

**CHARTER OF THE PARTNERSHIP ADVISORY GROUP  
A JOINT SUBCOMMITTEE OF THE NEW HANOVER COUNTY BOARD OF  
COMMISSIONERS AND THE BOARD OF TRUSTEES OF NEW HANOVER REGIONAL  
MEDICAL CENTER**

**I. Name**

This Charter establishes the Partnership Advisory Group, a joint subcommittee approved by the New Hanover County Board of Commissioners (“**County Commissioners**”) and the Board of Trustees of New Hanover Regional Medical Center (“**NHRMC Board**,” and together with the County Commissioners, the “**Boards**”). Such committee will be referred to herein as the “**PAG**.”

**II. Purpose & Responsibilities**

The purpose of the PAG shall be to advise the Boards with respect to New Hanover County (the “**County**”) and New Hanover Regional Medical Center (“**NHRMC**”) potentially entering into a strategic partnership with another health system or organization. Such a partnership may involve (i) the sale, lease, transfer, or assignment of the facilities and assets associated with the operations of NHRMC, (ii) management of NHRMC operations, (iii) NHRMC’s merger into another health system, and/or (iv) some other form of affiliation(s) (“**Proposed Strategic Partnership**”). The PAG’s meeting agendas and corresponding reports to the Boards, as applicable, shall focus on the following sequential tasks and responsibilities. Each task may take one or several meetings to accomplish:

1. Orientation to the process, general timeline, NHRMC, the County and the healthcare industry. *These meetings will not call for any voting or deliverables to the Boards.*
2. Identifying the key goals and objectives and corresponding information request components that the PAG recommend be included in the County’s request for proposals (“**RFP**”) to be issued by the County in accordance with North Carolina General Statute §131E-13(d). The PAG will carefully review and discuss such goals, objectives and RFP drafts, recommending changes and clarifications based on the PAG’s consideration of the best interests of (i) the citizens and healthcare providers of New Hanover County and the surrounding communities, and (ii) NHRMC in fulfilling its mission and meeting its charitable purposes now and into the future. *The PAG will vote on the recommended RFP for County issuance, highlighting the key goals and objectives for the Boards; such recommendation, RFP and goals and objectives will be the PAG’s first deliverable to the Boards.*
3. Identifying a *minimum* list of five (5) health systems/organizations that the PAG recommend be sent an RFP in accordance with North Carolina General Statute §131E-13(d), based on the PAG’s review of summary information on potentially interested or qualifying parties—understanding that other health systems/organizations can and likely will submit proposals as well and that these will be vetted in the same manner as the identified initial group. *The PAG will vote on this recommended list and such list will be the PAG’s second deliverable to the Boards.*
4. While third parties are preparing responses to the RFP, reviewing and discussing NHRMC/County options of continuing status quo or completing an internal corporate restructuring and remaining a

stand-alone County-owned public hospital (i.e., not moving forward with a third party). *These meetings will not call for any voting or deliverables to the Boards.*

