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Introduction

Pursuant to Section 2.41(f) of the Federal Trade Commission (the “Commission”), Rules of Practice and Paragraph III of the Decision and Order accepted for public comment by the Commission on November 15, 2010 (the “Decision and Order”), Respondents Alan B. Miller and Universal Health Services, Inc. (“UHS”), respectfully submit this Application for Approval of Divestiture of the Las Vegas Divestiture Assets (the “Application”), in connection with the matter entitled *In the Matter of Alan B. Miller, a natural person; Universal Health Services, Inc., a corporation; and Psychiatric Solutions, Inc., a corporation*, Docket No. C-4309, FTC File No. 101 0142.

This matter arose out of UHS’s acquisition of Psychiatric Solutions, Inc. (“PSI”), on or about November 15, 2010. On October 26, 2010, Alan B. Miller and UHS executed an Agreement Containing Consent Orders that included a Decision and Order and an Order to Hold Separate and Maintain Assets. On November 15, 2010, the Commission accepted the Agreement Containing Consent Orders, the Decision and Order, and the Order to Hold Separate and Maintain Assets for public comment. On April 19, 2011, the Commission approved a slightly modified final Decision and Order.¹

In this Application, UHS seeks approval of the proposed divestiture of the divestiture assets used in or primarily relating to Montevista Hospital and Red Rock

¹ Certain provisions relating to the parties’ notice and confidentiality obligations were slightly modified to remove unnecessary language. (See Decision and Order, at Paragraphs V.B, V.C.1.)

Behavioral Health Hospital (the “Las Vegas Divestiture Assets”),² to Dr. Soon Kim through Signature Healthcare Services, LLC (“Signature”), d/b/a Aurora Behavioral Healthcare, and Montevista, LLC, a newly-formed company for purposes of the transaction. Signature is wholly owned by Dr. Kim³ and Montevista LLC is majority-owned and controlled by Dr. Kim.⁴

Pursuant to the terms of an Asset Purchase Agreement entered into between UHS, Montevista, LLC, G&L, Signature and Aurora Behavioral Healthcare Montevista, LLC on May 9, 2011 (the “Asset Purchase Agreement”), Montevista LLC will acquire the Las Vegas Divestiture Assets and will become the assignee of the lease for Red Rock Behavioral Health Hospital. Aurora Behavioral Healthcare Montevista, LLC, a wholly owned subsidiary of Signature formed for purposes of the transaction, will be the sole operator of the Las Vegas Divestiture Assets.

The specific terms of the transaction are described in the following agreements (collectively, the “Las Vegas Divestiture Agreements”): (i) the Asset Purchase Agreement described above and attached hereto as Confidential Exhibit A, (ii) Disclosure Schedules to the Asset Purchase Agreement, dated May 9, 2011, attached

² Capitalized terms have the definitions given to them in the Decision and Order and the Order to Hold Separate and Maintain Assets.

³ Because Dr. Kim owns 100 percent of Signature, Dr. Kim and Signature are sometimes referred to interchangeably throughout this Application.

⁴ G&L Senior Care Properties, LLC (“G&L”), through affiliated companies, has a non-controlling minority interest in Montevista, LLC and is acting as a guarantor. G&L is a real estate developer and investor that has almost forty years of experience in healthcare real estate. G&L does not operate Psychiatric Hospital Facilities and will not be involved in the operations of the Las Vegas Divestiture Assets. Further information about G&L is available at www.gcrealty.com.

hereto as Confidential Exhibit B, (iii) a financing commitment letter from Torrey Pines Bank, dated May 6, 2011, attached hereto as Confidential Exhibit C, and (iv) a Transition Services Agreement, to be dated and entered into on the Closing Date, the agreed upon form of which is attached hereto as Confidential Exhibit D. The remainder of this Application further describes how the proposed divestiture will satisfy the terms and purposes of the Decision and Order.⁵

The proposed divestiture of the Las Vegas Divestiture Assets would accomplish the Decision and Order's purposes by "ensur[ing] the continuation of the Las Vegas Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities" and by "remedy[ing] the lessening of the competition resulting from the Acquisition alleged in the Commission's complaint". (Decision and Order, ¶ III.D.) Specifically, by divesting the Las Vegas Divestiture Assets as contemplated by the Decision and Order and the Las Vegas Divestiture Agreements, the Las Vegas Divestiture Assets will continue operating under the competent and capable direction of Signature and the State of Nevada will have the benefit of another significant competitor fully capable of and engaged in the provision

