underserved or uninsured populations. The CCA has membership from both CHC representatives and BILH representatives. The CCA meets monthly and, based on meeting agendas obtained by Grant Thornton, frequent topics discussed include community health needs assessments and the community health improvement plans and their implementation, as well as other community-based health initiatives and performance updates from the CHCs.

Grant Thornton conducted interviews with Executive Directors at South Cove Community Health Center, Charles River Community Health Center, and Bowdoin Street Health Center in order to obtain an understanding of their involvement in collaborative planning and needs assessments with BILH. Topics discussed during these interviews included each interviewee's role in the CCA, views of their respective relationships with BILH pre- and post-merger, BILH's participation and collaboration with the CHCs in community health and regional needs assessments, and financial investments by BILH. Other topics in relation to the AOD and its requirements were also discussed as applicable. These interviews provided evidence that members of the CCA have engaged and continue to engage in collaboration with BILH.

[113] AOD Par. 106.

In interviews with Grant Thornton, CCA members stated that they have direct lines of communication with BILH leadership, and that BILH makes good faith efforts to meet the needs of the CHCs. BILH has also approached some of the CHCs for feedback relating to behavioral health needs, which is an additional requirement of the AOD (see **Section H** of this report), including identification of data that the CHCs can collect to improve the implementation of the BILH's behavioral health plan.

Based on analysis of CCA meeting agendas and interviews with selected CHC management personnel, BILH appears to have collaborated with CHCs on community health needs. BILH informed Grant Thornton it intends to continue this collaboration and focus on establishing goals and priorities for BILH's investments in CHCs. According to Grant Thornton's interviews with selected CHC management personnel, discussions concerning regional clinical needs assessments have started to occur.

Result
Paragraph 106 specifies that BILH must comply with these requirements by March 1, 2020 and continue to do so throughout the Access Period. Therefore, no determination of compliance is required at this time.

c. Paragraph 107[114]

Paragraph 107: "Within two (2) years of the Closing Date, and continuing throughout the Access Period, BILH shall explore opportunities to expand clinical and financial support to additional Community Health Centers within the primary service areas of BILH Hospitals and hospitals who are Contractually-Affiliated Providers in Essex and Middlesex Counties."
Date Due: Two years from Closing Date (March 1, 2021), monitored annually.

Testing Approach
Based on discussion with BILH, it has begun the process of exploring opportunities with health centers in Essex and Middlesex Counties, but has not yet entered into any commitments related to this requirement.

Result
No compliance determination is being made with respect to Paragraph 107 at this time. This requirement will be reassessed following March 1, 2021.

[114] AOD Par. 107.

ii. Safety Net Affiliates ("SNAs")

a. Paragraph 108[115]

> Paragraph 108: "BILH shall make good faith efforts to continue and renew affiliation agreements with the Safety Net Affiliates on substantially similar terms to those in place as of the Filing Date and in accordance with its financial obligations in Paragraphs 98-99. However, if a Safety Net Affiliate chooses to discontinue its affiliation with BILH, any obligation of BILH towards that Safety Net Affiliate under this Assurance, including financial obligations under Paragraphs 98-99, shall cease. Further, any funds that BILH would have used to meet its financial obligations to that Safety Net Affiliate shall be reallocated towards BILH's other obligations under Paragraphs 92-122, including to programs and services addressing access for at-risk, underserved, uninsured and MassHealth patient populations and to Safety Net Hospitals that become contractually or clinically affiliated with BILH after the Filing Date. While such funds may be directed to sustaining or expanding BILH's participation in MassHealth ACO programs, they shall not be used to offset any losses from BILH's participation in the MassHealth program itself."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2021)

Testing Approach

Discussions with BILH and SNA management indicated that, during the period between the Filing Date and September 30, 2019, BILH's affiliation agreements with LGH and SHC did not change. However, BILH did execute a new affiliation agreement with CHA during this period.

Grant Thornton analyzed and compared the initial CHA Clinical Affiliation Agreement executed April 25, 2013[116] and the First Amended and Restated CHA Clinical Affiliation Agreement dated December 1, 2018.[117] Changes in language, additions, and deletions that included clarification of previous language or expansion of processes specified between CHA, BIDMC and Harvard Medical Faculty Physicians were noted during analysis of the agreements. For example, the Agreement included expansion of development opportunities that the parties may engage in and an extension of the notice to not renew the Agreement from six months to 12 months.[118] These modifications do not change the agreement from being substantially the same as the initial agreement.

CHA, LGH, and SHC all had active affiliation agreements as of year-end, and Grant Thornton's interviews with management at each SNA were consistent with this. As such, the requirement related to the reallocation of financial obligations does not apply to the current reporting period.

[115] AOD Par. 108.
[116] Cambridge Health Alliance Clinical Affiliation Agreement, executed April 25, 2013.
[117] First Amended and Restated CHA Clinical Affiliation Agreement, dated December 1, 2018.
[118] Ibid.

Result
Grant Thornton observes that the CHA affiliation agreement renewed during the period between the Filing Date and Year End was renewed on substantially similar terms, and as such, notes no evidence of BILH's noncompliance with the requirements set forth in Paragraph 108.

b. Paragraph 109[119]

Paragraph 109: "BILH shall, in accordance with ongoing affiliation agreements, maintain the clinical programs that the Transaction Parties are supporting at Safety Net Affiliates as of the Filing Date, provided, however, that if in accordance with BILH's obligations set forth in Paragraphs 112(a) and 112(b), BILH and a Safety Net Affiliate agree to end or reduce a clinical program existing as of the Filing Date in favor of a different clinical program, such discontinuance or reduction shall not constitute a violation of this Paragraph 109 as long as the historical levels of financial support to the Safety Net Affiliates pursuant to Paragraph 98 are maintained."
Date Due: Access Period (March 1, 2019 – February 28, 2021)

Testing Approach
Grant Thornton obtained and analyzed a listing of services provided at each SNA, and observed that BILH has maintained the clinical programs in place as of the Filing Date at each of its SNAs, in accordance with Paragraph 109. BILH added anesthesiology services at CHA during the reporting year, when CHA ceased using the services of the third party anesthesiology provider with whom it had previously contracted. No services were noted as being eliminated from any of the SNAs.

Additionally, the respective leaders of SHC, LGH, and CHA stated in interviews with Grant Thornton that none of the BILH-supported clinical programs at their hospitals have been reduced or discontinued between the Closing Date and year-end.

Result
Grant Thornton finds no evidence of noncompliance with the requirement in Paragraph 109 to maintain the clinical programs in place as of the Filing Date and supported by BILH at the SNA facilities.

[119] AOD Par. 109.

c. Paragraph 110[120]

> Paragraph 110: "BILH shall assist Safety Net Affiliates with the recruitment of PCPs and specialists, and with efforts to increase the number of PCPs and specialists affiliated with the Safety Net Affiliates, based on shared programmatic priorities, as agreed to by those entities."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2021)

Testing Approach

Grant Thornton obtained the affiliation agreements for each of the SNAs, and notes that each affiliate contract contains provisions that reference options for joint physician recruiting with BILH, and that LGH's affiliation agreement with BILH contains language devoted to recruiting. Primary care recruitment needs have also been listed as agenda items for LGH and CHA Steering Committee meetings.

For LGH, Grant Thornton obtained additional documentation of a primary care needs assessment performed for LGH by a healthcare consulting firm, which BILH stated was jointly funded by BIDMC and LGH. The Interim President and CEO of LGH stated in an interview with Grant Thornton that BILH and LGH have an agreement for BILH to assist in the recruitment of ten new PCPs at LGH, and that six have been recruited as of the date of Grant Thornton's interview, with a year and a half remaining on the agreement.

The President of Signature Medical Group at SHC stated in an interview with Grant Thornton that SHC has not requested BILH to assist in PCP recruiting, but is aware that the option is available should they choose to pursue it. The Interim CEO and Chief Medical Officer of CHA stated in an interview with Grant Thornton that while CHA has not requested assistance from BILH with PCP recruiting, BILH has assisted in recruiting specialists.

Result

Grant Thornton finds no evidence of noncompliance by BILH with the requirement in Paragraph 110 that it assist the SNAs in their recruitment of PCPs and specialists.

[120] AOD Par. 110.

d. Paragraph 111[121]

> Paragraph 111: "BILH shall make the BILH brand and logo available to the Safety Net Affiliates for the purpose of overall hospital co-branding in signage, marketing, communications, and advertisement, as well as for targeted co-branding of clinical programs that have a sufficient degree of clinical integration with BILH (e.g., Signature Healthcare's Greene Cancer Care Center's affiliation with Beth Israel Deaconess Medical Center ("BIDMC")). Such co-branding shall follow clear and consistent guidelines developed by the BILH marketing and clinical teams, provided, however, that BILH shall also maintain flexibility to meet the needs of Safety Net Affiliates that choose to maintain co-branding with a specific legacy institution (e.g., BIDMC) rather than BILH."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2027).

