

# City of New York

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## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



### **MANAGEMENT AUDIT**

**Marjorie Landa**

Deputy Comptroller for Audit

Audit Report on Lincoln Medical  
and Mental Health Center's  
Affiliation Agreement with the  
Physician Affiliate Group of New York

MH13-130A

**June 19, 2015**

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, NY 10007

SCOTT M. STRINGER  
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June 19, 2015

To the Residents of the City of New York:

My office has audited the Physician Affiliate Group of New York (PAGNY) to determine whether it is in compliance with the terms of its affiliation agreement with the New York City Health and Hospitals Corporation (HHC) for providing services at the Lincoln Medical and Mental Health Center (Lincoln Hospital). We audit entities such as this to increase accountability and ensure that City funds are appropriately spent.

The audit found that PAGNY generally complied with its HHC affiliation agreement to provide services at Lincoln Hospital. However, we found certain financial control weaknesses in subcontractor payments and services. Specifically, we found that over one fourth of subcontractor payments during Fiscal Year 2014 lacked sufficient documentation to support the appropriateness of those payments. In addition, five of the 30 subcontractors paid for services in Fiscal Year 2014 did not have current service agreements in place.

The audit made six recommendations to PAGNY, including that PAGNY ensure that payments to subcontractors are made in accordance with existing written agreements and that all subcontractor invoices have the documentation to support payments made. The audit also made four recommendations to HHC, including that HHC ensure that Downtown Bronx Medical Associates (DBMA) and PAGNY formalize a regular schedule for DBMA's transfer of collections to PAGNY and that it ensure PAGNY maintains a separate bank account as stipulated by the affiliation agreement.

The results of the audit have been discussed with PAGNY and HHC officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report. If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer", with a long horizontal line extending to the left and a small arrow pointing to the right at the end of the signature.

Scott M. Stringer

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Audit of Lincoln Medical and Mental Health Center's Affiliation Agreement with the Physician Affiliate Group of New York MH13-130A

### EXECUTIVE SUMMARY

The objective of this audit was to determine whether the Physician Affiliate Group of New York (PAGNY) is complying with the terms of its affiliation agreement with the New York City Health and Hospitals Corporation (HHC) for providing services at the Lincoln Medical and Mental Health Center (Lincoln Hospital).

HHC is a public benefit corporation created in 1969 by the New York State Legislature to operate the City's municipal hospitals. To provide care and manage its medical staff and medical support services at its facilities, HHC has entered into contracts, known as "affiliation agreements," with medical schools, teaching hospitals, and physician-owned professional corporations (PCs), known as "affiliates."

In 2000, HHC entered into an affiliation agreement with Downtown Bronx Medical Associates (DBMA), a not-for-profit PC created by physicians who work at one HHC facility, Lincoln Hospital, to provide and manage the medical staff and medical support services at Lincoln Hospital. In an effort to consolidate a number of affiliation agreements, improve efficiencies, and ease negotiations, HHC solicited DBMA to create PAGNY in 2010 to function as an HHC affiliate in additional hospitals beyond Lincoln. Subsequently, in November 2011, HHC assigned to PAGNY its DBMA affiliation agreement for Lincoln Hospital. PAGNY took over providing and managing physician and support services to the hospital as well as performing payroll and timekeeping functions. However, DBMA remained a separate entity and retained responsibility for billing for physician services under the Faculty Practice Plan (FPP).<sup>1</sup>

According to the affiliation agreement, for Fiscal Years 2013, 2014, and 2015, HHC was required to pay approximately \$80 million annually to PAGNY for its management and operations responsibilities at Lincoln Hospital and PAGNY was required to contribute \$17 million annually toward the medical service providers' salaries, which was to be collected by DBMA through the FPP billings. In addition to its responsibilities for employing in-house medical staff at Lincoln Hospital, PAGNY arranged with subcontractors to provide medically-needed professional specialty services, such as orthopedic surgical services and neurosurgical services. In Fiscal

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<sup>1</sup> An FPP is a plan administered by a physician-owned PC and approved by HHC, which entitles the PC (in this case DBMA) to collect medical fees for direct patient care services rendered by its member physicians at the affiliated hospital (e.g., Lincoln Hospital). Once the expenses incurred in operating the FPP are paid, the remaining monies (known as the net collections) go towards paying medical service providers' salaries.

Year 2014, PAGNY paid \$8,821,432 for these medical services. These funds come from HHC's annual payments of \$80 million to PAGNY.

HHC provides semi-monthly payments to PAGNY to cover most of the services required by the affiliation agreement. Following the end of each fiscal year, PAGNY is required to submit a *Recalculation of Affiliate Payment* document (Recalculation) to HHC that records the difference between services budgeted and delivered and how much either PAGNY or HHC owe based on those revisions. HHC uses the Recalculations to establish future budgets and the semi-monthly payments that HHC provides to PAGNY to cover contract services at the hospital.

## Audit Findings and Conclusion

PAGNY generally complied with its HHC affiliation agreement to provide services at Lincoln Hospital. However, we found certain financial control weaknesses in subcontractor payments and services. Specifically, we found that over one fourth of subcontractor payments during Fiscal Year 2014 lacked sufficient documentation to support the appropriateness of those payments. In addition, five of the 30 subcontractors paid for services in Fiscal Year 2014 did not have current service agreements in place.

The audit also found a number of other weaknesses. Specifically, PAGNY did not have a formal agreement in place to cover the change in the timing of the transfer of net FPP collections from DBMA's bank account to PAGNY's account; PAGNY did not ensure that financial statements for Fiscal Years 2012 and 2013 were audited in a timely manner; PAGNY and HHC took more than a year to complete the Recalculations for Fiscal Years 2012 and 2013; and PAGNY made some payments to a number of physicians for extra work performed that were not in accordance with the established collective bargaining agreement.

## Audit Recommendations

Based on our findings we make six recommendations to PAGNY, including:

- PAGNY should ensure that its payments to subcontractors are made in accordance with existing written agreements and that any amendments to those contacts are made in writing.
- PAGNY should ensure that all subcontractor invoices have the documentation to support payments made.
- PAGNY should ensure that all subcontractors have a service agreement as required by the affiliation agreement to ensure that the responsibilities for both PAGNY and its subcontractors regarding the provision of needed contracted services are clearly defined.

We also make four recommendations to HHC, including:

- HHC should ensure that DBMA and PAGNY formalize a regular schedule for DBMA's transfer of net FPP collections to PAGNY.
- HHC should ensure PAGNY maintains a separate FPP Lincoln bank account as stipulated by the affiliation agreement.
- HHC should ensure that PAGNY and HHC continue finalizing the Recalculations in a timelier manner and that audited financial statements be issued within 120 days.

## Agency Response

In their responses, HHC and PAGNY did not dispute the audit's findings and generally agreed with the audit's ten recommendations. The full texts of the HHC and PAGNY responses are included as addenda to this report.