⁵ Because this Application and accompanying Confidential Exhibits contain confidential and competitively sensitive commercial and financial information relating to the Las Vegas Divestiture Assets that neither UHS nor Signature discloses in the ordinary course of business, the disclosure of which may harm the ongoing competitiveness of Montevista Hospital and Red Rock Behavioral Health Hospital and thereby prejudice UHS and/or Signature, UHS has redacted confidential information from the public version of this Application. Pursuant to Sections 2.41(f)(4) and 4.9(c) of the Commission's Rules of Practice, UHS requests that the confidential portion of this Application and the confidential material contained herein, including but not limited to the Las Vegas Divestiture Agreements, be afforded confidential treatment under Section 4.10(a)(2) of the Commission's Rules of Practice. See 16. C.F.R. § 4.10(a)(2); see also 15 U.S.C. §§ 46(f), 57b-2(c). Further, the confidential portions of this Application and accompanying Confidential Exhibits are exempt from disclosure under the Freedom of Information Act and the Hart Scott Rodino Act. See 5 U.S.C. § 552; 15 U.S.C. § 18a(h).

of Acute Inpatient Psychiatric Services. As described in detail below, Signature has the financial, professional and operational resources to be a strong and effective competitive force in the State of Nevada for the provision of Acute Inpatient Psychiatric Services.

I. UHS CONDUCTED A ROBUST DIVESTITURE PROCESS FOR THE LAS VEGAS DIVESTITURE ASSETS.

UHS has in good faith engaged in the divestiture process as contemplated by Paragraph III of the Decision and Order in order to divest the Las Vegas Divestiture Assets. As a result of that divestiture process, which involved discussions and negotiations with approximately twenty parties, UHS entered into the Asset Purchase Agreement with, inter alia, Signature, a national healthcare company headquartered in Michigan and California that provides behavioral health services in psychiatric treatment and the treatment of substance abuse. Throughout the process, UHS has kept the Commission staff informed of the manner in which UHS was conducting the divestiture process and the parties that expressed an interest in the Las Vegas Divestiture Assets. In addition to the required compliance reports that UHS has filed, UHS has communicated additional information to the Commission regarding the divestiture process.

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On May 9, 2011, UHS's discussions and negotiations with Signature culminated in the execution of the Las Vegas Divestiture Agreements. During the divestiture process and while UHS was in negotiations with interested parties, UHS has updated the Commission staff on progress of the negotiations and the identity of interested parties. Indeed, UHS informed the Commission staff of the execution of the Las Vegas Divestiture Agreements on May 10, 2011—a day after the Asset Purchase Agreement was executed—and previously had sent the Commission drafts of the Asset Purchase Agreement while UHS was still in negotiations with Signature. As described

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below, the Las Vegas Divestiture Agreements are structured to meet the requirements of the Decision and Order. The contemplated divestiture of the Las Vegas Divestiture Assets meets the purposes and requirements of the Decision and Order by adding a viable competitive force with the financial, professional and operational resources to provide Acute Inpatient Psychiatric Services in the State of Nevada.

II. SIGNATURE IS WELL-QUALIFIED AND IS READY, WILLING AND ABLE TO COMPETE FOR THE PROVISION OF ACUTE INPATIENT PSYCHIATRIC SERVICES IN THE STATE OF NEVADA.

A. Name and Address.

Signature Healthcare Services, LLC, d/b/a Aurora Behavioral Healthcare
29433 Southfield Rd., Suite 201
Southfield, MI 48076
(248) 905-5091

B. Signature's Corporate Officers Have Significant Experience in Operating Inpatient Psychiatric Services.

Signature's corporate team is well-qualified and experienced in operating Acute Inpatient Psychiatric Services. Members of the Signature Executive team include:

- Soon K. Kim, M.D., President and Chief Executive Officer. Dr. Kim has been President and Chief Executive Officer of the Company since its inception in July 2000. Dr. Kim is a psychiatrist with a specialty in General Psychiatry and subspecialty in Geriatric Psychiatry. Dr. Kim was a practicing psychiatrist for over 25 years; working in private practice and as Medical Director for various hospitals and clinics. Since 1994, Dr. Kim has been the President and/or Chief Executive Officer of various real estate holding and hospital management companies. Dr. Kim received a Doctor of Medicine from the College of Medicine, Seoul University in Seoul, South Korea. He completed his Internship at Niagara Falls Medical Center, Niagara Falls, New York and his residency and fellowship at Wayne County General Hospital in Eloise, Michigan. Dr. Kim is a life member of the American Psychiatric Association and the American Medical Association. Dr. Kim currently serves on the Board of Directors of the University of Southern California School of Gerontology.