Testing Approach

Grant Thornton obtained the most recent Clinical Affiliation Agreements between BIDMC, Harvard Medical Faculty Physicians, and the SNAs, noting that each agreement contains language that require joint marketing plans to be developed collaboratively and mutually agreed upon by the parties, and each provides opportunities for co-branding strategies between the parties for clinical and academic programs and services.[122][123][124] Further, Grant Thornton observed the use of BIDMC branding at two of the SNA locations.

Result

Grant Thornton finds no evidence of noncompliance by BILH with the requirement in Paragraph 111, and notes that BILH has adequately made the BILH brand and logo available to the SNAs for the purpose of co-branding.

[121] AOD Par. 111.
[122] First Amended and Restated CHA Clinical Affiliation Agreement, dated December 1, 2018.
[123] First Amendment to LGH Clinical Affiliation Agreement, dated May 6, 2014.
[124] SHC Clinical Affiliation Agreement, dated May 31, 2013.

e. Paragraph 112[125]

> Paragraph 112: "Within one (1) year of the Closing Date, and continuing throughout the Access Period:
>
> a. BILH shall establish a model for joint system and regional planning for the relevant regions within which each Safety Net Affiliate operates. This model shall ensure meaningful participation of personnel from the Safety Net Affiliates in (i) regional clinical needs assessments; (ii) planning for clinical service expansion or closure; (iii) opening, expanding, or closing facilities; and (iv) other relevant business planning in the Safety Net Affiliates' respective geographic regions.
>
> b. BILH shall determine with each Safety Net Affiliate a set of mutually agreed-upon priorities for investment, including new investments pursuant to Paragraph 99, in concert with ongoing affiliation agreements, except in such cases where mutually agreed-upon priorities have been previously defined with a Safety Net Affiliate.
>
> c. BILH shall ensure meaningful participation of personnel from the Safety Net Affiliates in community health needs assessments and program planning related to BILH's provision of Community Benefits in furtherance of its charitable mission in the relevant service areas of each Safety Net Affiliate; provided, however, that each Safety Net Affiliate is expected to maintain its own distinct Community Benefits program."
>
> *Date Due:* Within 1 year of Closing Date (March 1, 2020), and throughout Access Period.

Testing Approach

BILH continued to hold steering committee meetings with its SNAs following the Closing Date, as noted by Grant Thornton through inspection of meeting agendas for meetings held during this period. In addition, BILH held new regional planning meetings with CHA and SHC. Grant Thornton's analysis of meeting agendas and summaries indicated these meetings included discussions regarding updates to clinical programs and opportunities for collaboration between the entities. The LGH Steering Committee has continued to meet monthly while the CHA and SHC Steering Committees meet quarterly. Additional Regional Planning meetings are scheduled after year-end.

BILH established a Regional Planning Framework with its SNAs and presented the framework to the CHA and SHC Steering Committees. This framework divides the BILH service area into three geographic regions and specifies the following goals: "Identify and address specific clinical needs and challenges in each clinical affiliate region; Jointly develop and implement solutions with a focus on improving access and providing care in the most appropriate setting; and Measure our joint success in accomplishing these goals."[126]

To understand the SNAs' level of participation in this regional planning model, Grant Thornton interviewed the following SNA representatives, all of whom are members of their respective entity's Steering Committees: the President of Signature Medical Group at SHC; the Interim CEO at LGH; the Interim CEO and Chief Medical Officer at CHA; and the Senior Vice President of Network Development at CHA.

[125] AOD Par. 112.

[126] Clinical Affiliate Regional Planning Framework, handout presented at May 23, 2019 CHA Steering Committee Meeting.

Topics discussed during these interviews included the interviewees' roles in the steering committees and regional planning efforts, their view of their relationship with BILH pre- and post-merger, BILH's participation and collaboration with the SNAs in community health and regional needs assessments, joint-planning conducted with BILH, physician and departmental transfers from the SNAs that have occurred since the merger, and any support provided by BILH. Other topics in relation to the AOD and its requirements were discussed, as applicable, as part of Grant Thornton's testing process.

Though the regional planning committee meetings are still in their preliminary stages, SHC and CHA representatives confirmed that they attended the regional planning meetings, and are aware of the regional planning framework.

Based on Grant Thornton's interviews conducted with SNA leadership, investment priorities have not yet been discussed. Community health needs assessments were discussed with LGH and briefly with CHA.

Result
Grant Thornton finds no evidence of noncompliance with the requirements in Paragraph 112(a). BILH has until March 1, 2020 to comply with Paragraphs 112(b) and 112(c), and as such, no determination of compliance is being made as of the date of this report.

iii. Joint Contracting Safety Net Affiliates

a. Paragraphs 113 & 118[127]

Paragraph 113: "BILH shall not require, encourage or otherwise affirmatively incent physicians in risk-sharing arrangements with Joint Contracting Safety Net Affiliates to move into a risk-sharing arrangement with any BILH Hospital."
Date Due: Access Period (March 1, 2019 – February 28, 2021)

Paragraph 118: "BILH shall offer Joint Contracting Safety Net Affiliates the option to participate in all CIN shared risk contracts."
Date Due: Access Period (March 1, 2019 – February 28, 2021)

Testing Approach
Grant Thornton obtained the Physician Organization Participation Agreement and Hospital Participation Agreements among BILHPN, BIDCO Physician LLC, and CHA and LGH (the "Joint Contracting SNAs"). The agreements enable all "physicians," as defined in the first paragraph of the Participation Agreement, to participate in Payer Contracts negotiated by BILHPN.[128] Section 2.4 (Jointly-Negotiated Payer Contracts) of the Hospital Participation Agreements set forth BILHPN's role, as agent to each hospital, in negotiating and entering into Jointly-Negotiated Payer Contracts.[129]

[127] AOD Par. 113, 118.
[128] Physician Organization Participation Agreement, Beth Israel Lahey Performance Network, LLC, effective July 30, 2019.
[129] Hospital Participation Agreement. Beth Israel Lahey Health Performance Network, LLC.

Section 2.4.1 (Participation: Agency and Authority) provides: "Subject to the other provisions of this Agreement, and unless precluded from doing so by law, the Hospital hereby appoints BILHPN as the Hospital's agent for the purpose of negotiating, accepting, rejecting or entering into Jointly-Negotiated Payer Contracts on the Hospital's behalf, and on behalf of licensed professionals who are employed or otherwise affiliated with the Hospital. Except as expressly provided otherwise, the Hospital shall participate in, and be bound by all of the terms and conditions applicable to the Hospital, in each and every Jointly-Negotiated Payer Contract."[130]

Section 2.4.2 (Clinical Integration) elaborates further that "The Hospital acknowledges that BILHPN intends to operate a clinical integration program approved by the BILHPN Board of Managers that is the basis for one or more Jointly-Negotiated Payer Contracts. BILHPN will describe the terms of its clinical integration program in various documents that BILHPN will make available to the Hospital."[131]

The above contracts meet the requirements of Paragraph 113 because BILHPN effectively becomes the sole negotiating entity for both the hospitals and Joint Contracting SNAs, and therefore BILH does not have the ability to incent Joint Contracting SNA physicians to move away from agreements with the SNAs and into agreements with a BILH Hospital. Further, Section 3.1 of the Hospital Participation Agreements requires that BILHPN use good faith efforts to include the hospitals in every Payer Contract, which places BILH Hospitals and the Joint Contracting SNAs in an equal position.[132]

The existence of these documents also provide evidence of BILH's compliance with the requirement specified in Paragraph 118 that the Joint Contracting SNAs are given the option to participate in all shared-risk contracts. The BILHPN Board of Managers plans to meet in early 2020 to adopt risk sharing and funds flow principles for BILHPN.

Additionally, through interviews with SNA leaders and discussion with BILH management, Grant Thornton notes that we are not aware of BILH making active efforts to encourage any SNA physicians to change affiliations from an SNA hospital to a BILH Hospital. While there have been some instances of physician transfers from SNA hospitals, they have all been communicated to and approved by the appropriate SNA.

Result
Grant Thornton finds no evidence of noncompliance by BILH with the requirements specified in both Paragraph 113 and Paragraph 118.

[130] Hospital Participation Agreement. Beth Israel Lahey Health Performance Network, LLC.
[131] Ibid.
[132] Ibid.

b. Paragraphs 114-115[133]

> Paragraph 114: "BILH shall treat all referrals by CIN physicians to any CIN network hospitals (including the Joint Contracting Safety Net Affiliates) or CIN network physicians as "in-system" or "retained" (i.e., not leakage)."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2021)
>
> Paragraph 115: "BILH shall not take any actions to discourage or dis-incentivize CIN physicians (regardless of their affiliation) from referring patients to the Joint Contracting Safety Net Affiliates, including but not limited to actions that discourage such referral through BILH's design and implementation of metrics measuring "leakage" or systems incentivizing referrals."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2021)

Testing Approach

BILH and BILHPN have established Participation Agreements with the two Joint Contracting SNAs (CHA and LGH) that enable all physicians to participate in Payer Contracts negotiated by BILHPN (per Sections 2.4 and 2.4.1 of the Hospital Participation Agreements, referenced above). Through analysis of these agreements and discussions with BILH management, Grant Thornton acknowledges that by virtue of these Participation Agreements, all Physicians employed by the Joint Contracting SNAs are considered "in-system". BILH has also approved, through its BILHPN Board of Managers, a set of policies regarding in-network and out-of-network patient referrals.