# AUDIT REPORT

## Background

HHC is a public benefit corporation created in 1969 by the New York State Legislature to operate the City's municipal hospitals. HHC provides medical, mental health and substance abuse services through 11 acute care hospitals, four skilled nursing facilities, six diagnostic and treatment centers, and more than 70 community based clinics. It is the largest municipal hospital and health care system in the United States. To provide care and manage its medical staff and medical support services at its facilities, HHC has entered into contracts, known as "affiliation agreements," with medical schools, teaching hospitals, and physician-owned PCs, known as "affiliates."

In 2000, HHC entered into an affiliation agreement with DBMA, a not-for-profit PC created by physicians who work at one HHC facility, Lincoln Hospital, to provide and manage the medical staff and medical support services at Lincoln Hospital. In accordance with its affiliation agreement, DBMA paid a portion of the medical service providers' salaries from fees collected through the administration of a FPP. The amount paid towards those salaries is called the "plan deduction."

Prior to 2010, HHC had affiliation agreements with eight different affiliates<sup>2</sup> to provide physician and support services to its 11 acute care hospitals.<sup>3</sup> In an effort to consolidate a number of affiliation agreements, improve efficiencies, and ease negotiations, HHC solicited DBMA to create PAGNY in 2010 to function as an HHC affiliate in additional hospitals beyond Lincoln.<sup>4</sup> HHC cited the success of the Lincoln Hospital affiliation as the reason it sought DBMA's assistance. That year Coney Island Hospital became the first HHC facility to affiliate with PAGNY, followed by Harlem Hospital, Metropolitan Hospital, Jacobi Medical Center, and North Central Bronx Hospital.

In November 2011, HHC assigned its DBMA affiliation agreement to PAGNY, making Lincoln Hospital the sixth HHC hospital to partner with PAGNY. PAGNY took over providing and managing physician and support services to the hospital as well as performing payroll and timekeeping functions. However, DBMA remained a separate entity and retained responsibility for billing under the FPP. Under the HHC affiliation agreement, PAGNY became the employer of the medical service providers at Lincoln Hospital. According to the affiliation agreement, for Fiscal Years 2013, 2014, and 2015, HHC was required to pay approximately \$80 million annually<sup>5</sup> to PAGNY for its management and operations responsibilities at Lincoln Hospital and PAGNY was required to contribute \$17 million annually toward the medical service providers' salaries, which was to be collected by DBMA through the FPP billings.<sup>6</sup>

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<sup>2</sup> Those eight affiliates were DBMA, University Group Medical Associates, Columbia University Medical Group, New York Medical College, New York Medical Alliance, New York University School of Medicine, and the Mount Sinai School of Medicine and SUNY.

<sup>3</sup> HHC hospital facilities are Jacobi, Lincoln, and North Central Bronx hospitals in the Bronx; Coney Island, Kings County, and Woodhull hospitals in Brooklyn; Bellevue, Harlem, and Metropolitan hospitals in Manhattan; Elmhurst and Queens Hospital Center in Queens.

<sup>4</sup> DBMA Board members were used to incorporate PAGNY and stayed on the PAGNY Board temporarily until a new board was chosen.

<sup>5</sup> HHC has also agreed to pay additional money to Lincoln's medical personnel if performance indicators stipulated in the affiliation agreement were exceeded.

<sup>6</sup> Under the affiliation agreement, if net collections exceed \$17 million (the plan deduction amount), the remaining monies—up to \$4 million—are to be used to pay bonuses to medical service providers. Starting in Fiscal Year 2014, any monies that remained after the payment of the medical service providers' salaries and bonuses were to be used for enhancements to Lincoln Hospital.

In addition to its responsibilities for employing in-house medical staff at Lincoln Hospital, PAGNY has arranged with subcontractors to provide medically-needed professional specialty services, such as orthopedic surgical services and neurosurgical services. In Fiscal Year 2014, PAGNY paid \$8,821,432 for these medical services. These funds come from HHC's annual payments of \$80 million to PAGNY.

HHC provides semi-monthly payments to PAGNY to cover most of the services required by the affiliation agreement. Following the end of each fiscal year, PAGNY is required to submit a Recalculation to HHC that records the difference between services budgeted and delivered and how much either PAGNY or HHC owe based on those revisions. HHC uses the Recalculations to establish future budgets (i.e., the amount that it will pay PAGNY for providing clinical services) and the semi-monthly payments that HHC provides to PAGNY to cover contract services at the hospital.

In March 2014, HHC and PAGNY entered into a new affiliation agreement covering all six of its hospitals for the period covering Fiscal Years 2013 to 2015. Previously, PAGNY had separate affiliation agreements with those hospitals.

For Fiscal Years 2013 and 2014 (July 1, 2012 to June 30, 2014), HHC paid PAGNY approximately \$167 million for its management of medical staff and medical support services at Lincoln Hospital under the current affiliation agreement. This amount includes additional monies paid to the physicians for exceeding the minimum requirements of the performance indicators stipulated in the agreement.

## **Objective**

The objective of this audit was to determine whether PAGNY is complying with the terms of its affiliation agreement with HHC for providing services at Lincoln Hospital.

## **Scope and Methodology Statement**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The original audit scope was Fiscal Year 2013 (July 1, 2012 to June 30, 2013). However, we expanded our scope to Fiscal Year 2014 for our review of PAGNY's accounts payable and timekeeping functions, and into the beginning of Fiscal Year 2015 up to and including September 2014, in order to ensure we reviewed more current information about PAGNY's FPP fund transfers.

Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that we conducted.



## **Discussion of Audit Results with HHC and PAGNY**

The matters covered in this report were discussed with HHC and PAGNY officials during and at the conclusion of this audit. A preliminary draft report was sent to HHC and PAGNY officials and discussed at an exit conference held on May 13, 2015. On June 1, 2015, we submitted a draft report to HHC and PAGNY with a request for comments. We received written responses from HHC and PAGNY on June 16, 2015.

In their responses, HHC and PAGNY did not dispute the audit's findings and generally agreed with the audit's ten recommendations. The full texts of the HHC and PAGNY responses are included as addenda to this report.

## FINDINGS AND RECOMMENDATIONS

PAGNY generally complied with its HHC affiliation agreement to provide services at Lincoln Hospital. The audit found that PAGNY ensured that senior positions in the hospital's medical departments were staffed; that there were adequate controls over timekeeping; that separate bank accounts and accounting records for Lincoln Hospital were maintained (with the exception noted below); that annual audits of the special purpose financial statements were conducted and the Recalculations were completed, although not timely, as discussed below; and that plan deductions were accurately paid.

However, we found financial control weaknesses regarding subcontractor payments and services. Specifically, we found that over one fourth of subcontractor payments during Fiscal Year 2014 lacked sufficient documentation to support the appropriateness of those payments. As a result, we do not have adequate assurance that all of those payments were appropriate. In addition, five of the 30 subcontractors paid for services in Fiscal Year 2014 did not have current service agreements in place.

