

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re:	)	
	)	Chapter 11
LAVIE CARE CENTERS, LLC, <i>et al.</i> <sup>1</sup>	)	Case No. 24-55507 (PMB)
	)	
Debtors.	)	(Joint Administration Requested)
	)	

**DEBTORS’ EMERGENCY MOTION FOR ENTRY OF INTERIM  
AND FINAL ORDERS (I) AUTHORIZING THE IMPLEMENTATION  
OF PROCEDURES TO MAINTAIN AND PROTECT CONFIDENTIAL  
HEALTH INFORMATION AS REQUIRED BY APPLICABLE PRIVACY RULES  
AND (II) GRANTING RELATED RELIEF**

LaVie Care Centers, LLC (“LaVie”) and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”), hereby move (the “Motion”) for entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the “Interim Order” and the “Final Order,” respectively), granting the relief described below. In support thereof, the Debtors rely upon the *Declaration of M. Benjamin Jones in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”),<sup>2</sup> filed contemporaneously herewith. In further support of the Motion, the Debtors respectfully represent as follows:

<sup>1</sup> The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, for which the Debtors have requested joint administration. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.kccllc.net/LaVie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.

<sup>2</sup> Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to them in the First Day Declaration.



**RELIEF REQUESTED**

1. By the Motion, the Debtors respectfully request entry of the Interim Order and the Final Order approving certain procedures to maintain and protect the confidentiality of health information as required by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and analogous health care data privacy laws applicable in the states where the Debtors operate, while also providing required disclosure in the Chapter 11 Cases (as defined below).

2. To that end, the Debtors request that the Court establish the following procedures (collectively, the “Confidentiality Procedures”) to balance the need to protect confidential health information pursuant to HIPAA with the need to disclose information regarding the Chapter 11 Cases to the public:

- a. the Debtors shall omit any reference to current and former residents of their facilities for whom the Debtors may have health information from the matrix of creditors and from any certificate of service, subject to section (d) below;
- b. the Debtors shall identify current and former residents for whom the Debtors may have health information in the schedules of assets and liabilities and statements of financial affairs (collectively, the “Schedules and Statements”) solely by a code number, such as “Resident 1,” “Resident 2,” and so forth, and shall make an unredacted copy of the Schedules and Statements available to (i) the Court and to the U.S. Trustee (as defined below) upon request; (ii) the DIP Lenders; and (iii) any other party-in-interest only after the Court has entered an order, after notice and a hearing, authorizing the Debtors to do so;
- c. the Debtors and/or their proposed claims and noticing agent shall maintain a list of all current and former residents for whom the Debtors may have health information (the “Confidentiality List”) and shall make the Confidentiality List, or any portion thereof, available to any party-in-interest only after the Court has entered an order, after notice and a hearing, directing the Debtors to do so;
- d. the proposed claims and noticing agent shall process proofs of claims of the Debtors’ current and former residents and, upon request, make available a summary of the total number and amount of all claims filed by the Debtors’ current and former residents against the Debtors, which summary shall exclude any information subject to HIPAA, its associated regulations, and other privacy requirements;

- e. when the Debtors serve any paper upon any person listed on the Confidentiality List, the Debtors shall note in the respective certificate of service that the parties served include persons listed on the Confidentiality List; and
- f. nothing herein shall preclude the Debtors from disclosing the identity of any person who has voluntarily disclosed their own identity as an individual for whom the Debtors may have health information.

### **JURISDICTION AND VENUE**

3. The Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

4. The legal predicates for the relief requested herein are sections 105(a), 107, and 521(a)(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 1007, 2002, 9007, 9018, and 9037 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rules 9006-2, 9013-1, and 9013-2 of the Local Rules of Practice for the United States Bankruptcy Court for the Northern District of Georgia (the “Local Rules”), and the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the “Complex Case Procedures”).

### **BACKGROUND**

#### **I. The Chapter 11 Cases**

5. On the date hereof (the “Petition Date”), each Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”) in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Court”). The Debtors continue to operate their business and manage their property as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

6. To date, the Office of the United States Trustee for Region 21 (the “U.S. Trustee”) has not appointed an official committee in the Chapter 11 Cases, nor has any trustee or examiner been appointed.

7. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the First Day Declaration.

**BASIS FOR RELIEF REQUESTED AND APPLICABLE AUTHORITY**

8. As discussed in greater detail in the First Day Declaration, certain of the Debtors in the Chapter 11 Cases manage and/or operate 43 licensed facilities providing a variety of acute care and rehabilitative services to primarily elderly residents. In the course of providing their services, the Debtors collect certain individually identifiable health information for residents. HIPAA and its corresponding regulations impose stringent standards on health care providers for the use and disclosure of individual health information and establish significant penalties for violations of these standards. *See* 42 U.S.C. § 1302d, *et seq.* and 45 C.F.R. § 164.502.

9. Because certain of the Debtors qualify as health care providers that transmit health information, they are considered “covered entities” under 45 C.F.R. § 160.103. This designation prevents the Debtors from disclosing, except in limited circumstances, “individually identifiable health information.” 45 C.F.R. § 164.502. HIPAA defines “individually identifiable health information” as any information relating to the individual’s “past, present or future physical or mental health or condition, the provisions of health care to the individual, or the past, present or future payment for the provision of health care to the individual” that also “identifies the individual; or with respect to which there is a reasonable basis to believe that the information can

be used to identify the individual.” 45 C.F.R. § 160.103. Individually identifiable health information is referred to as “patient health information” under HIPAA.

10. The Debtors could be subject to significant monetary penalties for the unauthorized disclosure of residents’ health information. *See* 45 C.F.R. § 160.402. Such penalties can be imposed even if a person “did not know and, by exercising reasonable diligence, would not have known” that a violation occurred. *See* 45 C.F.R. § 160.404(b)(2)(i).

11. The Debtors recognize that the requirements to maintain confidentiality under HIPAA may conflict with the requirements to disclose information under the Bankruptcy Code, specifically the duty to file a list of all creditors under Bankruptcy Code section 521(a)(1)(A) and the duty to file schedules of assets and liabilities under Bankruptcy Code section 521(a)(1)(B)(i).

12. The Debtors respectfully request that such health information be protected through the Confidentiality Procedures proposed herein pursuant to Bankruptcy Code section 107(c), which allows a bankruptcy court, for cause, to protect an individual if disclosure would create an undue risk of unlawful injury. *See also* Fed. R. Bankr. P. 9018 (allowing a bankruptcy court to protect governmental matters that are made confidential by statute or regulation). The Court also may approve the proposed Confidentiality Procedures pursuant to Bankruptcy Code section 105(a), which authorizes the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

13. The Debtors believe that the relief requested herein appropriately balances the need to maintain confidential health information under HIPAA and analogous health care data privacy laws with the need for adequate disclosure under the Bankruptcy Code. Given the nature of any information that may reveal even the identity of residents who have received healthcare services from the Debtors, confidentiality in this context is of paramount importance.

14. Further, courts have routinely granted relief similar to the relief requested herein. *See, e.g., In re American Physician Partners, LLC*, Case No. 23-11469 (BLS) (Bankr. D. Del. Oct. 27, 2023) [Docket No. 296] (authorizing the debtors to implement procedures to maintain and protect confidential health information of patients as required by HIPAA); *In re UpHealth Holdings, Inc.*, Case No. 23-11476 (LSS) (Bankr. D. Del. Oct. 24, 2023) [Docket No. 49] (same); *In re Genesis Care Pty Limited*, Case No. 23-90614 (DRJ) (Bankr. S.D. Tex. June 1, 2023) [Docket No. 74] (same); *In re Envision Healthcare Corporation*, Case No. 23-90342 (CML) (Bankr. S.D. Tex. May 15, 2023) [Docket No. 119] (same); *In re Medly Health Inc.*, Case No. 22- 11257 (KBO) (Bankr. D. Del. Jan. 6, 2023) [Docket No. 183] (same); *In re Mariner Health Central, Inc.*, Case No. 22- 10877 (LSS) (Bankr. D. Del. Sept. 21, 2022) [Docket No. 34] (same); *In re Gulf Coast Health Care, LLC*, Case No. 21-11336 (KBO) (Bankr. D. Del. Nov. 10, 2021) [Docket No. 219]; *In re CMC II, LLC*, Case No. 21- 10461 (JTD) (Bankr. D. Del. Apr. 1, 2021) [Docket No. 150] (same); *In re MTPC, LLC*, Case No. 20 - 05438 (RSM) (Bankr. M.D. Tenn. Dec. 22, 2020) (same); *In re Quorum Health Corp.*, Case No. 20- 10766 (KBO) (Bankr. D. Del. May. 1, 2020) [Docket No. 109] (same); *In re Center City Healthcare, LLC d/b/a Hahnemann Univ. Hospital*, Case No. 19-11466 (MFW) (Bankr. D. Del. Jul. 2, 2019) [Docket No. 72] (same); *In re Promise Healthcare Grp., LLC*, Case No. 18-12491 (CSS) (Bankr. D. Del. Nov. 6, 2018) [Docket No. 47] (same).