Result

BILH has taken measures to ensure that all CIN physicians within its network are treated as "in-network," and that BILH does not dis-incentivize CIN physicians from referring patients to Joint Contracting SNAs, as required by AOD Paragraph 114 and 115, respectively. As such, Grant Thornton finds no evidence of BILH's noncompliance with this component of the AOD.

[133] AOD Par. 114-115.

c. Paragraph 116[134]

> Paragraph 116: "BILH shall ensure that at least one member of the CIN Board of Managers shall be a representative from a Joint Contracting Safety Net Affiliate."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2021)

Testing Approach
Through discussions with BILH and the Joint Contracting SNAs, Grant Thornton learned that a representative from CHA, the Senior Vice President of Network Development, is a current member of the BILHPN Board of Managers.

Result
Grant Thornton finds no evidence of noncompliance by BILH with the requirement in Paragraph 116.

d. Paragraph 117[135]

> Paragraph 117: "BILH shall ensure that, when negotiating and implementing reimbursement rates, Joint Contracting Safety Net Affiliates and BILH Hospitals with a Statewide Relative Price of less than 0.85 as defined and calculated by CHIA, receive a rate increase no less than the Commercial Unit Price Rate of Increase for each Covered Commercial Payer as defined in paragraph 77(a)."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2021)

Testing Approach
BILH has not negotiated any new contracts on behalf of the Joint Contracting SNAs between the Filing Date and September 30, 2019.

Result
Grant Thornton finds no evidence of noncompliance by BILH with the requirement specified in Paragraph 117, and this requirement will be reassessed as new contracts are negotiated.

[134] AOD Par. 116.
[135] AOD Par. 118.

E. Community Investments

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD requires that, in addition to the historical $40.96 million and additional $8.8 million in investments in CHCs and SNAs, BILH also fund and distribute at least $5 million in investments to expand access to necessary health care services for communities of color and low-income communities.[136]

i. $5M Investment

a. Paragraph 101[137]

> Paragraph 101: "In addition to the financial obligations described in Paragraphs 98-99, BILH shall also fund and distribute at least $5 million in strategic investments during the Access Period to expand access to needed health care services for communities of color and low-income communities, including, but not limited to, by establishing new collaborative relationships with Community Health Centers located in Gateway Municipalities and other underserved areas. This $5 million shall not come from a reduction in other historical spending used by BILH to benefit underserved populations." *Date Due:* Access Period (March 1, 2019 – February 28, 2027).

Testing Approach

Grant Thornton conducted interviews with relevant BILH employees to understand the nature of discussions with CHCs in Gateway Municipalities. On October 15, 2019, Grant Thornton met with BILH's Chief Integration Officer, and the BILH Vice President of Revenue Analysis and Regulatory Reporting, who stated BILH is evaluating what portion of the $5 Million investment required by Paragraph 101 will go to one or more new health center relationships in Gateway Municipalities. BILH intends to use this mechanism to identify where opportunities for spending will be. As of this meeting, there were no investments disbursed between the Closing Date and September 30, 2019, and BILH is continuing to evaluate options. Grant Thornton confirmed this information in an October 16, 2019 interview with the BILH Vice President of Community Benefits & Community Relations, who stated there have been meetings regarding the expansion of CHC relationships, but no plans to distribute funding as of September 30, 2019.

Result

There is no determination of compliance required at this time. As described in AOD Paragraph 101, BILH is required to distribute these investments report during the Access Period, but not necessarily by September 30, 2019.

[136] AOD Par. 101.
[137] Ibid.

F. Behavioral Health: Investments

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD provides several requirements related to behavioral health access that BILH must comply with within two to five years of the Closing Date and continuing for the remainder of the Access Period. The AOD requires BILH to invest at least $16.9 million to develop and expand comprehensive behavioral health services across the BILH system to enhance access to mental health and substance use disorder treatment. Further, the AOD states that the investment shall prioritize the behavioral health requirements set forth in Paragraphs 120-122 (see **Section H** of this report).

i. $16.9M Investment

a. Paragraph 119[138]

> Paragraph 119: "BILH shall create and fund through an investment of at least $16.9 million a comprehensive and integrated continuum of behavioral health services with multiple entry points that enhances access to mental health and substance use disorder treatment for patients across Eastern Massachusetts. BILH shall prioritize the initiatives set forth in Paragraphs 120-122 within that continuum. This $16.9 million shall not come from a reduction in other historical spending used by BILH to benefit underserved populations."
> *Date Due:* Access Period (March 1, 2019 – February 28, 2027)

Testing Approach

Paragraph 119 requires BILH to fund an investment of at least $16.9 million in behavioral health services during the Access Period, which may not come from a reduction in historical spending by BILH in this area. Based on discussions with BILH behavioral health personnel, behavioral health investments between the Closing Date and September 30, 2019 were focused on the expansion of the IMPACT model to new facilities (refer to **Section H** below for additional information). The AOD defines the IMPACT Model as a "behavioral health integration," which "involves introducing primary care patients who are identified through screenings and direct referrals to an embedded behavioral health clinician."[139]

Grant Thornton did not perform testing of these investments in the current reporting period.

Result

There is no determination of compliance required at this time. As described in paragraphs 120-122, BILH is not required to fund and distribute the $16.9 million behavioral health investment in the current reporting period.

[138] AOD Par. 119.
[139] AOD Par. 45.

G. Governance

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD provides several requirements related to the BILH general governance structure and the BILH Board of Trustees. The requirements agreed to by BILH are aimed at increasing diversity among the BILH board members and the boards of its First Tier Affiliates,[140] both for racial, gender, and socioeconomic diversity, as well as diversity of representation among BILH service areas. Additional requirements call on BILH to include community health advocates on its board who are experienced at serving the needs of underserved and uninsured or government-payer populations in the BILH service area.

i. BILH Board of Trustees

a. Paragraphs 123-125[141]

Paragraph 123: "BILH shall maintain and abide by governing documents, including Beth Israel Lahey Health, Inc.'s Bylaws and Articles of Organization, that reflect in the organization's charitable purposes (i) a core commitment to meeting the health care, including behavioral health, needs of at-risk, underserved, uninsured and government payer patient populations throughout the Commonwealth and (ii) a core commitment to diversity and geographic representation from within the service areas of the Safety Net Affiliates."
Date Due: Access Period (March 1, 2019 – February 28, 2021), monitored annually.

Paragraph 124: "BILH shall include within the membership of Beth Israel Lahey Health, Inc.'s Board of Trustees a community healthcare leader and/or advocate who is experienced in addressing healthcare access for at-risk, underserved, uninsured and government payer patient populations in the Commonwealth."
Date Due: Access Period (March 1, 2019 – February 28, 2021), monitored annually.

Paragraph 125: "BILH shall incorporate into its governance structure, including Beth Israel Lahey Health, Inc.'s Board of Trustees and each First Tier Affiliate's Board of Trustees, a commitment to (i) membership diversity, including but not limited to racial, gender and socioeconomic diversity and (ii) geographic representation from within the BILH (or First Tier Affiliate, as applicable) service area."
Date Due: Access Period (March 1, 2019 – February 28, 2021), monitored annually.

Testing Approach

Grant Thornton obtained and analyzed the Bylaws of BILH and notes BILH has included the following as its purpose, set out in Section 1.1 of its Articles of Amendment filed with the Commonwealth of Massachusetts: "…maintaining a core commitment to (i) meeting the health care, including behavioral health, needs of at-risk, underserved, uninsured and government payer patient populations throughout the Commonwealth; and (ii) diversity and geographic representation from within the service areas of its affiliated safety net hospitals, Lawrence General Hospital, Cambridge Health Alliance, and Signature Healthcare Brockton Hospital…"[142]

[140] "First Tier Affiliate" means Anna Jaques Hospital, BIDMC, Beth Israel Deaconess-Milton, Beth Israel Deaconess-Needham, Beth Israel Deaconess-Plymouth, Lahey, Mount Auburn Hospital, New England Baptist Hospital, Northeast Hospital Corporation, Northeast Behavioral Health Corporation, and Winchester Hospital (AOD Exhibit A).
[141] AOD Par. 123-125.
[142] Bylaws of Beth Israel Lahey Health, Inc., dated June 7, 2019.

Furthermore, BILH states its policy for ensuring geographic representation from each of its service areas on its Board for the initial period following the merger in Section 3.1.2.1 of the Bylaws as follows: six trustees from Lahey, six trustees from BIDMC, one trustee from NEBH, one trustee from Mount Auburn Hospital, and six "independent trustees" having no prior affiliation with BILH.[143]

Grant Thornton also obtained and analyzed BILH's Articles of Amendment dated June 7, 2019, and notes that amendments to Article II relate to BILH's formation "to maintain and operate charitable hospitals and services associated with charitable hospitals," and that the Corporation "shall develop, provide and maintain, for the benefit of patients, patient families, employers, commercial payers, public payers, and the Commonwealth, a transformative, competitive model of care that provides the highest quality care in settings that are lower cost, clinically appropriate and both accessible and convenient to and for patients and their families."[144]

Based on Grant Thornton's analysis of Board of Trustees meeting minutes from meetings on April 5, 2019 and June 7, 2019, we note that accountability of governance and strategies for integration are standing topics discussed at these meetings. The Board of Trustees meetings during 2019 also included discussions about new trustee appointments, management and communications strategies, and streamlining integration among its entities. The Board of Trustees has a governance committee charged with overseeing general governance and recruitment practices of BILH.