The audit also found several other weaknesses: PAGNY did not have a formal agreement in place to cover the change in the timing of the transfer of net FPP collections from DBMA's bank account to PAGNY's account; PAGNY did not ensure that the financial statements for Fiscal Years 2012 and 2013 were audited in a timely manner; PAGNY and HHC took more than a year to complete the Recalculations for Fiscal Years 2012 and 2013; and PAGNY made payments to physicians for extra work performed that were not in accordance with the established collective bargaining agreement.

These issues are discussed in the following sections of this report.

### **Inadequate Controls Over Payments to Subcontractors**

PAGNY assumed responsibility for all of the subcontractor service agreements previously entered into by DBMA when it became the affiliate for Lincoln Hospital. However, during the audit period, PAGNY did not have adequate controls in place to ensure that subcontractor payments were sufficiently documented and that the subcontracted service providers complied with their agreements. Based on our sample, we found \$1.9 million was paid inappropriately to subcontractors because either there was insufficient documentation to support the payments or the services were not provided according to the terms of the subcontractor agreements. As a result, we do not have adequate assurance that all of those payments were appropriate. In addition, PAGNY made payments to subcontractors with which it did not have current service agreements.

### **Unsupported Payments for Subcontractor Services**

We sampled Fiscal Year 2014 subcontractor payments totaling \$6.79 million and found that more than a quarter, \$1.9 million, lacked sufficient documentation to support the appropriateness of those payments or that services were not provided according to the terms of the subcontractor agreements. According to HHC's affiliation agreement with PAGNY, PAGNY may subcontract medical services to supplement its staffing needs. HHC requires that these subcontractor agreements describe the nature and extent of coverage and the hours of service. PAGNY must maintain detailed records as to the actual hours worked, types of services, and types of medical

specialties provided. This documentation must accompany the invoiced amounts submitted by the subcontractor.

However, our review identified a large percentage of subcontractor payments that were not adequately supported. We reviewed the Fiscal Year 2014 payment packages, totaling \$6,786,981, for a sample of 10 subcontractors and initially found that payment packages totaling \$1,868,209 (28 percent)—relating to eight of the subcontractors—lacked sufficient documentation to support the appropriateness of those payments or that services were not provided according to the terms of the subcontractor agreements. Primarily, vendors failed to submit required timesheets for their documentation. The PAGNY/Lincoln Chief Affiliation Officer (CAO) stated that up through Fiscal Year 2014, so long as PAGNY received a subcontractor invoice signed off by the department chief, PAGNY normally processed payment.

PAGNY officials described the approval process as involving the following steps. The chief of the department that received the contracted service is supposed to review an invoice, approve it, and submit it with the timesheets that support the charges to the CAO. The CAO then submits the documentation package with a signed Check Request form to PAGNY's Central Corporate Office, which generates a check. PAGNY utilizes a documentation retention vendor, Optical Archives, to upload the documentation package<sup>7</sup> into a cloud-based data storage repository that serves as PAGNY's permanent record storage system. Optical Archives also retains the hard copy of the uploaded records. However, we found in practice that this procedure was not consistently followed and some invoices were accepted and paid without vendor-provided time sheets, as required by the subcontractor agreements.

Approximately \$1.5 million of the nearly \$1.9 million of inadequately documented payments we identified related to a single subcontractor, a supplier of surgeons and physician assistants. No timesheets for any of the medical professionals provided by that subcontractor to PAGNY were retained by Optical Archives. According to PAGNY's CAO, PAGNY advanced payments to the subcontractor because it was having cash flow problems. The CAO explained that the arrangement to advance payments had been made with the subcontractor prior to his appointment as CAO and that he has continued to abide by it in order to ensure coverage of the medical positions they supply. However, PAGNY did not ensure that all the timesheets required to document those payments were obtained from the subcontractor and provided to Optical Archives for retention.

The CAO subsequently provided us with hard-copy timesheets that accounted for \$625,164 of the \$2,118,550 paid to the subcontractor during Fiscal Year 2014. Nevertheless, PAGNY did not review or reconcile the timesheets it obtained for the payments that were advanced to ensure that the payments were in fact for services rendered as documented by the timesheets. The interim chief of the department where the subcontractor's services were rendered stated that the medical personnel services required under the agreement were provided. She asserted that it was not likely that medical staff assigned by the subcontractor would have been absent and their absence went unnoticed. However, without the timesheets that are required to be submitted by the subcontractor, PAGNY is limited in its ability to ensure that all payments made to the vendor were appropriate. The CAO stated that he is currently seeking to change that arrangement as part of the new contract that is being negotiated with the subcontractor.

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<sup>7</sup> By the end of the payment process, the documentation package should include the Check Request form; the subcontractor's invoice signed by the Chief of the department where the services were provided; timesheets; the check stub; and a copy of the check. Of the 10 sampled agreements, only one was not required to complete timesheets. The agreement was for radiology reading services, and instead of timesheets, the subcontractor submitted detailed invoices listing all the readings performed.

After we issued our preliminary draft report to PAGNY and HHC, PAGNY's CAO obtained timesheets from the subcontractor supporting an additional \$588,144 in payments and provided those timesheets to us. Thus, in total, PAGNY provided us with timesheets accounting for \$1,213,308 (57 percent) of the \$2,118,550 paid to that subcontractor during Fiscal Year 2014, and the overall figure for unsupported payments made to the eight subcontractors is reduced to \$1,280,065 (\$1,868,209 minus \$588,144). Nevertheless, our finding remains that PAGNY did not attempt to obtain the timesheets supporting these payments from the subcontractors until we brought this issue to officials' attention. Because PAGNY did not obtain the timesheets from the subcontractor earlier, PAGNY could not perform a review and reconciliation of the timesheets to adjust the future payments based on services actually rendered as supported by the timesheets.

According to the PAGNY CAO, the department chiefs' signature on the subcontractors' invoices serves as assurance to him that the medical services billed for had been rendered. In an attempt to address the lack of adequate support for the payments we identified, he stated that after Fiscal Year 2014, PAGNY began to enforce the requirement that subcontractor invoices, with the exception of those from the subcontractor who was paid in advance, have all the required supporting documentation prior to any payment being made. In addition, the Check Request form now includes a printed certification where the relevant department chief must attest to the quality of the services provided as well as to the quantity (e.g., hours) of services provided before the CAO will approve any payments to a subcontractor.

In addition to failing to ensure that timesheets were submitted before any payments were made, we also found a number of instances where subcontractors were paid in full, notwithstanding their failure to provide the medical coverage required by their service agreements. In one instance, PAGNY continued to pay a subcontractor the full monthly fee of \$9,927 to provide pediatric services for three half days a week despite the fact that the subcontractor's services were cut back to two half days a week several years before. However, the reduction in service to two days a week was never formalized in a contract amendment. As a result, according to the CAO, he was unaware of the change and continued to authorize payments in full. In addition, according to the department chief, she thought the change had been formalized and the payments being made had been reduced years before she became chief.