#### **EMERGENCY CONSIDERATION**

15. The Debtors respectfully request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm.” Fed. R. Bankr. P. 6003. Here, the Debtors believe an immediate and orderly

transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these Chapter 11 Cases would severely disrupt the Debtors' operations at this critical juncture. Accordingly, the Debtors submit that it has satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

### **RESERVATION OF RIGHTS**

16. Nothing in the Motion should be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors' ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise or requirement to pay any claim or other obligation; or (d) granting third-party-beneficiary status, bestowing any additional rights on any third party, or being otherwise enforceable by any third party.

### **NOTICE**

17. The Debtors will provide notice of the Motion to: (a) the U.S. Trustee; (b) the Internal Revenue Service; (c) the United States Attorney for the Northern District of Georgia; (d) the Attorney General for the State of Georgia; (e) the Georgia Department of Revenue; (f) the Centers for Medicare and Medicaid Services; (g) the states attorneys general for states in which the Debtors conduct business; (h) the parties included on the Debtors' list of their 30 largest unsecured creditors; (i) counsel to the Debtors' prepetition lenders; (j) counsel to the

proposed DIP Lenders; and (k) all parties entitled to notice pursuant to Bankruptcy Rule 2002. The Debtors submit that no other or further notice is required.

**NO PRIOR REQUEST**

18. No previous request for the relief sought herein has been made to this or any other court.

*[Remainder of Page Intentionally Left Blank]*



WHEREFORE, the Debtors respectfully request that the Court enter the Interim and Final Orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: Atlanta, Georgia  
June 2, 2024

**MCDERMOTT WILL & EMERY LLP**

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*Proposed Counsel for the Debtors and  
Debtors-in-Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing Motion was served by the Court's CM/ECF system on all counsel of record registered in these Chapter 11 Cases through CM/ECF. Subject to the Court's approval of their retention and access to filing privileges, the Debtors' proposed claims and noticing agent, Kurtzman Carson Consultants LLC, will be filing a supplemental certificate of service on the docket to reflect any additional service of the foregoing Motion.

Dated: Atlanta, Georgia  
June 2, 2024

**MCDERMOTT WILL & EMERY LLP**

/s/ Daniel M. Simon  
Daniel M. Simon (Georgia Bar No. 690075)  
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*Proposed Counsel for the Debtors and  
Debtors-in-Possession*

**EXHIBIT A**

**Proposed Interim Order**

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

	)	
In re:	)	Chapter 11
	)	
LAVIE CARE CENTERS, LLC, <i>et al.</i> <sup>1</sup>	)	Case No. 24-55507 (PMB)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	Related to Docket No. ____

**INTERIM ORDER (I) AUTHORIZING THE  
IMPLEMENTATION OF PROCEDURES TO MAINTAIN AND  
PROTECT CONFIDENTIAL HEALTH INFORMATION AS REQUIRED  
BY APPLICABLE PRIVACY RULES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the Debtors for entry of an interim order (this “Order”) and a Final Order, authorizing the Debtors to establish procedures to maintain and protect the

<sup>1</sup> The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, for which the Debtors have requested joint administration. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.kccllc.net/LaVie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

confidentiality of health information as required by HIPAA, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court being able to issue a final order consistent with Article III of the United States Constitution; and due and sufficient notice of the Motion having been given under the particular circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor; it is hereby