Grant Thornton obtained a memorandum provided by BILH's General Counsel that summarizes the background and demographic information of the members of BILH's Board of Trustees. The memorandum highlighted three persons on the Board whom BILH believes satisfy the Paragraph 124 requirement that BILH includes on its Board persons who are "experienced in addressing healthcare access for at-risk, underserved, uninsured and government payer patient populations."[145] Grant Thornton notes that this information is consistent with the BILH Board of Trustees website, and the three members each have experience consistent with this requirement of the AOD.

Additionally, Grant Thornton analyzed the biographies of all Trustees to understand their backgrounds with respect to racial, gender, and socioeconomic diversity and geographic representation in the BILH service area, as required by Paragraph 125.[146] The Trustees' membership is consistent with the BILH Bylaws in that the Board of Trustees includes six trustees from Lahey, six trustees from BIDMC, one trustee from NEBH, one trustee from Mount Auburn Hospital, and six Independent Trustees having no prior affiliation with BILH.[147] As of September 30, 2019, the Board consisted of ten women and eleven men. The Board also made four additions to its Trustees following the merger to increase its board diversity. Grant Thornton confirmed this through analysis of the BILH Board of Trustees website and trustee biographies.

[143] Bylaws of Beth Israel Lahey Health, Inc., dated June 7, 2019.
[144] Beth Israel Lahey Health, Inc., Articles of Amendment Pursuant to M.G.L. Chapter 180, § 7.
[145] AOD Par. 124.
[146] AOD Par. 125.
[147] Bylaws of Beth Israel Lahey Health, Inc., dated June 7, 2019.

While BILH does not have access to the personal finances of board members, BILH's Chair of the Board of Trustees provided Grant Thornton with a statement asserting that the BILH Board of Trustees "does not require its members to make financial contributions, including philanthropic donations, to BILH or any of its subsidiaries as a condition of board membership." This practice does not prevent potential members who are unable to make a financial contribution from being appointed.

Result
Grant Thornton finds no evidence of noncompliance by BILH with the requirements set forth in Paragraphs 123-125, as relating to the BILH Board of Trustees.

ii. First Tier Affiliates' Board of Trustees

a. Paragraph 125[148]

Paragraph 125: "BILH shall incorporate into its governance structure, including Beth Israel Lahey Health, Inc.'s Board of Trustees and each First Tier Affiliate's Board of Trustees, a commitment to (i) membership diversity, including but not limited to racial, gender and socioeconomic diversity and (ii) geographic representation from within the BILH (or First Tier Affiliate, as applicable) service area."
Date Due: Access Period (March 1, 2019 – February 28, 2021), monitored annually.

Testing Approach
Per a statement by BILH's General Counsel, a "relatively uniform set of by-laws" has been put in place for all First Tier Affiliates. BILH expressed the need to ensure that the individual organizations were not substantially disrupted at the governance level, which is why the First Tier Affiliates have kept their existing boards in place, as of September 30, 2019. New guidelines have been implemented for staggered three-year terms with term limits and tenure guidelines to create "certain, predictable turnover among board members."[149]

Subsequent to the Scope Period of this report, BILH stated on November 21, 2019 the BILH Chief Development Officer, delivered a presentation at a meeting of the First Tier chairs and governance-nominating committee chairs on best practices for trustee nomination and recruitment. The presentation also included case studies of the efforts made at NEBH, BID-Needham, and the BIDMC boards to improve their board diversity. BILH stated that it plans to hold another meeting of the same governance group in the spring of 2020, and additional meetings once or twice a year going forward to assess progress.

[148] AOD Par. 125.
[149] Per statement provided by BILH General Counsel, dated December 4, 2019.

Result
The First Tier Affiliates have altered the terms of their boards so that terms for board seats will expire in a staggered fashion (and not en masse). These changes will allow First Tier Affiliates to replace existing board members with candidates who will help BILH meet the diversity requirement in Paragraph 125 of the AOD. As of September 30, 2019, no First Tier board seats expired or were replaced with people of diverse racial backgrounds.

The AOD does not provide a timeline for compliance with the requirements specified in Paragraph 125, and as such, Grant Thornton will continue to assess BILH's and the First Tier Affiliates' compliance with these requirements in future reporting periods.

H. Behavioral Health: Non-Financial

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD provides several requirements related to behavioral health access with which BILH must comply within two to five years of the Closing Date, and continuing for the remainder of the Access Period. The AOD requires BILH to extend and implement the IMPACT Model to all BILH PCPs, including hiring of additional behavioral health clinicians ("BHC"), consulting psychiatrists, and program supervisors. Additionally, the AOD requires BILH to extend the CBM Program and enhance access to MAT for patients with opioid disorders.

i. IMPACT Model – expansion and participation

a. Paragraph 120[150]

Paragraph 120: "BILH shall extend the IMPACT Model to all BILH Primary Care Practices, including completion of the hiring of additional behavioral health clinicians, consulting psychiatrists, and program supervisors necessary for the implementation of the IMPACT Model. BILH shall undertake this expansion as soon as reasonably practicable after the Closing Date and, in any event, pursuant to the following timetable:

a. Within three (3) years of the Closing Date, BILH shall extend the IMPACT Model to 50% of BILH Primary Care Practices where BILH employs the PCPs.
b. Within five (5) years of the Closing Date and continuing through the remainder of the Access Period, BILH shall extend the IMPACT Model to 100% of BILH Primary Care Practices.
c. In addition to the actions described above, within two (2) years of the Closing Date, BILH will perform a study of the feasibility of expanding the IMPACT Model to the CHC Affiliates."

Date Due: (a) Within 3 years of Closing Date (March 1, 2022)*;* (b) Within 5 years of Closing Date (March 1, 2024)*;* (c) Within 2 years of Closing Date (March 1, 2021).

[150] AOD Par. 120.

Testing Approach

Grant Thornton's testing approach focused on two different requirements: (1) extending and implementing the IMPACT model to PCPs and (2) the feasibility of expanding the IMPACT Model to CHC Affiliates. Grant Thornton obtained an understanding of the IMPACT model and implementation process through discussion with the BILH President of Behavioral Health, as well as analysis of documentation. BILH prepared a Collaborative Care Model Clinical Service Model Standard Operating Manual dated July 2019 "to (1) standardize processes across the BILH community of primary care practices; (2) provide the Collaborative Care Model team and our partners with core expectations for delivering services effectively; and (3) to serve as a guide for each element of the project workflow." The manual states it will be valuable to use as a guide to facilitate effective implementation with the goal of reaching 50% of total practices in the first three years and all employed practices, in five years. In addition, a clinical workflow and a guide for PCPs documents the internal processes for referring a patient for collaborative care and requesting visits from the BHC.

Grant Thornton obtained and analyzed additional documentation related to the IMPACT model, including Collaborative Care Executive Committee meeting presentations regarding the expansion of the IMPACT model and additional logistics including budgeting, addition of new sites, and plan updates. Grant Thornton also obtained a project plan created by the BILH Collaborative Care Operational Team outlining specific tasks for expansion with a corresponding completion timeline and assigned individuals or team responsible for executing the tasks. This documentation provided evidence BILH is tracking its progress against its plan to expand the IMPACT model to all BILH primary care practices.

Grant Thornton held various discussions with BILH behavioral health management regarding the current state of the IMPACT model and the plan to expand the IMPACT model to all BILH primary care practices. Grant Thornton requested a proposed definition of what constitutes "participation" in the IMPACT model, and BILH noted, "Our implementation strategies will evolve as we plan for smaller practices in dispersed areas and manage workforce availability." BILH is in the early stages of implementing the IMPACT model and is currently in progress of defining "participation" and finalizing the criteria for implementation.

Additionally, Grant Thornton held a discussion with the BILH President of Behavioral Services and BILH's Chief Population Health Officer regarding the requirement that BILH will perform a study of the feasibility of expanding the IMPACT model to CHC Affiliates. These individuals represented that BILH is in the early stages of creating a work plan and criteria to access and understand "feasibility" of the behavioral health services provided at CHCs. At the end of the process, each CHC will make a determination as to feasibility, as each center would bear the cost for the program and determine whether it is appropriate to implement the IMPACT model.

Result

There is no determination of compliance required at this time. As described in Paragraph 120, BILH is not required to expand the IMPACT Model in the current reporting period.

ii. Centralized Bed Management (CBM)

a. Paragraph 121[151]

> Paragraph 121: "BILH shall, within three (3) years of the Closing Date and continuing for the remainder of the Access Period, extend the Centralized Bed Management Program to all BILH Hospitals and other BILH Facilities that provide inpatient behavioral health treatment."
> *Date Due:* Within 3 years of Closing Date (March 1, 2022), monitored annually.