We also found that PAGNY paid six subcontractors for the time that its physicians were on personal or professional leave. Their current service agreements provide for annual payments, but do not specify a minimum number of weeks of coverage they are required to provide, which has led to ambiguity as to the number of weeks the subcontractors must provide service. While the CAO acknowledged that these agreements appear to indicate that 52 weeks of service were required, he stated that the department chiefs expect the medical professionals providing the services will need to take leave for continuing medical education, vacation days, and sick days, and that it was understood that they would get paid nonetheless. PAGNY is currently engaged in contract renewal discussions with the subcontractors and seeks to clarify these coverage issues in the new contracts.

## Recommendations

1. PAGNY should ensure that its payments to subcontractors are made in accordance with existing written agreements and that any amendments to those contracts are made in writing.

**PAGNY Response:** "PAGNY will require Chief Affiliation Officers and Chiefs of Service to meet before any modifications to contracts are implemented. The Chief

Affiliation Officer will report any changes to the PAGNY legal department to ensure that contemplated changes are captured in a contract amendment.

“PAGNY requires sufficient documentation to justify payment to any subcontractor. Chiefs of Service will be required to certify that a contractor has complied with all of the obligations of the contract. PAGNY finance will not make any payments unless such a certification together with appropriate supporting documentation is submitted.”

2. PAGNY should ensure that all of its written agreements with subcontractors clearly describe what services will be provided, the minimum level of service and the minimum number of hours and weeks that must be provided, and exactly what documentation must be provided in order to receive payment.

**PAGNY Response:** “PAGNY’s legal department will ensure that all contracts detail the obligations of the parties in a manner that is measureable and enforceable. Chiefs of Service and Chief Affiliation Officers will be directed to identify subcontractor obligations in a manner that will ensure that the needs of the hospital, as approved by the Joint Oversight Committee, will be fulfilled. We will continue to require subcontractors to submit sufficient documentation to obtain payment for services.”

3. PAGNY should ensure that all subcontractor invoices have the documentation to support payments made.

**PAGNY Response:** “The FY 16-20 Affiliation Agreement, effective July 1, 2015, will modify the language regarding the required documentation (timesheets) to allow for other relevant and appropriate documentation. This language modification takes into account the fact that compliance with contractual obligations can be measured by means other than time spent performing duties.”

4. PAGNY should follow up and determine whether supporting documentation exists for the \$1,280,065 in questionable payments identified in this report relating to subcontractor services. PAGNY should recoup those payments for which it is unable to verify that services were rendered.

**PAGNY Response:** “PAGNY is satisfied that the services required by the services contractor referred in recommendation #4 were provided and that, notwithstanding the absence of timesheets in certain circumstances and other documentation, all payments made were appropriate. PAGNY has determined that sufficient supporting documentation exists for the payments referred to in recommendation #4. Therefore no repayment is indicated.”

**Auditor Comment:** PAGNY appears to address its response to the subcontractor that accounted for most of the unsupported payments (\$905,242 of the \$1,280,065 in question). However, there are another seven subcontractors that received the remaining \$374,823 in unsupported payments. PAGNY should follow up on these payments as well and recoup those for which it is unable to verify that services were rendered.

5. HHC should follow up and ensure that PAGNY takes appropriate action regarding the recommendations listed above.

**HHC Response:** “Lincoln monitors all service activity and payments of the Affiliate and its subcontracts through many vehicles such as: the Joint Oversight

Committee which is a collaborative meeting to discuss both Affiliate and facility needs to render the proper services to our patients; clinical transformation meetings of ambulatory care services to evaluate clinical efficiency and processes to ensure greatest access to our patients; Finance value stream analysis which evaluates the increases and decreases of workload and the respective financial impact of all changes. In as such, we will continue to work closely with PAGNY administration to ensure that all required documentation is present and that appropriate payments are rendered to said subcontractors.”

## **PAGNY Lincoln Subcontractors Operating Without a Current Service Agreement**

When PAGNY became the affiliate of Lincoln Hospital in November 2011, it assumed responsibility for all of the subcontractor service agreements previously entered into by DBMA. PAGNY’s affiliation agreement requires it to have a service agreement for its subcontractors who work at Lincoln. Further, under its affiliation agreement, PAGNY must submit to HHC copies of any contracts and contract amendments between itself and its subcontractors.

In Fiscal Year 2014, PAGNY did not have current contracts with five of the 30 vendors performing services for it at Lincoln Hospital. In one instance, PAGNY utilized and paid for the services of a vendor that provided surgical residents notwithstanding the fact that the subcontractor’s contract had expired in June 2013 and had not been renewed because Lincoln Hospital’s residency program had been academically accredited. However, the hospital continued to use the subcontractor’s surgical residents for an entire year without a valid contract in place. There were two additional vendors (one was responsible for providing urological residents and the other was responsible for providing orthopedic surgeons and physician assistants) which had contracts that expired in June 2013 and are currently still being renegotiated.

In addition, PAGNY utilized and paid for the services of two individual physicians with which it never had subcontractor agreements. One physician was also an employee of PAGNY’s affiliated Jacobi Hospital. The CAO stated that PAGNY officials were looking into ways to pay her as an employee on Lincoln’s budget for the additional hours worked for Lincoln beyond those she worked at Jacobi in order to formalize their informal arrangement. The other physician provided on-call pediatric intensive care services at the hospital. According to PAGNY, the physician did not want to enter into a service agreement because of additional legal fees that would be incurred in having the service agreement reviewed. A PAGNY official stated that Lincoln Hospital cannot afford to lose the services provided by this individual, so the physician has continued to work without an agreement and is paid, according to PAGNY, at the same rate and terms as other physicians who provide comparable services.

We also identified a subcontractor payment made to a full-time PAGNY employee at Lincoln. She received one payment for \$2,600 as a subcontractor for extra work she performed. However, physicians who work hours beyond their regularly scheduled hours are entitled to sessional pay rather than pay as a subcontractor. Sessional hours worked by physicians are paid at rates that vary depending on the medical specialty of the department to which the physicians are assigned. Both the CAO and department chief acknowledged that this employee should have received sessional pay rather than pay as a subcontractor.

## Recommendation

- PAGNY should ensure that all subcontractors have a service agreement as required by the affiliation agreement to ensure that the responsibilities for both PAGNY and its subcontractors regarding the provision of needed contracted services are clearly defined.

**PAGNY Response:** “On April 16, 2015, PAGNY appeared before the HHC Audit Committee and presented the corrective actions that were implemented in response to several HHC audits that were conducted during fiscal year 2014. Those HHC audits identified certain deficiencies in contracts inherited from prior affiliates. The Comptroller’s findings with respect to the status of subcontractor agreements that were relied on in 2014 is consistent with HHC’s findings. On April 16, PAGNY represented that negotiations with three major medical institutions were ongoing and, that except for those major institutional contracts, all other subcontractor agreements had been reviewed and where necessary revised. The list of all PAGNY contracts was thereafter forwarded to the Office of Professional Services and Affiliations. PAGNY management agrees that every non-employee provider must have a contract that details the obligations of each party. The two instances where that was not the case will be addressed and rectified.”