5. Evaluating the RFP responses/responding parties, including a summary of the pros and cons associated with each proposed model, which shall also include a similar pros and cons evaluation of NHRMC continuing status quo/internally restructuring, based on the PAG's review of the RFP responses and other relevant information (the "**Evaluation**"). *These meetings will not call for any voting or deliverables to the Boards.*
6. Preparing for, attending the Public Hearing on RFP responses which will be made public at least ten (10) days before such hearing, and then identifying the two or three responding health system(s)/organization(s) most closely meeting the key goals and objectives per their respective responses to the RFP—as further supported by the Evaluation and the Public Hearing process—that the PAG recommends for further information gathering, including site visits, interviews, and other preliminary due diligence related to a Proposed Strategic Partnership with such system(s). *The PAG will vote on this recommended list of two to three responding parties to further research and such list will be the **PAG's third deliverable** to the Boards.*
7. Summarizing the results of such further information gathering, with additional review and analysis, and recommending either (i) not moving forward with a Proposed Strategic Partnership with any party/parties at this time and focusing instead on an internal restructuring or status quo, or (ii) negotiating a letter of intent ("**LOI**") with the PAG's first choice of a partner (or combination of partnerships), as identified in the summary, and moving into standard due diligence towards a final definitive agreement with such party/parties (the "**Proposed Strategic Partner**"). If recommending an LOI negotiation, also identify the core considerations to address in such LOI. *The PAG will vote on this next step, recommending either (i) or (ii) above; if recommending (ii), then the PAG also will vote on and recommend its list of LOI core considerations. Such recommendation, and corresponding LOI core considerations list as applicable, will be the **PAG's fourth deliverable** to the Boards.*
8. If discussions move forward with the Proposed Strategic Partner(s) and an LOI is executed, providing recommendations on the (i) key terms and conditions of the proposed final definitive agreement(s) effectuating the Proposed Strategic Partnership, and (ii) any final due diligence in this regard. This will be over several meetings working through drafts of such key terms and conditions, and parallel related final due diligence. *At the end of this process and series of meetings, the PAG will vote on the list of key terms and conditions of the definitive agreement(s) and deliver that list to the Boards. This will be the **PAG's fifth deliverable** to the Boards.*
9. Continuing to review and provide input on drafts of the key terms and conditions listed in the fifth deliverable; preparing for and attending the Public Hearing on any negotiated final draft definitive agreement which will be made public at least ten (10) days before such hearing; and, making a final recommendation to the Boards based on the PAG's work to date as to (i) whether or not it would, overall, be in the best interest of the citizens of New Hanover County and the surrounding communities for the parties to execute and implement such final definitive agreement(s), and (ii) whether or not, overall, executing and implementing such agreement(s) would be in the best interests of NHRMC in fulfilling its mission and meeting its charitable purposes now and into the

future. *At the end of this process and series of meetings, the PAG will vote either in support of, or not in support of the final definitive agreement(s), and will deliver that written recommendation to the Boards. This will be the PAG's sixth and final deliverable to the Boards.*

Together, the specific deliverables to the Boards referenced in 2, 3, and 6-9 above are hereinafter referred to as the “**PAG Deliverables.**”

### **III. Organization & Membership**

The PAG serves in an advisory function to the Boards, both separately and collectively, and shall be considered a public body under North Carolina law. The PAG shall exist as approved by the Boards, and the PAG shall remain in existence unless and until the Boards discontinue the PAG. The PAG shall not have the authority to bind or otherwise obligate either Board.

As authorized by the Boards, the Chief Executive Officer of NHRMC (“**CEO**”) and the County Manager (“**CM**”) shall oversee appointment of the initial members of the PAG. The PAG is a volunteer committee; no members will be compensated by any party for their time as such.

To ensure adequate and diverse representation of various key interests in this matter, the PAG shall consist of the CEO and CM (the “**CEO and CM Members**”) and nineteen (19) other members, including: (i) five (5) members of the NHRMC Board of Trustees as selected by the NHRMC Board Chair and Vice Chair, with input from the entire NHRMC Board (such PAG members, the “**Trustee Members**”), (ii) five (5) physicians as selected by the Physician Advisory Committee (“**PAC**”), a special committee of NHRMC Medical Staff, and agreed to by the Medical Executive Committee (“**MEC**”) of NHRMC’s Medical Staff (such PAG members, the “**Physician Members**”), and (iii) nine (9) other individuals mutually selected and appointed by the CEO and CM as community representation reflective of the community’s diversity of individuals and interests (such PAG members, the “**Community Members**”). At its first meeting, the PAG will elect, from its twenty-one (21) person membership, two co-chairs for the PAG (“**Co-Chairs**”) as well as two vice co-chairs to serve as alternates as needed, as further described in a separate ballot process overview to be provided to the PAG before such meeting.

#### **PAG Removal and Replacement:**

- Upon majority approval of the NHRMC Board of Trustees, such Board may remove and replace any appointed Trustee Member(s) with or without cause at any time.
- Upon majority approval of the PAC, and agreed upon by the MEC, such committee may remove and replace any appointed Physician Member(s) with or without cause at any time.
- Upon majority approval of the Community Members, together with the CEO and CM Members, any Community Member may be removed from the PAG, with or without cause at any time; the CEO and CM Members will appoint a replacement with input from the Community Members.
- PAG members shall hold their offices until their successors are appointed and qualified, or until their earlier resignation or removal. Any vacancies in the PAG shall be filled by their respective appointing parties.

#### IV. PAG Meetings & Voting

The PAG will meet as needed based upon the volume of business requiring the attention of the PAG, with meetings likely every other week for periods at a time but never less than monthly. Additionally, either Board may call a meeting of the PAG on at least 72 hours' notice to members of the PAG, which notices may be given in the form of email.