Testing Approach

The AOD defines "CBM Program" as a "centralized inpatient psychiatry and detoxification bed management and bed placement system wherein a centralized system or department monitors a behavioral health patient's progress through a facility's emergency department and coordinates the placement of such behavioral health patients in the inpatient unit best suited to their needs based on clinical presentation and geographic location."[152] Grant Thornton obtained an understanding of the status and implementation plan for the CBM Program through interviews with BILH behavioral health management as well as analysis of documents provided by BILH. Based on these discussions and documents, BILH appears to be in the process of determining the implementation approach to extend the CBM Program to all BILH Hospitals and other BILH facilities that provide inpatient behavioral health treatment. BILH's CBM implementation project plan, dated June 20, 2019, outlines specific tasks with a corresponding completion timeline and status. The project plan indicated 47 of the 56 tasks were complete as of that date.

Grant Thornton obtained BILH System CBM Executive Committee meeting presentations, which demonstrate that there have been executive committee meetings since the merger, a project plan has been developed, and the committee is tracking progress against the plan. The presentations show that topics included updates to the implementation project plan timeline as well as the CBM operational team including, structure, key roles and responsibilities, and the determination of track leads. Further, BILH behavioral health management stated they met with the emergency departments and receiving facilities and mapped out workflows and requirements.

Result

There is no determination of compliance required at this time. As described in Paragraph 121, BILH is not required to extend the CBM Program to all BILH Hospitals and Facilities that provide inpatient behavioral health treatment in the current reporting period.

[151] AOD Par. 121.
[152] AOD Par. 22.

iii. Bridge Clinics/MAT

a. Paragraph 122[153]

> Paragraph 122: "BILH shall, within two (2) years of the Closing Date and continuing for the remainder of the Access Period, invest in initiatives to enhance access to MAT for patients with opioid use disorders, including (i) expansion of Bridge Clinics to additional BILH Hospitals and (ii) expansion of same-day admission programs for MAT patients." *Date Due:* Within 2 years of Closing Date (March 1, 2021), monitored annually.

Testing Approach

BILH stated that one Bridge Clinic existed in the BILH network as of the Closing Date. The AOD defines "Bridge Clinic" as a transitional outpatient addiction clinic that provides substance use disorder treatment to patients leaving the emergency department or patients discharged from inpatient care until the patient is placed in a community care setting.[154] As of September 30, 2019, BILH stated that three Bridge Clinics existed within BILH, and there were eight treatment sessions, with each session devoted to a particular medication (e.g., methadone, Buprenorphine and injectable naltrexone, etc.), in which patients with opioid use disorder could access same day enrollment in a MAT program. Based on discussions and documentation, BILH is in the process of planning the continued expansion of Bridge Clinics and same day admission to MAT programs.

Result

There is no determination of compliance required at this time. As described in Paragraph 121, BILH is not required to invest in initiatives to enhance access to MAT for patients with opioid use disorders during the current reporting period.

[153] AOD Par. 122.
[154] AOD Par. 20.

I. DPH and AGO Reports

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD indicates BILH must provide the AGO copies of any reports it shares with the DPH as a condition of the DoN. BILH also agrees to provide annual reports to support BILH's targeted cost savings as a result of the elimination of redundant operations, improved efficiencies related to patient care, shifting community-appropriate care to higher value sites of care, and the cost savings actually achieved during the reporting period for each of the respective reports. BILH must also identify the creation, elimination, and/or consolidation of any clinical, administrative, financial, or other operations during the reporting period and the locations impacted.[155]

i. DPH Reports

a. Paragraph 128[156]

Paragraph 128: "Throughout the Monitoring Period, BILH shall provide the AGO copies of any reports that it provides to the Department of Public Health ("DPH") as a condition of the approval of the Determination of Need Application: NEWCO-17082413-TO, as amended on October 10, 2018, including but not limited to the reports required by Conditions 1, 2, 4, and 5. Such copies shall be provided to the AGO when BILH provides DPH with the report."
Date Due: Monitoring Period (March 1, 2019 – February 28, 2029).

Testing Approach

Grant Thornton requested all documentation BILH provided to the DPH as they relate to AOD Paragraph 128. BILH's Director of Regulatory Integration & Strategic Engagement provided Grant Thornton with the Condition 9 Proposal dated September 26, 2019 provided to the DPH as well as emails from the DPH and the AGO confirming receipt of the file.[157][158][159][160]

Result

Consistent with the requirements of Paragraph 128, Grant Thornton received documentation from BILH demonstrating BILH provided to the AGO and the DPH the Condition 9 Proposal dated September 26, 2019. Grant Thornton has not identified any evidence of noncompliance with Paragraph 128 of the AOD.

[155] AOD par. 128-129.
[156] AOD Par. 128.
[157] BILH Proposal to Expand Access and Treatment of Patients Participating in the MassHealth Program (Condition 9 Proposal), submitted to DPH, dated September 26, 2019.
[158] Confirmation of "Other Condition 9 Proposal" Receipt by DPH.
[159] Confirmation of "Other Condition 9 Proposal" Sent to AGO by BILH.
[160] Confirmation of "Other Condition 9 Proposal" Receipt by AGO.

ii. AGO Reports

a. Paragraph 129[161]

> Paragraph 129: "Throughout the Monitoring Period, BILH shall annually report to the AGO the following information and data:
>
> a. Analyses with supporting financial data detailing BILH's targeted cost savings, if any, as a result of the elimination of redundant operations; the cost savings actually achieved during the annual reporting period; and the total cost savings achieved in relation to the target.
>
> b. Analyses with supporting financial data detailing BILH's targeted cost savings, if any, as a result of improved efficiencies related to patient care; the cost savings actually achieved during the annual reporting period; and the total cost savings achieved in relation to the target.
>
> c. Analyses with supporting financial data detailing BILH's targeted cost savings, if any, due to shifting community-appropriate care to higher value sites of care; the cost savings actually achieved during the annual reporting period; and the total cost savings achieved in relation to the target.
>
> d. Information sufficient to identify the elimination of any existing clinical services or the creation of new clinical services during the annual reporting period and in total, including the locations impacted.
>
> e. Information sufficient to identify any clinical, administrative, financial, or other operations that have been consolidated during the annual reporting period and in total, including the locations impacted."
>
> *Date Due:* Monitoring Period (March 1, 2019 – February 28, 2029).

Testing Approach

BILH's Director of Regulatory Integration & Strategic Engagement provided Grant Thornton with the "BILH 60 Day Report to the Massachusetts's Office of the Attorney General Provided under Paragraph 129 of the Assurance of Discontinuance" and the "BILH 60 Day Report to the Massachusetts's Office of the Attorney General Provided under Paragraph 132 of the Assurance of Discontinuance."[162] Grant Thornton obtained an email from BILH's Chief Integration Officer to the AGO with these two reports included as attachments.[163] Based on this email, both of these reports were provided to the AGO within the 60-day period following the Closing Date. Grant Thornton's testing of these reports was limited to the procedures described in the Scope of Work (see **Exhibit 1**).

[161] AOD Par. 129.

[162] BILH 60 Day Report to the Massachusetts's Office of the Attorney General Provided under Paragraph 129 of the Assurance of Discontinuance - Cost Efficiencies 60 Day Report.

[163] 60 Day AGO Report Submission – via Email of 60 Day Report (Par. 129, 132) to AGO.

Result
Grant Thornton notes BILH provided an analysis of targeted cost savings with respect to elimination of redundant operations, improved efficiencies, and shifting community-appropriate care to higher value sites of care (as referenced in AOD Paragraphs 129(a)-129(c)) to the AGO within the 60-day period following the Closing Date. Based on these procedures, Grant Thornton has not identified any evidence of noncompliance with Paragraph 129 of the AOD.

J. Substantially Similar Services

Summary provided for convenience of the reader. The language of the AOD prevails.

The AOD provides BILH maintain access for the communities served by BILH Hospitals to substantially similar services as before the Closing Date. [164]

i. Clinical Services

a. Paragraph 91[165]

Paragraph 91: "BILH shall maintain access for the communities served by BILH Hospitals to substantially similar clinical services as before the Closing Date."
Date Due: Access Period (March 1, 2019 – February 28, 2021), monitored annually.

Testing Approach
BILH distributed a "Clinical Services Inventory Survey" to ten BILH Hospitals, plus two additional responses from facilities under the same license as Beverly Hospital.[166] Grant Thornton analyzed the survey responses and noted one instance of a change in a pre-existing service. In this instance, BIDMC discontinued BIDMC-licensed services at the BIDMC Outpatient Free Care Pharmacy at 350 Longwood Ave, Boston MA 02108. A new BIDMC Retail Pharmacy opened on December 17, 2018 located at 330 Brookline Ave, Boston MA 02215 to provide service to patients. The relocation of services to a site 0.2 miles from the original location does not deter access of these services.[167]

Grant Thornton requested interviews with patient access coordinators and scheduling staff at five BILH facilities throughout the BILH service area. Based on survey responses indicating a service(s) existed as of the Closing Date, Grant Thornton randomly selected and verified the existence of select services through September 30, 2019. Patient access and scheduling staff were observed accessing open appointment slots for the selected services. Additionally, Grant Thornton received real-time hospital admission statistics/census reports showing utilization of the selected services through September 30, 2019 and as of the date of each interview.