## Other Weaknesses

### Maintenance of DBMA FPP Bank Account

When PAGNY assumed the Lincoln affiliation agreement from DBMA, DBMA retained responsibility for collecting FPP billings. Under PAGNY’s affiliation agreement, DBMA is required to maintain its own FPP bank account in which all FPP monies are deposited and from which all expenses incurred in the operation of the FPP, such as billing, accounting, and reporting costs, are to be paid. Once those expenses are met, DBMA must transfer the remaining FPP monies to PAGNY’s FPP Lincoln bank account on a biweekly basis or on a schedule otherwise agreed to by PAGNY and DBMA. PAGNY uses these monies (not to exceed \$17 million), in combination with funds from HHC, to pay medical personnel salaries at Lincoln Hospital.

However, we found that DBMA’s net FPP collections have not been fully transferred from its account to the PAGNY account for Lincoln Hospital. PAGNY officials stated that DBMA and PAGNY had agreed to transfer the net collections into the PAGNY FPP Lincoln bank account when each Recalculation is completed. However, this agreement has never been formalized.

As of September 2014, PAGNY ceased transfer of FPP DBMA revenues into the PAGNY FPP Lincoln bank account. Instead, the revenues were transferred into one of PAGNY’s operating accounts, and comingled with funds from PAGNY-affiliated hospitals. According to a PAGNY official, PAGNY management concluded that consolidating the accounts would eliminate a step and lead to efficiencies. When we informed PAGNY management that by doing so it violated the affiliation agreement, management stated that they reestablished their process of transferring FPP funds to the FPP Lincoln bank account in November 2014.

Subsequent to our exit conference, PAGNY officials informed us that as of May 18, 2015, PAGNY took responsibility for the checkbook for the DBMA FPP bank account and “PAGNY has been given accounting and dispersing control of the DBMA banking functions (i.e., online transfers and preparation of paper checks) by DBMA.” However, PAGNY and DBMA officials stated that DBMA

is still the owner of the DBMA FPP bank account and there is no intention to transfer the ownership of that account to PAGNY.

This arrangement still does not adhere to the terms of the affiliation agreement because proprietary control of the DBMA FPP account remains with DBMA. Accordingly, the need for DBMA and PAGNY to formalize an agreement that establishes the transfer of net FPP collections to PAGNY on a regular schedule remains.

## **Lincoln Hospital Annual Audits of Financial Statements and Recalculation of Affiliate Payments for Fiscal Years 2012 and 2013 Were Not Completed in a Timely Manner**

The annual *Independent Auditor's Report of the Special Purpose Financial Statements* (financial statements) were not completed timely. The affiliation agreement requires the audited financial statements to be issued within 120 days after the fiscal year. However, the Fiscal Year 2012 audited financial statement was issued on October 2013 (almost 1 year and 4 months after the end of the fiscal year) and the Fiscal Year 2013 financial statement was issued on March 2014 (almost 9 months after the end of the fiscal year). The Fiscal Year 2014 financial statement was issued on October 15, 2014, and thus it was timely since its issuance was 107 days after the end of the fiscal year.

We also found that the annual Recalculation of Affiliate Payments (Recalculations as required by the affiliation agreement) for Fiscal Years 2012 and 2013 have not been completed for more than a year after the close of the fiscal years.

PAGNY, working in conjunction with Lincoln Hospital, submitted the Fiscal Year 2012 Recalculation (partial year covering November 6, 2011 to June 30, 2012) in October 2013. HHC executed it in December 2014, over two-and-a-half years after the end of the fiscal year. According to HHC, this process took longer than expected because HHC needed to modify some documents to ensure that appropriate information was used. During that period, PAGNY claimed that it was also experiencing difficulties because of its assumption of the DBMA affiliation agreement. By not completing the Recalculations in a timelier manner, HHC's ability to establish adequate budgets and determine the appropriate semimonthly payments to PAGNY is hindered.

For Fiscal Years 2013 and 2014, the Recalculations have been completed or are scheduled to be completed in a timelier manner. The Fiscal Year 2013 Recalculation was executed in February 2015 (1 year and 8 months after the end of the fiscal year) and the Fiscal Year 2014 Recalculation should be executed by the end of June 2015 (almost 12 months after the end of the fiscal year).

The accuracy and reliability of annual Recalculations depend on the use of accurate and reliable financial information. When financial statements are independently audited, a level of assurance is obtained that the financial information reported therein is accurate and reliable. When financial statements are not independently audited on a timely basis, financial data may become stale and its relevancy is reduced for its use by stakeholders, such as HHC, policy makers, and political office holders who use the information to calculate budgets and determine funding levels. The Recalculation process may also be significantly delayed as a result. By not completing the Recalculations in a timelier manner, HHC's ability to establish relevant budgets and determine the appropriate semimonthly payments to PAGNY based on the most up-to-date and current conditions is hindered.



## Sessional Pay Not Consistent with Collective Bargaining Agreement

PAGNY generally complied with the timekeeping and payroll practices described in its policies and procedures manual and generally maintained accurate and complete time records in accordance with its affiliation agreement for Lincoln Hospital. However, we found a number of instances where PAGNY made sessional payments that were inconsistent with its collective bargaining agreement with the physicians' union. Specifically, we found that during the period we reviewed, nine employees had not been paid for approximately 51 of the 2,691 sessional hours they worked. According to the collective bargaining agreement, physicians who work in excess of their scheduled shift are entitled to receive compensation for the entire sessional hours worked as long as they worked a minimum of one sessional hour. However, PAGNY incorrectly interpreted the agreement to mean that employees are not entitled to receive payments for the first sessional hour worked after their regularly scheduled shift. Furthermore, our review of 73 sampled employees revealed that its interpretation was seldom and inconsistently applied.

We also learned that Department of Medicine employees who are scheduled to work on weekends and holidays earn a flat sessional rate of \$600 for each day worked on those days, regardless of the number of hours they worked. Employees simply note on the timesheet that they were present. According to PAGNY officials, this is a longstanding informal department policy. However, they were unable to tell us the reason that this policy was enacted, so we are unable to comment on its merits. Additionally, in the absence of records indicating the hours worked, we are unable to assess the degree to which this policy results in an overpayment (or underpayment) for hours actually worked and thus, it constitutes a control risk.

## Recommendations

7. HHC should ensure that DBMA and PAGNY formalize a regular schedule for DBMA's transfer of net FPP collections to PAGNY.

**HHC Response:** "HHC will work with PAGNY to ensure that net FPP collections are made in accordance with the agreement. The parties can agree to modify the schedule when to transfer these funds. HHC does not need to be consulted. However, any transfers must be made in accordance to the provisions specified in the Agreement and any changes to those provisions require the Corporation's consent.

