

Exhibit L

CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA and
STATE OF MICHIGAN,

Plaintiffs,

v.

HILLSDALE COMMUNITY HEALTH
CENTER, W.A. FOOTE MEMORIAL
HOSPITAL D/B/A ALLEGIANCE HEALTH,
COMMUNITY HEALTH CENTER OF
BRANCH COUNTY, and
PROMEDICA HEALTH SYSTEM, INC.,

Defendants.

Case No.: 5:15-cv-12311-JEL-DRG

Judge Judith E. Levy

Magistrate Judge David R. Grand

REBUTTAL EXPERT REPORT OF LAWTON R. BURNS, PH.D., MBA

The James Joo-Jin Kim Professor
Department of Health Care Management
Director – Wharton Center for Health Management & Economics
Co-Director, Roy & Diana Vagelos Program in Life Sciences & Management
The Wharton School
University of Pennsylvania
3641 Locust Walk
Philadelphia, PA 19104
215-898-3711 (ph)
215-573-2157 (fax)
burnsL@wharton.upenn.edu

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IN CASE NO. 5:15-cv-12311-JEL-DRG (E.D. MICH.)**

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8. Dr. Manning does not dispute that Allegiance had the option of pursuing less anticompetitive ways to increase referrals from Hillsdale County.⁸ She does not dispute, for example, that locating primary care physicians (PCPs) in the South-Hillsdale service area could enable Allegiance to build the referral patterns it apparently seeks.⁹ She would be hard pressed to do so as (1) Allegiance’s own consultant Navigant, which was tasked with “develop[ing] the strategic plan for Allegiance,”¹⁰ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. Hospitals can also try to grow their referral base by emphasizing and expanding outreach to physicians. Such outreach efforts are designed to build both the awareness and stature of the hospital’s specialists and the services it offers. For example, hospitals pursue formal (or informal) relationships with other hospitals for care collaboration in specific service lines. This collaboration often includes physician education or training provided by one hospital to the other, which puts that hospital “in front of the physicians because [they are] a referral

⁸ In fact, Dr. Manning acknowledges that Allegiance has used other methods to attract referrals (albeit to a limited extent), namely that “Allegiance and Hillsdale Hospital have worked cooperatively to market and offer vascular services in Hillsdale County, including co-branding community outreach efforts to promote vascular screenings and the services of Dr. Corcoran, a vascular surgeon with privileges at both Allegiance and Hillsdale Hospital.” Manning Report ¶ 12.

⁹ And it need not be PCPs. For example, an urgent care facility staffed by nurse practitioners could serve to provide access to care for patients and a referral base for a hospital.

¹⁰ Deposition of Georgia Fojtasek, Sept. 20, 2016, at 183.

¹¹ AH000334966, at 968; *see also* Burns Initial Report ¶ 33.