[164] AOD Par. 91.
[165] Ibid.
[166] Annual Report – Clinical Services Inventory Survey dated October 31, 2019 and email from BILH to BILH Facilities.
[167] Brookline Ave to Longwood Ave Location Map, accessed November 26, 2019 via Google Map Search.

Result

Based on review of supporting documentation and independent observation as described above, Grant Thornton finds no evidence of noncompliance by BILH with its obligation to maintain access for the communities served by BILH Hospitals to substantially similar services as before the Closing Date, as specified in Paragraph 91.

EXHIBITS

Exhibit 1:

Scope of Work

This Attachment B applies to the letter describing the Services to be provided by Grant Thornton ("GT") to Beth Israel Lahey Health, Inc. ("BILH") dated April 24, 2019 and is part of this Agreement.

GT notes that BILH is responsible for complying with the terms of the Assurance of Discontinuance ("AOD"). GT will hold regular discussions with BILH management and the Massachusetts Attorney General's Office (the "AGO") to understand agreed-upon criteria in relation to the AOD.

The proposed procedures, analysis, and testing are based on our current understanding. As our understanding of the AOD and related conditions and factors evolve, GT may have to undertake additional procedures not listed in the scope of work.

Phase 1: Information Gathering & Preliminary Assessment

Expected Timeline: April 2019 – June 2019

I. Information Gathering

A. Make initial data requests to understand BILH financial, operational internal control and process aspects of the components of the AOD, especially related to:
   i. System-wide price constraint, including agreements with third-parties
   ii. MassHealth-related access and hiring and solicitation
   iii. Financial investments in the Community Health Center Affiliates ("CHCs") and Safety Net Affiliates ("SNAs")
   iv. Non-financial commitments to the CHCs, SNAs, and the Joint Contracting Safety Net Affiliates
   v. Community investments
   vi. Behavioral health investments
   vii. Organizational structure and governance provisions
   viii. Cost reduction and synergy analyses prepared by BILH

B. Conduct interviews with management and select employees. Although specific employees interviewed will be determined after initial discussions with BILH management, we anticipate interviewing the following:
   i. CFO
   ii. Select Board Member(s)
   iii. Employee(s) responsible for covered payer contract negotiation
   iv. Employee(s) responsible for assessing compliance with established covered payer contracts
   v. Employee(s) responsible for preparing the BILH-issued reports to the AGO so that we can understand their analytic approach and processes and anticipated structure of reports
   vi. Employee(s) responsible for allocating relevant investments (as described in the AOD)

vii. Employee(s) responsible for making and tracking relevant investments (as described in the AOD)
viii. Compliance officer
ix. Chief audit executive or director of internal audit
x. Integration Office employee(s) with responsibilities related to the AOD

II. Preliminary Analysis of Information

A. Analyze information received in Section I.A. above and obtain an understanding of how this information affects BILH's compliance with the AOD.

B. Analyze the information gathered in Section I.B. above to obtain an understanding of BILH's policies and processes for current state components of the AOD. These may include:
   i. Elimination or addition of clinical services
   ii. Consolidated operations
   iii. Plans to participate in MassHealth (within 18 months of the Filing Date)
   iv. Patient encounters by service line for all facilities
   v. Patients covered by risk contracts by payer for all PCPs, and additional analysis on those patients related to encounters
   vi. New physicians
   vii. Annual revenue by payer, including additional analysis related to type of revenue in total and per member per month
   viii. Additional compliance requirements (including community investment, behavioral health investment, governance, etc.)

III. Understand BILH approach to complying with the AOD

A. Identify key BILH employees responsible for ensuring compliance.

B. Understand mechanism that BILH will put in place to ensure compliance.

C. Obtain an understanding of BILH's proposed reports, schedules and supporting work papers that it will be producing periodically to demonstrate compliance.

IV. Develop Initial Observations & Identify Additional Testing Areas

A. Based on the above, GT will develop a proposed Scope of Work and associated budget within 90 days after the Closing Date, coordinating with the AGO as needed. (Per the AOD, the AGO shall have the authority to review and approve such proposal.)
   i. Scope of Work will be adapted and refined based on conversations with BILH and feedback from the AGO until agreement is reached among GT, AGO and BILH.
   ii. Testing within this Scope of Work may include:
      - Re-performance of BILH-provided deliverables that address AOD focus areas
      - Testing for integrity of BILH-provided deliverables
      - Interview of BILH and non-BILH personnel, as needed, who may have pertinent information on AOD focus areas
   iii. GT will provide a fee estimate in coordination with the agreed-upon Scope of Work

B. GT and BILH to discuss and agree upon a communication protocol. This may include the following:

i. GT to be informed on a timely basis of developments and plans that impact AOD focus areas, such as renegotiated or new payer contracts
ii. GT and BILH to meet throughout the year to discuss relevant issues and developments. GT to communicate areas of concern as they arise, so that BILH has an opportunity to address areas of concern in a timely manner
iii. GT and BILH to agree on timing of procedures, which could include interim work to reduce work load and pressure at the end of the year
iv. GT to have access to BILH internal audit and compliance functions, through meetings and analysis of relevant reports
v. GT to have access to external auditors
vi. GT to have access to the audit committee and the board of directors

C. GT and BILH to discuss and agree upon a reporting protocol. This may include the following:
   i. Discussion of issue identification prior to report issuance
   ii. Timing of GT annual report issuance
   iii. Issuance of representation letter by BILH to GT prior to the issuance of our annual report which will stipulate that BILH has provided all relevant information and access to GT in order for GT to make an informed assessment of the relevant focus areas of the AOD

Phase 2: Detailed Testing & Analysis

Expected Timeline: October 2019 – December 2019

To the extent data is available, preliminary work will be performed in July 2019 – September 2019, with analysis finalized after the September 30, 2019 year-end.

Based on the observations identified in Phase 1 and input from the AGO, GT will perform detailed procedures pertinent to certain terms of the AOD, as described in further detail below. This section is designed to illustrate the general elements expected to be included in this component of the engagement. Areas of testing may include the following:

Requirement per AOD	Proposed Testing Approach

A. An assessment of whether BILH is in compliance with the System-wide Price Constraint as to each of the Covered Payers, as set forth in Paragraphs 72-89	Note: If new payer contracts are negotiated prior to September 30, 2019, GT would perform these procedures, to the extent possible, prior to year-end.
	• Obtain a schedule of payer revenues for the most recent 12 month period through the Closing Date, and agree to audited financial statements
	• Obtain and analyze a listing of commercial contracts by entity and by payer, including contract terms, expiration dates, and approximate revenues
	  o Understand how revenue from Covered Payers fits into the BILH's overall payer mix
	  o Understand BILH's identification of any payers excluded from the price constraint, based on the terms of the AOD
	  o For contracts existing as of the Closing Date, agree expiration dates to contracts or other supporting documentation. On an annual basis, determine if expected contracts up for renewal are included in listing
	  o Confirm contract renewal status with payers
	  o Perform other procedures, as necessary, to assess compliance with the AOD
	• Read any contracts that the Company negotiates or renegotiates during each fiscal year in order to obtain an understanding of the pricing structure. Note that this may include different rates or different pricing structures for each health system.
	  o Obtain and analyze BILH agreement with payer on trailing twelve month revenue agreed upon for negotiations
	  o Obtain and analyze alternate fee for service pricing vs. value based pricing terms provided by BILH to the payer, if appropriate
	• Obtain pricing worksheets for any contracts that the Company negotiates or renegotiates, with supporting work papers
	• Recalculate the pricing worksheet and agree relevant inputs to primary source documents
	• Perform other procedures, as necessary, to assess compliance with the AOD

Requirement per AOD	Proposed Testing Approach

B. An assessment of, and information and data sufficient to show, BILH's compliance with its Assurances concerning MassHealth-related access in Paragraphs 92-97 and hiring and solicitation in Paragraph 103-104	**Mass-Health**
	• Obtain an initial list of BILH Facilities and health care providers by Medicare number and NPI, respectively, participating in MassHealth as of the Filing Date
	  o Understand the baseline participation, and types of participation, by BILH providers in MassHealth
	  o Obtain supporting documentation of BILH Facilities and health care providers by Medicare number and NPI who have applied to participate in MassHealth as of September 30, 2019, and compare to the initial listing
	• Inquire with BILH regarding progress against plan to have all physicians and licensed providers employed by BILH apply to participate in MassHealth (Note: AOD specifies that this must be completed by 11/29/2021)
	• Obtain and analyze BILH policies, if any, related to access of MassHealth patients (especially related to caps or immediate access, etc.)
	• Obtain and analyze the following marketing and advertising plans and programs created by BILH, if available:
	  o Increasing the percentage of MassHealth patients in payer mix
	  o New England Baptist Hospital's marketing and outreach program, including evidence of its funding and execution
	  o Policies and evidence of training and compliance for accepting appointments with MassHealth payments
	• Obtain general enrollment statistics and trends for MassHealth for markets in the BILH service area (such as the Monthly One Care Enrollment Reports)
	• Perform other procedures, as necessary, to assess compliance with the AOD
	