- P. Blair Stam, Executive Vice President. Mr. Stam has been Executive Vice President for the Company since June 2008. From 2002-2008, Mr. Stam served as Senior Vice President, and from 2000-2002, Mr. Stam was the Vice President of Marketing and Business Development. Mr. Stam's career in behavioral healthcare began as a Drug and Alcohol Counselor. Shortly afterward, he received his Master's Degree and was in private practice as a licensed Marriage, Family, and Child Counselor for 12 years. While still in private practice, he worked in various capacities of hospital operations including Program Director, CEO and Vice President of Operations for several hospitals during the next 15 years. Since starting with the Company, Mr. Stam has been instrumental in Signature's acquisition of 8 acute psychiatric hospitals in Arizona, California and Chicago. All hospital CEO's report directly to Mr. Stam, and each is operating at exceptional levels. In addition to hospital operations, Mr. Stam has overseen The Oaks of Pasadena senior living facility since 2003.
- Laura Sanders, Senior Vice President and General Counsel. Ms. Sanders has been the Senior Vice President of the Company since June 2008 and General Counsel for the Company since July 2000. From July 2000 until November 2006, Ms. Sanders also served as the Company's Ethics and Compliance Officer. Ms. Sanders has been instrumental in Signature's acquisition of 8 acute psychiatric hospitals in Arizona, California and Illinois. Ms. Sanders oversees all areas of compliance, risk management, insurance, employment matters and litigation. Ms. Sanders received her bachelor's degree in Political Science from the University of Michigan in 1993 and her Juris Doctorate from the College of Law at Michigan State University in 1996.
- Cory Delello, Vice President of Finance and Chief Financial Officer. Mr. Delello has been the Vice President of Finance and CFO of the Company since July 2010. From 2008 until 2010, Mr. Delello served as Chief Financial Officer for two Signature subsidiary facilities. From 2008 to the present, Mr. Delello serves as Chief Financial Officer of one facility and director of the corporate business office. Mr. Delello has over 15 years of experience in the capacity of CFO/Administrator in the operation of various hospital and outpatient management services. Mr. Delello received his Bachelor of Science in Accounting/English from Bob Jones University in 1983.

C. Signature is in the Business of Operating Psychiatric Service Facilities.

Signature is a national healthcare company formed in July 2000, which, through wholly owned subsidiaries, provides psychiatric services to individuals who have a variety of behavioral health disorders, including alcohol and drug dependency.

Signature is privately held and has headquarters in Michigan and California. As of April 30, 2011, Signature had more than 1,700 employees. As of December 31, 2010, Signature had consolidated annual revenue of approximately \$132 million.

Signature, through its subsidiaries, operates eight facilities across the states of Arizona, California and Illinois. Currently, Signature has no facilities, including any Psychiatric Hospital Facilities, in the State of Nevada.

Signature's services include behavioral health services in psychiatric treatment and the treatment of substance abuse. As such, Signature already has the capabilities to operate and manage Psychiatric Hospital Facilities providing services such as specialized treatment to patients who suffer from substance abuse as well as inpatient psychiatric care, intensive outpatient psychiatric treatment and partial hospitalization programs.

Further information about Signature is available on the company's website, <http://www.aurorabehavioral.com>.

UHS does not have any current business relationship with Dr. Kim or Signature and is not aware of any previous sales or other transactions between it or any of its affiliates and Signature.

D. Signature Has the Financial Resources to Ensure that the Las Vegas Divestiture Assets Continue as Viable Competitors in the State of Nevada.

As of December 31, 2010, Signature had consolidated annual revenue of approximately \$132 million and more than 1,700 employees. In addition, inter alia,

Dr. Kim has entered into a commitment letter to provide financing for up to REDACTED which is intended, in part, to finance the acquisition of the Las Vegas Divestiture Assets.