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is granted on an interim basis as set forth herein.
1. The final hearing (the “Final Hearing”) on the Motion shall be held on \_\_\_\_\_, 2024, at \_:\_ .m. (prevailing Eastern Time). Any objections or responses to the entry of the proposed Final Order shall be filed with the Court and served on the following no later 4:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_, 2024: (a) LaVie Care Centers, LLC, c/o Ankura Consulting Group, LLC, 485 Lexington Avenue, 10th Floor, New York, NY 10017 (Attn: M. Benjamin Jones); (b) proposed counsel to the Debtors, McDermott Will & Emery LLP, 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309 (Attn: Daniel M. Simon), and 444 West Lake Street, Suite

4000, Chicago, IL 60606 (Attn: Emily C. Keil); (c) counsel to the Prepetition Omega Secured Parties and proposed DIP Lenders, Scroggins & Williamson, P.C., 4401 Northside Parkway, Suite 450, Atlanta, GA 30327 (Attn: Matthew W. Levin), and Goodwin Proctor LLP, The New York Times Building, 620 Eighth Avenue, New York, NY 10018 (Attn: Robert J. Lemons), and Ferguson Braswell Fraser Kubasta PC, 2500 Dallas Parkway, Suite 600, Plano, TX 75093 (Attn: Leighton Aiken); (d) counsel to the Debtors' prepetition ABL lender, Proskauer LLP, One International Place, Boston, MA 02110 (Attn: Charles A. Dale) and Vedder Price LLP, 222 North LaSalle Street, Chicago, IL 60601 (Attn: Kathryn L. Stevens); (e) counsel to the Debtors' proposed DIP Lenders, DLA Piper LLP, 1900 N. Pearl St., Suite 2200, Dallas, TX 75201 (Attn: James Muenker) and 1251 Avenue of the Americas, New York, NY 10020 (Attn: Kira Mineroff); (f) the Office of the United States Trustee Region 21, 362 Richard Russell Building & U.S. Courthouse, 75 Ted Turner Drive, S.W., Room 362, Atlanta, GA 30303 (Attn: Jonathan S. Adams); (g) counsel to the official committee of unsecured creditors (if any) appointed in these Chapter 11 Cases; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002. If no objections to entry of the Final Order are filed and served, the Court may enter such Final Order without further notice or hearing.

2. The following privacy procedures (collectively, the "Confidentiality Procedures") shall apply in the Chapter 11 Cases:

- a. the Debtors shall omit any reference to current and former residents of their facilities for whom the Debtors may have health information from the matrix of creditors and from any certificate of service, subject to section (d) below;
- b. the Debtors shall identify current and former residents for whom the Debtors may have health information in the schedules of assets and liabilities and statements of financial affairs (collectively, the "Schedules and Statements") solely by a code number, such as "Resident 1," "Resident 2," and so forth, and shall make an unredacted copy of the Schedules and Statements available to (i) the Court and to the U.S. Trustee upon request; (ii) the DIP Lenders; and (iii) any other party-in-

interest only after the Court has entered an order, after notice and a hearing, authorizing the Debtors to do so;

- c. the Debtors and/or their proposed claims and noticing agent shall maintain a list of all current and former residents for whom the Debtors may have health information (the “Confidentiality List”) and shall make the Confidentiality List, or any portion thereof, available to any party-in-interest only after the Court has entered an order, after notice and a hearing, directing the Debtors to do so;
- d. the proposed claims and noticing agent shall process proofs of claims of the Debtors’ current and former residents and, upon request, make available a summary of the total number and amount of all claims filed by the Debtors’ current and former residents against the Debtors, which summary shall exclude any information subject to HIPAA, its associated regulations, and other privacy requirements;
- e. when the Debtors serve any paper upon any person listed on the Confidentiality List, the Debtors shall note in the respective certificate of service that the parties served include persons listed on the Confidentiality List; and
- f. nothing herein shall preclude the Debtors from disclosing the identity of any person who has voluntarily disclosed their own identity as an individual for whom the Debtors may have health information.

3. The Debtors’ compliance with foregoing Confidentiality Procedures shall constitute compliance with Bankruptcy Code section 521, Bankruptcy Rule 1007(a), the Local Rules, and the Complex Case Procedures.