"PAGNY and HHC will discuss the arrangement for the transfer of funds in detail and modify the schedule accordingly so that PAGNY receives the net collections timely, documentation is provided timely to HHC, monitoring and reporting mechanisms are put in place, problems can be identified and addressed quickly, and ensure that the disposition of those funds are made in accordance with the requirements of the contract. As necessary, the agreement will be amended."

8. HHC should ensure PAGNY maintains a separate FPP Lincoln bank account as stipulated by the affiliation agreement.

**HHC Response:** "HHC confirmed that PAGNY reestablished and currently maintains a separate FPP Lincoln Bank account. HHC will continue to monitor the status of these accounts and work with PAGNY to ensure the appropriate accounts are maintained."

9. HHC should ensure that PAGNY and HHC continue finalizing the Recalculations in a timelier manner and that audited financial statements be issued within 120 days.

**HHC Response:** “HHC expects to receive the FY 15 audited financials from PAGNY no later than 120 days after the end of the Fiscal Year.

“Regarding the Recalculation document, we agree that the Recalculation document must be completed timely. It is designed to determine an amount due or owed for a fiscal year and identify the initial budget for the next period. In addition to the Recalculation document, Lincoln also has an effective Joint Oversight Committee (JOC) that monitors the budget on a monthly basis, so delays in the Recalculation document would pose minimal risks. . . . Through the JOC, the Corporation is able to monitor the budget activity timely before a Recalculation is finalized, ensure that the budgets remain relevant, help understand information reported on a Recalculation, and calculate the affiliate payment. . . . The FY 14 Recalculation is near completion. PAGNY is expected to have the FY 2015 Recalculation ready for review by HHC in October [2015]. HHC will follow up with PAGNY to ascertain their progress in preparing the FY 15 Recalculation.”

10. PAGNY should ensure that payments made to employees for sessional hours worked reflect the terms of the collective bargaining agreement.

**PAGNY Response:** “PAGNY recognizes its obligations to comply with its collective bargaining agreements. PAGNY will engage with the union to negotiate a uniform standard for payment of sessional hours when the collective bargaining agreement is renewed.”

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The original audit scope was Fiscal Year 2013 (July 1, 2012 to June 30, 2013). However, we expanded our scope to Fiscal Year 2014 for our review of PAGNY's accounts payable and timekeeping functions, and into the beginning of Fiscal Year 2015, up to and including September 2014, in order to ensure we reviewed more current information about PAGNY's FPP fund transfers.

To gain an understanding of HHC's and PAGNY's responsibilities pertaining to this affiliation and to identify audit criteria, we reviewed the following:

- The affiliation agreement between HHC and DBMA for the period covering Fiscal Years 2010 through 2012, the agreement assigning the affiliation agreement from DBMA to PAGNY, the extension agreement, and the affiliation agreement between HHC and PAGNY for the period covering Fiscal Years 2013 through 2015.
- Professional leasing agreement between DBMA and PAGNY (effective September 1, 2010) for the period from September 1, 2010 to August 31, 2018.
- New York City Health and Hospitals Corporation Act of 1969 (Chapter 1016), HHC's mission statement, organization chart, by-laws, and other publicly-reported information posted on HHC's website. We also reviewed background information posted on PAGNY's website.
- HHC Internal Audit Report on the *Affiliation Contract between HHC and PAGNY at Lincoln Medical Center* (dated June 19, 2013).
- HHC Office of Professional Services and Affiliations' *Affiliation Contract Operational Manual (Sixth Edition)*.
- *Doctors Council Agreement*, the collective bargaining agreement between the union for the physicians at Lincoln Hospital and PAGNY.
- PAGNY Corporate Policy and Procedures Manuals (as of April 2014).
- PAGNY flowcharts of its payroll process and its accounts payable process (as of June 2014).

To obtain an understanding of the functions and the roles of individuals involved with the affiliation arrangement between HHC, PAGNY, and DBMA, we met with officials from HHC's Corporate Offices, including the Executive Vice President/Chief Operating Officer, Senior Director for the Office of Professional Services and Affiliations, and Senior Director of Finance, as well as the HHC Associate Executive Director of Reimbursement and Affiliation Contract Management at Lincoln Hospital. We also met with officials from PAGNY's Corporate Offices, including the Chief Executive Officer, Chief Financial Officer, Controller, Assistant Controller, Senior Accountant,

Accountant, and Accounting Manager. We also met with the President of PAGNY's Board of Directors.

To obtain an understanding of the FPP administered by DBMA, we met with the former and current president of DBMA's Board of Directors, as well as the Chief Executive Officer of the firm contracted by DBMA to perform FPP collections (Phy-Care Solutions)—who was also the former Executive Director of DBMA.

To determine whether an annual audit was conducted of the books of account and other records that detail the financial operation of PAGNY and whether they were issued timely, we obtained the annual certified audited special purpose financial statements for Fiscal Years 2012, 2013, and 2014 that were required to be prepared as per the affiliation agreement.

To determine whether PAGNY maintained separate books and records for the Lincoln Hospital affiliation, we obtained the General Ledger for PAGNY Lincoln for the period of Fiscal Year 2014.

To determine whether DBMA and PAGNY maintained separate bank accounts for Lincoln FPP funds, we reviewed the bank statements and list of authorized users and signatories for all accounts to which FPP funds were deposited. These accounts include the DBMA lockbox account,<sup>8</sup> the DBMA FPP bank account, the PAGNY Operating Account, and the PAGNY FPP bank account for Lincoln Hospital.

To determine whether the net collections remaining in the DBMA Plan Bank Account, after payment of expenses, was transferred by DBMA to PAGNY for deposit into the PAGNY Lincoln Plan Bank Account every two weeks, or as otherwise agreed to by PAGNY and DBMA, we reviewed the DBMA Plan Bank Account bank statements and the PAGNY Lincoln Plan Bank Account bank statements from the period of July 1, 2012 to December 31, 2013. We reviewed the bank statements to trace the transactions between the various bank account to determine if the total net collections were being transferred from the DBMA FPP bank account to the PAGNY FPP account for Lincoln Hospital. Because there had been a number of management and personnel changes at PAGNY, we reviewed more recent bank statements for the period of July 2014 through September 2014 in order to obtain updated information regarding the bank accounts.

To determine whether PAGNY employed and designated a single Chief of Service for each of its medical departments specified in the agreement, we obtained the listing of Chiefs of Service as of June 2014.

To determine whether PAGNY had adequate controls over timekeeping and payroll, we met with PAGNY's Lincoln Hospital CAO and the Payroll Coordinator and officials from five of the Lincoln Hospital's medical departments for walkthroughs of the control processes for their units and assessed whether the controls were reasonable. We also tested the payments for a sample of employees to determine whether the amounts were adequately supported by timekeeping records and that the payments were made in accordance with the collective bargaining agreement. Our review of PAGNY-extracted data from ADP's online portal<sup>9</sup> containing detailed payroll information for Lincoln Hospital revealed that during Fiscal Year 2014, 484 employees received gross compensation of \$81,113,860. Of those, \$14,605,272 were sessional payments. We sampled

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<sup>8</sup> A bank lockbox account is used by businesses as a depository account for payments sent by its accounts receivable customers. The customers send payments to a PO Box and the bank collects and processes these payments and deposits them to the company's account.