The terms of the financing are set forth in the financing commitment letter attached hereto as Confidential Exhibit C.

E. Signature Has Developed a Comprehensive Business Plan to Compete for the Provision of Acute Inpatient Psychiatric Services in the State of Nevada.

Dr. Kim, as the President, Chief Executive Officer and owner of Signature, has spent considerable effort in connection with his decision to enter into the Las Vegas Divestiture Agreements, having made the determination that he sees an excellent business opportunity in the Las Vegas Divestiture Assets. Signature has developed a business plan setting forth how it plans to compete aggressively on a going-forward basis, consistent with the Commission's desire to ensure the continuation of the Las Vegas Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities. (See Decision and Order, ¶ III.D.) Signature has announced that it intends to retain the existing staff at Montevista Hospital and Red Rock Behavioral Health Hospital under Signature management. Signature also is researching the potential for additional beds in the Las Vegas market. Signature will submit a business/marketing plan to the Commission staff under separate cover.

Signature has the requisite experience—administrative, management, financial and clinical—to compete aggressively on a going-forward basis after its purchase of the Las Vegas Divestiture Assets from UHS is complete and approved by the

Commission. Furthermore, Signature has the financial resources to ensure that the Las Vegas Divestiture Assets will be financially and competitively viable and that it will be able to provide its patients with Acute Inpatient Psychiatric Services well into the future.

III. THE LAS VEGAS DIVESTITURE ASSETS BEING DIVESTED ARE CONSISTENT WITH THE TERMS AND PURPOSES OF THE DECISION AND ORDER.

As required by the Decision and Order, to the extent allowable by law, the transaction has been structured to divest all of the Las Vegas Divestiture Assets. The transaction has been structured as an asset transaction, such that, upon closing, Montevista, LLC will generally receive all transferable rights, title and interest to the Las Vegas Divestiture Assets and Signature, d/b/a Aurora Behavioral Healthcare Montevista, LLC, will be the sole operator of the Las Vegas Divestiture Assets. As a result, the Las Vegas Divestiture Assets being divested are consistent with the terms and purposes of the Decision and Order. In addition, the related Transition Services Agreement will further enable Signature to ensure the continuation of the Las Vegas Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities.

A. Transfer of the Las Vegas Divestiture Assets.

As required by the Decision and Order, the transaction will transfer the Las Vegas Divestiture Assets, absolutely and in good faith, as on-going businesses that are financially and competitively viable Psychiatric Hospital Facilities providing Acute Inpatient Psychiatric Services. To the extent permitted by law, and subject to certain exceptions, the transfer will include, but not be limited to, (i) real property interests; (ii) tangible personal property; (iii) contracts and agreements; (iv) intellectual property; (v) intangible rights other than intellectual property; (vi) approvals, consents, licenses, certificates, registrations, permits, waivers or other authorizations by any governmental

body or pursuant to any legal requirement and all pending applications or renewals thereof; (vi) inventories, stores and supplies; (vii) accounts receivables; (viii) rights under warranties and guaranties; (ix) books, records, files, and other business records; and (x) patient deposits. To the extent permitted by law, UHS also will cooperate as necessary to ensure that all governmental approvals needed to operate the Las Vegas Divestiture Assets are obtained.

The Excluded Assets (as defined in the Asset Purchase Agreement), will not be transferred. Such Excluded Assets include, but are not limited to, (i) cash; (ii) certain rights, claims and credits of UHS and its subsidiaries to assets other than those acquired by Signature (such as insurance policies and certain guarantees, warranties, and indemnities); (iii) certain trademarks and names; (iv) rights of UHS under the Asset Purchase Agreement; (v) business records prepared in connection with the sale of the Las Vegas Divestiture Assets and all other business records required to be retained to comply with applicable laws, regulations and other legal requirements; (vi) all assets of or relating to any seller benefit plan or seller benefit agreement; (vii) financial and tax records that constitute part of UHS's or one of its subsidiaries' general ledger; (viii) credits and related rights and claims from any taxing authority with respect to certain taxes; (ix) certain rights, claims and credits relating to third party payor reimbursements or insurance policies prior to the Closing Date; and (x) certain properties and assets used in or relating to the operation or conduct of a business other than Montevista Hospital and Red Rock Behavioral Health Hospital that are not primarily used in or do not primarily relate to Montevista Hospital and Red Rock Behavioral Health Hospital.