- Each meeting agenda will align with Article II. *Purpose and Responsibilities* and be finalized prior to the meeting by the Co-Chairs, with input from the PAG Support Team (as defined below).
- All PAG Members are expected to attend all PAG meetings in person, with reasonable limited exceptions for illness, vacation or emergency situations precluding attendance. A call-in number will be provided to facilitate attendance, but cannot be used routinely by individuals in lieu of in-person attendance.
- A majority of the members of the PAG shall constitute a quorum for the transaction of business. The PAG shall act only upon approval of a majority of its members present (in-person or via teleconference) at any given meeting. The PAG may also act in writing but only by the unanimous consent of all PAG Members.
- While less than a quorum may meet and work through agenda items—to the extent all are invited per a schedule to be posted by the County with appropriate notices as provided for herein—no voting can occur and no PAG Deliverables can result from any meeting without a quorum.
- No proxy voting or delegation of a member's voting rights will be permitted. Each member will have one vote (other than with respect to the PAG Co-Chair, Co Vice-Chair appointment process outlined separately for the first meeting).
- Voting will be open (other than with respect to the PAG Co-Chair, Co Vice-Chair appointment process) and the resulting resolution will indicate the applicable vote of each PAG Member in attendance and the corresponding percentage of approval.
- Any voting and its outcome, in connection with the PAG Deliverables, will be recorded in the PAG's meeting minutes in accordance with the Open Meetings Law and Public Records Law.
- The Co-Chairs may adopt further standard policy and procedure governing PAG meetings, including a more-defined attendance policy, as needed.
- Public comments will not be taken at PAG meetings. Discussion and comments will be limited to PAG Members and PAG Support Team Members in attendance per each meeting agenda.
- Except as otherwise specifically addressed in the Charter, *Robert's Rules of Order Newly Revised, 11<sup>th</sup> Edition*, will apply to meetings of the PAG.

## **V. Conflicts of Interest**

Regarding any actual or possible conflicts of interest, a PAG member must disclose in writing to the PAG Co-Chairs any substantial interest in a business, firm or corporation responding to the RFP. For the purposes of this Charter, a substantial interest means the PAG member, or his or her immediate family member, either (1) owns more than five percent of such entity, or (2) is an officer, director or employee of such entity. In the event any matter is brought before the PAG for a vote, it is the duty of such PAG member to disclose the conflict and neither participate in the applicable deliberations nor vote on such proposal.

## **VI. Required Transparency**

As a public body, the PAG shall be subject to and comply with Chapter 143, Article 33C of the General Statutes of North Carolina (the “**Open Meetings Law**”) and Chapter 132 of the General Statutes of North Carolina (the “**Public Records Law**”). As a public hospital, NHRMC’s records and County records related to NHRMC, including those generated or developed in connection with the Proposed Strategic Partnership, are governed by both the Public Records Law and Article 4, Part 7, Confidential Information, of Chapter 131E of the North Carolina General Statutes (the “**Confidentiality Protection Law**”). The PAG, with the assistance of the PAG Support Team described below, shall keep minutes and records of its proceedings and actions in accordance with the Open Meetings Law, Public Records Law and the Confidentiality Protection Law.

Open session minutes and other nonconfidential information and documents that the PAG will review, discuss and/or develop will be public and labeled and shared accordingly, following each meeting. PAG Deliverables will be public when communicated to the Boards. Other information and documents that the PAG will review, discuss and/or develop and which are confidential will be protected from disclosure as a matter of law. However, ultimately much of this protected information also will become part of the public record, including all or portions of closed session minutes. Final RFP proposals/responses (subject to limited redacted proprietary information as applicable) and any proposed final definitive agreement(s) will be public and no longer subject to confidentiality protections when posted and made available in connection with public hearings and County Commissioner voting, in accordance with Chapter 131E(d) of the North Carolina General Statutes 131E-13(d).

## **VII. Legally Protected Disclosures and Individual Confidentiality Commitments**

The purpose of the following commitments is to (i) ensure that the PAG, NHRMC and the County comply with applicable legal obligations, and (ii) prevent competitive information disclosure that could place NHRMC and/or the County at a negotiating disadvantage in this matter, which in turn could adversely impact the ultimate community benefits and health care delivery protections that otherwise may be achieved through this process.