<sup>9</sup> ADP LLC is a private enterprise that provides comprehensive payroll services to businesses.

73 employees who received payments totaling \$4,576,444 for the months of April 2014 through June 2014. Our sample was arrived at using the following judgmental selection criteria:

- eight employees who regularly worked in multiple sub-departments throughout Fiscal Year 2014;
- 35 employees who were the top five sessional pay earners from each of the seven Lincoln medical departments that had total sessional payments in excess of \$1,000,000 during Fiscal Year 2014; and
- 30 employees randomly selected from all departments.

For the 73 sampled employees, we compared the information recorded on timesheets to the ADP payroll data for the payments made during April through June 2014. We also determined whether there was sufficient documentation to support payments for the use of allowable leave balances, such as continuing medical education.

To determine whether PAGNY had adequate controls over subcontracting, we met with PAGNY's Controller, Assistant Controller, Senior Accountant, Accountant, the CAO, the Budget Analyst, and some of the department chiefs who received subcontracted services to obtain an understanding of the subcontracting control processes and to assess whether the controls were reasonable. To determine whether PAGNY Lincoln vendors who received payments for contracted services during Fiscal Year 2014 had current service agreements, we obtained the available service agreements on file. To verify whether the payments to subcontractors provided to us was reliable, we traced and reconciled those payments to the general ledger and to the independently audited Special Purpose Financial Statements.

To determine whether the payments made to vendors who provided contracted services were adequately supported based on the requirements stipulated in their service agreements, we sampled from 31 vendors who received payments totaling \$8,821,432 during Fiscal Year 2014. We judgmentally selected a sample of 10 subcontractors: five subcontractors that received the largest total payments during the year and five subcontractors with the greatest number of late or missing periodic payments during the year.

For these 10 sampled subcontractors, we obtained and reviewed the available payment documentation packages that were required to be submitted and approved before payments were made. In addition, we reviewed the backup documentation for payments made to three entities that had no written service agreements with PAGNY to determine if they were subcontractors and whether they should have had service agreements.

To determine whether the FPP plan deductions were accurately paid by DBMA to PAGNY as per the affiliation agreement, we obtained the bank statements for the DBMA FPP bank account, the PAGNY FPP bank account, and the PAGNY Operating bank account for the period of July 1, 2012, to December 31, 2013. We reviewed the transfers between the accounts to determine whether they matched the amount listed in the affiliation agreement. We also reviewed the PAGNY FPP Cash report for the same period to confirm the payment amounts.

To determine whether PAGNY complied with the affiliation agreement relating to the execution of the *Recalculation of Affiliate Payment*, we obtained copies of those documents for Fiscal Years 2012 and 2013 as soon as they were executed. We also requested copies of the Recalculation documents for Fiscal Year 2014; however, they were not executed as of the date we received its response (June 16, 2015).

Ram Raju, MD, MBA, FACS, FACHE  
President and CEO

June 15, 2015

Majorie Landa  
Deputy Comptroller for Audit  
City of New York, Office of the Comptroller  
1 Centre Street, Room 1100  
New York, NY 10007

**Re: Audit of Lincoln Medical and Mental Health Center's Affiliation Agreement with the Physician Affiliate Group of New York (MH13-130A)**

Dear Ms. Landa:

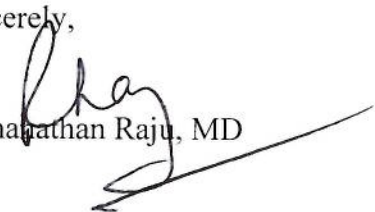
We are pleased that the audit found the Physician Affiliate Group of New York (PAGNY) generally complied with the Affiliation Agreement. However, we also realize that both the New York City Health and Hospitals Corporation (HHC) and PAGNY need to continue to work together to strengthen documentation weaknesses regarding subcontractor payments.

We would like to ensure you that HHC aggressively manages the Affiliation Agreement at Lincoln through the Joint Oversight Committee and the annual internal audit. The Audit Committee of the Board of Directors holds both Lincoln and PAGNY Leadership accountable to resolve any operational or financial issues that occur.

Attached please find the responses to the recommendations reflected in the report from HHC and PAGNY.

Thank you and if you have any questions regarding the responses, please contact Christopher Telano, Chief Internal Auditor at 646.458.5623.

Sincerely,

  
Ram Raju, MD

Attachment

cc: Christopher Telano, HHC Chief Internal Auditor/Assistant Vice President  
Antonio Martin, HHC Chief Operating Officer/Executive Vice President  
Nelson Conde, HHC Senior Director for the Office of Professional Services and Affiliations  
Dr. Luis Marcos, MD, PAGNY Chief Executive Director  
Anthony Mirdita, PAGNY Chief Financial Officer  
Allan Vergara, PAGNY Chief Affiliation Officer  
Milton Nunez, Lincoln Medical and Mental Health Center Executive Director  
Dorothy Buzzeo, Lincoln Medical and Mental Health Center Associate Executive  
Director/Finance Affiliation Manager



[nyc.gov/hhc](http://nyc.gov/hhc)

HHC response to the draft REPORT OF THE CITY OF NEW YORK, OFFICE OF THE COMPTROLLER's **Audit Report on Lincoln Medical and Mental Health Center's Affiliation Agreement with the Physician Affiliate's Group of New York.**

**Recommendation #5:** *HHC should follow-up and ensure that PAGNY takes appropriate action regarding the recommendations listed above (recommendations #1-4).*

**Response:** Lincoln monitors all service activity and payments of the Affiliate and its subcontracts through many vehicles such as: the Joint Oversight Committee which is a collaborative meeting to discuss both Affiliate and facility needs to render the proper services to our patients; clinical transformation meetings of ambulatory care services to evaluate clinical efficiency and processes to ensure greatest access to our patients; Finance value stream analysis which evaluates the increases and decreases of workload and the respective financial impact of all changes. In as such, we will continue to work closely with PAGNY administration to ensure that all required documentation is present and that appropriate payments are rendered to said subcontractors.

**Recommendation #7:** *HHC should ensure that DBMA and PAGNY formalize a regular schedule for DBMA's transfer of net FPP collections to PAGNY.*

**Response:** HHC will work with PAGNY to ensure that net FPP collections are made in accordance with the agreement. The parties can agree to modify the schedule when to transfer these funds. HHC does not need to be consulted. However, any transfers must be made in accordance to the provisions specified in the Agreement and any changes to those provisions require the Corporation's consent.