4. Nothing in the Motion or this Order or the relief granted (including any actions taken or payments made by the Debtors pursuant thereto) shall be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors’ ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise or requirement to pay any claim or other obligation; or (d) granting third-party-beneficiary status, bestowing any additional rights on any third party, or being otherwise enforceable by any third party.

5. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested in the Motion is necessary to avoid immediate and irreparable harm.

6. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a), the Local Rules, and the Complex Case Procedures are satisfied by such notice.

7. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

8. The Debtors are authorized to take all actions necessary to implement the relief granted in this Order.

9. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER



Prepared and presented by:

/s/ Daniel M. Simon

Daniel M. Simon (Georgia Bar No. 690075)

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*Proposed Counsel for the Debtors and  
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**Distribution List**

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Atlanta, GA 30303

**EXHIBIT B**

**Proposed Final Order**

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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In re:	)	
	)	Chapter 11
LAVIE CARE CENTERS, LLC, <i>et al.</i> <sup>1</sup>	)	Case No. 24-55507 (PMB)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	Related to Docket No. ____

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**FINAL ORDER (I) AUTHORIZING THE  
IMPLEMENTATION OF PROCEDURES TO MAINTAIN AND  
PROTECT CONFIDENTIAL HEALTH INFORMATION AS REQUIRED  
BY APPLICABLE PRIVACY RULES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the Debtors for entry of an Interim Order and a final order (this “Order”) authorizing procedures to maintain and protect the confidentiality of health

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information as required by HIPAA, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration and the Interim Order entered on \_\_\_, 2024; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court being able to issue a final order consistent with Article III of the United States Constitution; and due and sufficient notice of the Motion having been given under the particular circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor; it is hereby

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is granted on a final basis as set forth herein.
2. The following privacy procedures (collectively, the “Confidentiality Procedures”)

shall apply in the Chapter 11 Cases:

- a. the Debtors shall omit any reference to current and former residents of their facilities for whom the Debtors may have health information from the matrix of creditors and from any certificate of service, subject to section (d) below;
- b. the Debtors shall identify current and former residents for whom the Debtors may have health information in the schedules of assets and liabilities and statements of financial affairs (collectively, the “Schedules and Statements”) solely by a code number, such as “Resident 1,” “Resident 2,” and so forth, and shall make an unredacted copy of the Schedules and Statements available to (i) the Court and to the U.S. Trustee upon request; (ii) the DIP Lenders; and (iii) any other party-in-

interest only after the Court has entered an order, after notice and a hearing, authorizing the Debtors to do so;

- c. the Debtors and/or their proposed claims and noticing agent shall maintain a list of all current and former residents for whom the Debtors may have health information (the “Confidentiality List”) and shall make the Confidentiality List, or any portion thereof, available to any party-in-interest only after the Court has entered an order, after notice and a hearing, directing the Debtors to do so;
- d. the proposed claims and noticing agent shall process proofs of claims of the Debtors’ current and former residents and, upon request, make available a summary of the total number and amount of all claims filed by the Debtors’ current and former residents against the Debtors, which summary shall exclude any information subject to HIPAA, its associated regulations, and other privacy requirements;
- e. when the Debtors serve any paper upon any person listed on the Confidentiality List, the Debtors shall note in the respective certificate of service that the parties served include persons listed on the Confidentiality List; and
- f. nothing herein shall preclude the Debtors from disclosing the identity of any person who has voluntarily disclosed their own identity as an individual for whom the Debtors may have health information.

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4. Nothing in the Motion or this Order or the relief granted (including any actions taken or payments made by the Debtors pursuant thereto) shall be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors’ ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise or requirement to pay any claim or other obligation; or (d) granting third-party-beneficiary status, bestowing any additional rights on any third party, or being otherwise enforceable by any third party.

5. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested in the Motion is necessary to avoid immediate and irreparable harm.

6. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a), the Local Rules, and the Complex Case Procedures are satisfied by such notice.

7. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

8. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

9. The Debtors are authorized to take all actions necessary to implement the relief granted in this Order.

10. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Prepared and presented by:

/s/ Daniel M. Simon

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