B. Securing Third Party Consents and Waivers.

The parties have agreed to use their commercially reasonable efforts to secure all material consents, waivers and licenses from all third parties necessary to permit the transfer of the Las Vegas Divestiture Assets (to the extent permitted by law). If a permit necessary to operate the Las Vegas Divestiture Assets prior to the Closing Date is not obtained, UHS has agreed to provide such lawful assistance as may reasonably be requested to obtain comparable authorization.

C. Signature's Opportunity to Hire Relevant Employees Currently Working at Montevista Hospital and Red Rock Behavioral Health Hospital.

As required by the Decision and Order, UHS has made the Relevant Employees who are currently staffing Montevista Hospital and Red Rock Behavioral Health Hospital available to Signature for hire. Signature has agreed to extend an offer of employment before the Closing Date to at least ninety percent of UHS employees whose duties relate primarily to the Divestiture Businesses. UHS will allow Signature to interview and inspect the personnel records of any Relevant Employee to the extent permissible under applicable laws. UHS will not (1) interfere, directly or indirectly, with the hiring or employment by Signature of any of these individuals, (2) offer any incentives to any of these individuals to decline employment with Signature, or (3) otherwise interfere with the recruitment of these individuals by Signature. UHS will also provide all such individuals with reasonable financial incentives to continue in their positions until the Closing Date of the divestiture and to the extent necessary, remove any impediments within UHS's control that may deter Relevant Employees from accepting employment with Signature.

D. Transition Services to Be Provided to Signature.

The parties have prepared a Transition Services Agreement (the “TSA”), to be dated and entered into on the Closing Date, a draft of the agreed-upon form is attached hereto as Confidential Exhibit D. Upon execution of the TSA, UHS will provide, at Signature’s option, administrative assistance, clinical assistance and support services with respect to the operation of Montevista Hospital and Red Rock Behavioral Health Hospital and the provision of Acute Inpatient Psychiatric Services, including assistance relating to billing, accounting, governmental regulation, human resources management, information systems, managed care contracting and purchasing, as well as assistance with respect to acquiring, obtaining access and customizing all software used in the provision of such services. UHS shall perform such services, to the extent necessary, at substantially the same level and quality as such services were provided by UHS to Montevista Hospital and Red Rock Behavioral Health Hospital prior to the Closing Date. The fee payable by Signature for services provided under the TSA will be equal to the cost directly incurred by UHS to provide such services.

E. The Proposed Divestiture Will Achieve the Remedial Purposes of the Decision and Order.

The proposed divestiture will ensure the continuation of the Las Vegas Divestiture Assets as ongoing, viable Psychiatric Hospital Facilities by giving control of the Divestiture Businesses to Signature, an established national healthcare company experienced in the operation of Psychiatric Hospital Facilities and the provision of Acute Inpatient Psychiatric Services. In addition, UHS believes that the TSA provides any transitional support necessary to ensure that Montevista Hospital and Red Rock Behavioral Health Hospital continue to remain viable competitors for the provision of


Acute Inpatient Psychiatric Services in the State of Nevada. The TSA was purposefully designed to enable Signature to request essentially any transition assistance that Signature may need. In addition, Signature's considerable existing behavioral health service capabilities provide the Commission additional assurances that Signature is well-poised to be a viable competitor for the provision of Acute Inpatient Psychiatric Services in the State of Nevada. As set forth more fully above in Section II, Signature is an established national healthcare company already providing behavioral health services across the states of Arizona, California and Illinois. With this established presence, Signature is an ideal candidate to acquire the Las Vegas Divestiture Assets in light of the purposes of the Decision and Order. The Las Vegas Divestiture Assets will strengthen Signature's competitive position nationally and provide a solid foothold to create a strong new competitor for the operation of Psychiatric Hospital Facilities and the provision of Acute Inpatient Psychiatric Services in the State of Nevada.

CONCLUSION

Because the proposed divestiture of the Las Vegas Divestiture Assets is pro-competitive, in the public interest and addresses the competitive concerns raised in the Decision and Order as they relate to the Las Vegas Divestiture Assets, and for the additional reasons set forth above, UHS respectfully requests that the Commission approve the divestiture of the Las Vegas Divestiture Assets as detailed in the Las Vegas Divestiture Agreements.

Dated: May 20, 2011

Respectfully submitted,



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