The PAG shall enter into closed sessions as permitted under North Carolina law and each meeting agenda which includes a closed-session component will clearly state the relevant statutory basis for moving into closed session. All documents, records and other information shared with the PAG that are to remain confidential will clearly state the relevant North Carolina law dictating or otherwise providing for confidentiality.

The PAG, and each of its members, shall protect and keep confidential any legally protected competitive health care information and trade secrets disclosed to the PAG and its members, as well as any information protected by the attorney-client privilege, the Confidentiality Protection Law, or other applicable exceptions to the Public Meetings Law and/or Open Records Laws (all such information, the “**Confidential Information**”). PAG Support Team members will be responsible for identifying and labeling all Confidential Information and meeting agenda discussions so that there is no confusion in this regard.

Each PAG Member acknowledges and agrees not to share or discuss any Confidential Information outside of the PAG membership or to use such information for any purpose other than as described in this Charter (it being acknowledged that any other use or disclosure shall be deemed detrimental to NHRMC, the County and/or the communities they collectively serve). Each PAG Member shall take such action as may be reasonably necessary to prevent any unauthorized use or disclosure of Confidential Information. Each PAG Member understands and agrees that money damages would not be a sufficient remedy for any breach of this Charter commitment by such member, and that such a breach could cause irreparable harm. Each PAG member further agrees that, in the event of any breach or threatened breach of this Charter commitment by such Member, NHRMC and the County shall, subject to applicable law, be entitled to specific performance and/or injunctive relief as a remedy without the requirement of posting any bond or other security or of proving the inadequacy of monetary damages. Such remedies shall not be the exclusive remedies for any breach of this Charter commitment, but shall be in addition to all other remedies available to NHRMC and the County at law or in equity.

### **VIII. Indemnification of PAG Members**

Pursuant to a resolution of the Board of Trustees of NHRMC, and in accordance State law, each member of the PAG not otherwise covered by County indemnification shall be entitled to indemnification by NHRMC to the fullest extent permitted by the law of North Carolina for all reasonable expenses, including attorney’s fees, and for any liabilities which he/she may incur by reason of being a party, or being threatened to be made a party, to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, arising out of the fact that he/she is or was serving as a member of the PAG, and also related to inactions or actions taken in such capacity (each a “**Proceeding**”). In accordance with State law, NHRMC will fully indemnify and advance expenses of any Proceeding to such indemnified party, as long as the liabilities and expenses the person may incur are *not* based on activities known or believed by such person at the time to be clearly in conflict with the best interests of NHRMC (or, with respect to the Community Members, the best interests of the County), and such person does *not* receive an improper personal benefit violating State law related to such activities.

### **IX. PAG Support Team**

To support the work of the PAG, its Co-Chairs together with the CEO and CM will oversee a small group of internal and external experts in these matters, collectively experienced in governmental and health care strategic, financial, transactional, regulatory, compliance, and legal matters (the “**PAG Support Team**”). This will include County and NHRMC in-house legal counsel, financial and other key staff members, as well as their respective outside legal counsel and health care consulting advisors.

The PAG Support Team will (i) provide general advice to the PAG related to the PAG Deliverables, (ii) report relevant findings, analyses and advice to the PAG, (iii) manage communications with health

systems and other third parties, (iv) oversee due diligence disclosure of certain NHRMC information to health systems/organizations, and, if applicable, to the Proposed Strategic Partner in confirmatory due diligence, (v) conduct due diligence of health systems/organizations, (vi) facilitate any specific fact-finding directed by the PAG (for example, reference calls and site visits with recently acquired hospitals), (vii) interface with other NHRMC and/or County ad hoc committees formed to explore the Proposed Strategic Partnership, (viii) provide input on any proposals (or specific aspects of proposals) received in response to the RFP, (ix) identify other outside expertise as needed, (x) negotiate the terms of the letter(s) of intent and definitive agreement(s) (if applicable) under PAG oversight, (xi) obtain any applicable regulatory, governmental and third party filings and/or approvals called for in the definitive agreement(s), and (xii) oversee public and internal communications related to the Proposed Strategic Partnership, maintaining the transparency of this process in accordance with North Carolina General Statute §131E-13(d) and all other applicable rules and regulations.

**X. PAG Member Agreement**

By his or her signature below, each PAG member hereby confirms his/her understanding of this Charter and agrees to the commitments set forth in Articles V and VII of the Charter.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_