	Hiring and Solicitation
	• Acquire NPI numbers for PCPs hired within a year of the Closing Date, along with documentation to determine where the PCPs previously held employment
	  o Agree to supporting documentation from Human Resources and/or physician privileging.
	  o Notify AGO of any identified PCPs who were hired within a year of the Closing Date and for whom BILH applies the "in process" exemption of Paragraph 103(b) of the AOD
	• Perform selected interviews with BILH management and SNA employees to assess solicitation of SNA Departments, and obtain and analyze BILH solicitation policies, if any
	• Perform other procedures, as necessary, to assess compliance with the AOD

Requirement per AOD	Proposed Testing Approach
C. Financial data and descriptions reflecting BILH's financial investments during the annual reporting period in the CHC Affiliates and Safety Net Affiliates, as required in Paragraph 98-99	• Interview the BILH employee(s) responsible for managing relationships with CHCs and SNAs to better understand the relationships and how investments are managed • Obtain an understanding of provider contracts or terms to better understand financial implications of any proposed transactions, including detailed understanding of negotiated risk-based contracts • Obtain from BILH the schedule(s) of investments, which shows historical support to CHCs and SNAs and was previously provided to the AGO o Agree to General Ledger and/or audited financial statements • Obtain from BILH the schedule(s) of investments from the Filing Date through September 30, 2019 o Analyze supporting documentation of the relevant investments during each reporting period, which may include invoices, remittances, or loss calculations • Tabulate annual contributions during the Access Period o Compare to total amount specified in the AOD, as well as to the minimum 2-year distribution requirement specified in the AOD • Perform other procedures, as necessary, to assess compliance with the AOD
D. An assessment of, and information sufficient to show, BILH's compliance with its non-financial commitments to the CHC Affiliates, Safety Net Affiliates, and the Joint Contracting Safety Net Affiliates, as set forth in Paragraphs 105-118	**CHCs** • Obtain MOUs with CHCs in place as of the Closing Date and any new or renewed affiliation agreements entered into during the current year o Obtain and assess information provided by BILH regarding whether renewed affiliation agreements are "substantially the same," or the reasons for any differences in the agreements (such as regulatory requirements) o Obtain and assess information provided by BILH regarding any reallocation of funds, if applicable • Obtain documentation indicating CHC participation in collaborative planning efforts and participation in regional clinical needs assessments, if available (Note: The AOD requires this to begin within a year of the Closing Date) o Obtain and analyze the Bylaws of the Community Care Alliance o Obtain and analyze agendas and listing of participants for all meetings of the Community Care Alliance from the Closing Date through September 30. o Compare listing of CHCs to the population of MOUs provided. o Conduct interviews with 3 members of the Community Care Alliance to understand their participation in collaborative planning efforts • Inquire of BILH's efforts to explore opportunities to expand clinical and financial support with additional CHCs in Essex and Middlesex Counties and obtain supporting documentation; this may include conducting site visits and interviews with Essex and Middlesex County providers, if applicable (Note: The AOD requires this to begin within two years of the Closing Date) o Understand service geography and changes in market assumptions

Requirement per AOD	Proposed Testing Approach

D. (*continued from previous page*) An assessment of, and information sufficient to show, BILH's compliance with its non-financial commitments to the CHC Affiliates, Safety Net Affiliates, and the Joint Contracting Safety Net Affiliates, as set forth in Paragraphs 105-118	**SNAs**
	• Obtain affiliation agreements in place with SNAs as of the Closing Date and any new or renewed affiliation agreements entered into during the current year
	  o Obtain and assess information provided by BILH regarding whether renewed affiliation agreements are "substantially the same"
	  o Obtain and assess information provided by BILH regarding any reallocation of funds, if applicable
	• Document clinical programs in place with SNAs as of the Closing Date and monitor changes to clinical programs over time through agreements, interviews, and/or non-anonymous surveys
	  o To the extent clinical programs are discontinued or reduced, additional procedures will be performed, including potential site visits, interviews, and/or analyses
	• Obtain support of BILH assistance with PCP recruitment at SNAs through BILH documents, interviews, and/or non-anonymous surveys
	• Document use of BILH brand and logo by SNAs (photos, etc.) and obtain co-branding guidelines developed by the BILH marketing and clinical teams
	• Obtain support for model for joint system and regional planning via documents, interviews, and/or non-anonymous surveys, once established (Note: The AOD requires this to begin within 1 year of the Closing Date)
	  o Obtain and analyze agendas and listing of participants for all meetings of the SNA Steering Committee from the Closing Date through September 30
	  o Obtain and analyze agendas and listing of participants for any meetings of the regional planning committee from the Closing Date through September 30
	  o Conduct interviews with 3 members of the regional planning committee
	• Obtain and evaluate risk-sharing agreements with Joint Contracting SNAs, including:
	  o Physician incentives
	  o SNA reimbursement rates
	  o Openness of CIN contracts to SNA participation
	
	Other
	• Obtain an understanding of any referral policies. Evaluate referral relationships, practices and policies of CIN physicians and BILH facilities related to SNA patients
	• Obtain information on CIN Board of Managers to confirm the inclusion of a Joint Contracting SNA representative
	• Perform other procedures, as necessary, to assess compliance with the AOD

Requirement per AOD	Proposed Testing Approach
E. Financial data concerning BILH's community investments during the reporting period as required in Paragraph 101 and a detailed explanation of how the investments have been used in communities of color and for low-income and other underserved populations	• Obtain BILH's proposed plan and budget for investments to expand access for communities of color and low-income communities, including establishing relationships with CHCs in Gateway Municipalities (as defined by the Massachusetts legislature) o Identify and understand the distributions from BILH to the above communities o Conduct interviews with relevant BILH employees to understand the nature of discussions with CHCs in Gateway Municipalities o Obtain an understanding of the budgeting process and source of funds related to these investments • Analyze BILH's quantification of spending in support of the above plan on an annual basis and assess relevant supporting documentation, as appropriate o On an annual basis, track BILH's spending status against the $5M investment amount specified in the AOD o Agree to General Ledger and/or audited financial statements • Perform other procedures, as necessary, to assess compliance with the AOD
F. Financial data concerning BILH's investments during the reporting period to improve access to behavioral health as required in Paragraph 119 and a detailed explanation of how the investments have been used	• Obtain BILH's proposed plan and budget for investments in behavioral health services to enhance access to mental health and substance use disorder treatment o Identify and understand the distributions from BILH to the above services o Conduct interviews with relevant BILH employees responsible for coordination of these investments to understand BILH's plan and proposed process for making investments o Obtain an understanding of the budgeting process and source of funds related to these investments • Analyze BILH's quantification of spending in support of the above plan on an annual basis and assess relevant supporting documentation, as appropriate o On an annual basis, track BILH's spending status against the $16.9M investment amount specified in the AOD o Agree to General Ledger and/or audited financial statements • Perform other procedures, as necessary, to assess compliance with the AOD
G. An assessment of BILH's compliance with the governance provisions, as set forth in Paragraphs 123-125	• On an annual basis, read relevant Form 990s and community benefit filings • Obtain BILH's Bylaws and Articles of Organization as of the Closing Date o Inquire with BILH and read applicable policies/bylaws to understand BILH's documentation of its commitment to membership diversity and geographic representation within its Board of Trustees and First Tier Affiliates' Board of Trustees o On an annual basis, request and analyze any updates or edits to these • Obtain Board of Trustees meeting minutes throughout each year • Analyze bios of the members of the Board of Trustees o On an annual basis, obtain an updated list of Board of Trustees members, along with any bios for new members • Obtain documentation related to any existing communications between BILH and the AGO regarding Board membership • Perform other procedures, as necessary, to assess compliance with the AOD

Requirement per AOD	Proposed Testing Approach
H. An assessment of BILH's compliance with obligations relating to access to behavioral health services, as set forth in Paragraph 120-122	• Obtain meeting minutes or other records of discussions by the working groups, if applicable, that are considering the expansion of these behavioral health services • Interview administrators to understand the current structure of the behavioral health services and the IMPACT Model • Obtain a listing of PCPs as of the Closing Date, including an indication of which PCPs participated in the IMPACT Model at that point in time • Obtain an updated listing of the practices currently using the IMPACT Model as of September 30, 2019, including supporting documentation (Note: The AOD requires the IMPACT Model to be extended to 50% of Primary Care Practices within 3 years of the Closing Date and 100% of the Primary Care Practices within 5 years of the Closing Date). This may include: o Documentation of physician trainings o Referrals made through the program • Obtain a copy of BILH's feasibility study for extending IMPACT Model to CHCs (Note: The AOD requires this to be completed within 2 years of the Closing Date) • Obtain any implementation plan related to the Centralized Bed Management Program and conduct interviews to assess progress against the plan (Note: The AOD requires this to be completed within 3 years of the Closing Date) • Track BILH investments related to access in MAT (Note: The AOD requires this to be completed within 2 years of the Closing Date) o Obtain a listing of Bridge Clinic as of the Closing Date and supporting documentation related to any new clinics through September 30, 2019 o Obtain any implementation plan for the expansion of MAT, if available • Perform other procedures, as necessary, to assess compliance with the AOD
I. BILH shall provide the AGO copies of any reports that it provides to the Department of Public Health. BILH shall annually report to the AGO targeted and actual cost savings and efficiencies (see AOD paragraphs 128 and 129)	• Obtain copies of any filings with the Department of Public Health that relate to AOD paragraph 128 • Obtain copies of any filings with the AGO that relate to AOD paragraph 129 Based on discussion with the AGO, GT will not perform any testing on these filings. Rather, GT will determine whether BILH made the filings and provided the filings to the AGO, and include this determination in the Monitor's report.
J. BILH shall maintain access for the communities served by BILH Hospitals to substantially similar clinical services as before the Closing Date (see AOD paragraph 91)	• Obtain baseline inventory of clinical services / departments by BILH Hospital location as of the Closing Date and agree to supporting documentation • Obtain supporting documentation of clinical services / departments by BILH Hospital location as of September 30, 2019, and compare to the initial listing o Obtain an understanding of changes in clinical services as of the Closing Date. This may include an analysis of patient data and/or data from the Massachusetts Center for Health Information and Analysis