PAGNY and HHC will discuss the arrangement for the transfer of funds in detail and modify the schedule accordingly so that PAGNY receives the net collections timely, documentation is provided timely to HHC, monitoring and reporting mechanisms are put in place, problems can be identified and addressed quickly, and ensure that the disposition of those funds are made in accordance with the requirements of the contract. As necessary, the agreement will be amended.

**Recommendation #8:** *HHC should ensure that PAGNY maintains a separate FPP Lincoln Bank account as stipulated by the assignment agreement.*

**Response:** HHC confirmed that PAGNY reestablished and currently maintains a separate FPP Lincoln Bank account. HHC will continue to monitor the status of these accounts and work with PAGNY to ensure the appropriate accounts are maintained.





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**Recommendation #9:** *HHC should ensure that PAGNY and HHC continue to finalize the Recalculation in a timelier manner and that audited financial statements be issued within 120 days.*

**Response:** For FY 14, HHC received PAGNY's audited financials before the deadline. HHC expects to receive the FY 15 audited financials from PAGNY no later than 120 days after the end of the Fiscal Year.

Regarding the Recalculation document, we agree that the Recalculation document must be completed timely. It is designed to determine an amount due or owed for a fiscal year and identify the initial budget for the next period. In addition to the Recalculation document, Lincoln also has an effective Joint Oversight Committee (JOC) that monitors the budget on a monthly basis, so delays in the Recalculation document would pose minimal risks.

The Joint Oversight Committee consists of Lincoln and PAGNY Leadership. The Joint Oversight Committee monitors the services, expenses and addresses modifications to the budget during monthly meetings. Changes to the budget are tracked by the facility each month and are not made unless approved by the facility or HHC Corporate Leadership, if needed. Through the JOC, the Corporation is able to monitor the budget activity timely before a Recalculation is finalized, ensure that the budgets remain relevant, help understand information reported on a Recalculation, and calculate the affiliate payment. (For additional information on the JOC, please see Response to Recommendation #5).

The FY 14 Recalculation is near completion. PAGNY is expected to have the FY 15 Recalculation ready for review by HHC in October of FY 2015. HHC will follow up with PAGNY to ascertain their progress in preparing the FY 15 Recalculation.



Physician Affiliate Group of New York, PC

PAGNY response to the draft REPORT OF THE CITY OF NEW YORK, OFFICE OF THE COMPTROLLER's **Audit Report on Lincoln Medical and Mental Health Center's Affiliation Agreement with the Physician Affiliate's Group of New York.**

## **Introduction**

PAGNY is gratified that the Comptroller's Office found that PAGNY generally complied with the Affiliation Agreement, with the exception of the deficiencies that will be specifically addressed later in this submission.

The FY 2016-2021 affiliation agreement between PAGNY and HHC, effective July 1, 2015, provides an opportunity for PAGNY and HHC to craft an Affiliation Agreement that reflects the realities of current medical practice/hospital administration and, to the extent we have not already done so, incorporate those recommendations made by the Comptroller's Office that seek to ensure operational and fiscal integrity.

The review conducted by the Comptroller's Office served to identify processes inherited from prior HHC affiliates and prior contracted management that reflected financial and other operational "weaknesses."

PAGNY remains committed to fulfilling its obligations to HHC, and its patients, in a manner that ensures efficient and competent delivery of health services and financial integrity.

## **Response to Specific Recommendations**

**Recommendation #1:** *PAGNY should ensure that its payments to subcontractors are made in accordance with existing written agreements and that any amendments to those contracts are made in writing.*

**Response:** PAGNY will require Chief Affiliation Officers and Chiefs of Service to meet before any modifications to contracts are implemented. The Chief Affiliation Officer will report any changes to the PAGNY legal department to ensure that contemplated changes are captured in a contract amendment.

PAGNY requires sufficient documentation to justify payment to any subcontractor. Chiefs of Service will be required to certify that a contractor has complied with all of the obligations of the contract. PAGNY finance will not make any payments unless such a certification together with appropriate supporting documentation is submitted.

**Recommendation #2:** *PAGNY should ensure that all of its written agreements with subcontractors clearly describe what services will be provided, the minimum level of service and*



Physician Affiliate Group of New York, PC

*the minimum number of hours and weeks that must be provided, and exactly what documentation must be provided in order to receive payment.*

**Response:** PAGNY's legal department will ensure that all contracts detail the obligations of the parties in a manner that is measureable and enforceable. Chiefs of Service and Chief Affiliation Officers will be directed to identify subcontractor obligations in a manner that will ensure that the needs of the hospital, as approved by the Joint Oversight Committee, will be fulfilled. We will continue to require subcontractors to submit sufficient documentation to obtain payment for services.

**Recommendation #3:** *PAGNY should ensure that all subcontractor invoices have documentation to support payments made.*

**Response:** The FY 16-20 Affiliation Agreement, effective July 1, 2015, will modify the language regarding the required documentation (timesheets) to allow for other relevant and appropriate documentation. This language modification takes into account the fact that compliance with contractual obligations can be measured by means other than time spent performing duties.

**Recommendation #4:** *PAGNY should follow up and determine whether supporting documentation exists for the \$1,280,065 in questionable payments identified in this report relating to subcontractor services. PAGNY should recoup those payments for which it is unable to verify that services were rendered.*

**Response:** PAGNY is satisfied that the services required by the services contractor referred in recommendation #4 were provided and that, notwithstanding the absence of timesheets in certain circumstances and other documentation, all payments made were appropriate. PAGNY has determined that sufficient supporting documentation exists for the payments referred to in recommendation #4. Therefore no repayment is indicated.

**Recommendation #6:** *PAGNY should ensure that all subcontractors have a service agreement as required by the Affiliation Agreement to ensure that the responsibilities for both PAGNY and its subcontractors regarding the provision of needed contracted services are clearly defined.*

**Response:** On April 16, 2015, PAGNY appeared before the HHC Audit Committee and presented the corrective actions that were implemented in response to several HHC audits that were conducted during fiscal year 2014. Those HHC audits identified certain deficiencies in contracts inherited from prior affiliates. The Comptroller's findings with respect to the status of subcontractor agreements that were relied on in 2014 is consistent with HHC's findings. On April 16, PAGNY represented that negotiations with three major medical institutions were ongoing and, that except for those major institutional contracts, all other subcontractor agreements had been reviewed and where necessary revised. The list of all PAGNY contracts was thereafter forwarded to the Office of Professional and Services and Affiliations. PAGNY management agrees that every



Physician Affiliate Group of New York, PC

non-employee provider must have a contract that details the obligations of each party. The two instances where that was not the case will be addressed and rectified.

**Recommendation # 10:** *PAGNY should ensure that payments made to employees for sessional hours worked reflect the terms of the collective bargaining agreement.*

**Response:** PAGNY recognizes its obligation to comply with its collective bargaining agreements. PAGNY will engage with the union to negotiate a uniform standard for payment of sessional hours when the collective bargaining agreement is renewed.