Requirement per AOD	Proposed Testing Approach
K. An assessment of any concerns presented to the Monitor by the AGO regarding BILH's compliance with this Assurance	As described in paragraphs 132 and 135 of the AOD, BILH shall annually report to the AGO data detailing total numbers of patients, and beginning 1 year after Closing Date, BILH shall annually report to the AGO certain employment of PCPs. Based on discussion with the AGO, GT plans to perform the following: • Analyze data included in these reports and agree to supporting documentation, as needed. This shall not be included in the Monitor's report, although GT will discuss any concerns raised by the analysis with both BILH and the AGO, if applicable. Any further assessment of any concerns will be handled as needed. Any assessments conducted by the Monitor in relation to this component of the AOD are not included in the initial budget. Beginning in April 2019, GT will have a scheduled meeting with the AGO every other month. In December of 2019, GT and the AGO will meet in person to discuss the progress of the monitoring engagement up to that point. Other meetings with the AGO may occur as necessary.

Phase 3: Reporting of Observations

Expected Timeline: January 2020

I. Obtain management's representation letter prior to issuance of the report
II. Draft report of observations of BILH's compliance with the AOD based on analyses performed
III. Issue report on or before January 15, 2020 for the fiscal year ending September 30, 2019
IV. Meet with the AGO to discuss the findings in the report within 60 days of providing the report

Note: This work plan is intended for the first reporting period (i.e. with the Monitor's report due by January 15, 2020). While related procedures are expected to be performed in subsequent years, a proposed scope of work will be developed annually, within 90 days of the anniversary of the Closing Date, for subsequent reporting periods. GT will consult with the AGO and solicit input from BILH each year as part of the process for determining the annual work plan.

Exhibit 2:

Summary of AOD Compliance Due Dates and Compliance Periods

While many requirements in the AOD are required annually during specific periods of the Access Period or Monitoring Period, a subset of the requirements specify more specific timing than annual recurrence, and are summarized below.

AOD Reference Dates
Filing Date: November 29, 2018
Closing Date: March 1, 2019
Price Constraint Period: March 1, 2019 – February 28, 2026
Access Period: March 1, 2019 – February 28, 2027
Monitoring Period: March 1, 2019 – February 28, 2029

Note – Highlighted rows indicate the requirement is applicable to the current reporting period.
Summary provided for convenience of the reader, where discrepancies with the AOD exist, the language of the AOD prevails.

Section	AOD Requirement	Time Periods and Due Dates
72-89	7-year price constraint	Price Constraint Period, annual compliance
90	Access to Health Care Services	Access Period
91	BILH to maintain access for communities served by BILH hospitals to substantially similar clinical services as before the Closing Date.	Access Period, annual compliance
92	BILH Facilities participating in Mass Health as of Filing Date	Indefinitely, monitored annually
93	BILH Providers participating in Mass Health as of Filing Date	Indefinitely, monitored annually
94	Good faith effort to have all BILH providers apply to participate in MassHealth	Within 3 years of Closing Date (March 1, 2022)
95	Prohibited from capping MassHealth patients served	Indefinitely, monitored annually
96	New marketing program targeting underserved populations in Eastern Massachusetts re: BILH access via MassHealth, with AGO input	Access Period, monitored annually
97	New England Baptist Hospital advertising focused on Mission Hill, Roxbury, Dorchester, Mattapan	Same as above
98	Funding for CHCs and SNAs (historical and traditional support) • $40.96 million • Not less than $4.096 million for any two year period	 • Access Period • Access Period
99	Funding for CHCs and SNAs (additional support) • Initial distribution	• Within 2 years of Closing Date (March 1, 2021)
99	Funding for CHCs and SNAs (additional support) • $8.8 million	Access Period
101	Funding ($5 million) for CHCs in Gateway Communities	Access Period
103	Prohibition on BILH employing PCPs previously employed by SNAs or CHCs	For a period of 1 year after the Closing Date (March 1, 2020)
104	Prohibition on solicitation of Safety Net Hospital departments	Access Period

Section	AOD Requirement	Time Periods and Due Dates
105	Renewing CHC affiliation agreements on substantially similar terms as those in place as of the Filing Date	Access Period
106	Collaborative process with CHCs	Within 1 year of Closing Date (March 1, 2020), and throughout Access Period
107	Explore opportunities to expand clinical and financial support to additional CHCs in Essex and Middlesex	Within 2 years of Closing Date (March 1, 2021), and throughout Access Period
108	Good faith efforts to continue and renew affiliation agreements with the SNAs on similar terms to those in place.	Access Period
109	Maintain the clinical programs that BILH supports at SNAs	Access Period
110	Assist SNAs with recruitment of PCPs and specialists	Access Period
111	Brand/logo made available to SNAs	Access Period
112	Model and joint regional planning in regions of SNAs • Regional clinical needs assessments • Planning for clinical service expansion or closure • Opening, expanding, closing facilities • Other respective business planning in regions	Within 1 year of Closing Date (March 1, 2020), and throughout Access Period
113	BILH shall not incent physicians in risk-sharing agreements with Joint Contracting SNAs.	Access Period
114	Treat all referrals by CIN physicians to CIN network hospitals/physicians as "in-system" or "retained"	Access Period
115	BILH shall not take any actions to discourage or dis-incentivize CIN physicians from referring patients to the Joint Contracting SNAs.	Access Period
116	BILH shall ensure that at least one member of the CIN Board of Managers shall be a representative from a Joint Contracting SNA	Access Period
117	BILH shall ensure that Joint Contracting SNAs and BILH Hospitals with a Statewide Relative Price of less than 0.85, receive a rate increase no less than the Commercial Unit Price Rate of Increase for each Covered Commercial Payer as defined in paragraph 77(a).	Access Period
118	BILH shall offer Joint Contracting SNAs the option to participate in all CIN shared risk contracts.	Access Period
119	Behavioral health services investment of $16.9 million	Access Period
120	IMPACT model • Extend to 50% of BILH PCP practices (employed) • Extend to 100% of BILH PCP practices (not specified) • Feasibility Study to extend IMPACT to CHCs	• Within 3 years of Closing Date (March 1, 2022) • Within 5 years of Closing Date (March 1, 2024) • Within 2 years of Closing Date (March 1, 2021)
121	Centralized Bed Management (CBM) Program	Within 3 years of Closing Date (March 1, 2022), annually thereafter

Section	AOD Requirement	Time Periods and Due Dates
122	Medication Assisted Treatment (MAT)	Within 2 years of Closing Date (March 1, 2021), annually thereafter
123	Maintain and abide by governing documents, including BILH's Bylaws and Articles of Organization that reflect in the organization's charitable purposes.	Access Period, monitored annually
124	Include within the membership of BILH's Board of Trustees a community healthcare leader and/or advocate	Access Period, monitored annually
125	BILH shall incorporate into its governance structure, including BILH's Board of Trustees and each First Tier Affiliate's Board of Trustees, a commitment to (i) Membership diversity, (ii) Geographic representation from within the BILH service area.	Access Period, monitored annually
126	All reports, data and information subject to and contained in the reporting requirements in AOD Section C, shall be due within sixty (60) days following the Closing Date and then annually thereafter on or before January 15 of each year for the prior fiscal year ending September 30.	Monitoring Period
128	BILH shall provide the AGO copies of any reports that it provides to the DPH.	Monitoring Period
129	Cost/finance/clinical service info	As per AOD Para. 126
130	BILH plan to AGO to have all BILH providers apply to MassHealth	Within 18 months of Filing Date (May 29, 2020)
132	Various statistical info provided by BILH to AGO	As per AOD Para. 126
133	BILH shall make good faith efforts to answer any reasonable inquiries from the AGO concerning the reports provided under Paragraph 132.	Annually, throughout the Monitoring Period
135	Employment or joint contracting of any PCP employed by an Safety Net Hospital immediately prior to joining BILH	Four year period beginning one year from Closing Date (March 1, 2020 – March 1, 2024)