

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

MIDWEST CHRISTIAN VILLAGES, INC.
et al.,¹

Debtors.

Chapter 11

Case No. 24-42473-659
(Joint Administration Requested)

Hearing Date: July 17, 2024
Hearing Time: 2:00 p.m. (CT)
Hearing Location: Courtroom 7

DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) AUTHORIZING THE FILING UNDER SEAL OF
CONFIDENTIAL PERSONAL INFORMATION AND
(II) GRANTING RELATED RELIEF

The above-captioned debtors and debtors-in-possession (the “**Debtors**”), by and through their proposed counsel, submit this motion (the “**Motion to Seal Personal Information**”) for entry of an order, pursuant to §§ 105(a), 107(b) and (c) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9037-1 and 9037-2 of the Local Rules of Bankruptcy Procedure for the United States Bankruptcy Court for the Eastern District of Missouri (the “**Local Bankruptcy Rules**”) granting leave to file under seal confidential or personal information related to residents,

¹ The address of the Debtors headquarters is 2 Cityplace Dr, Suite 200, Saint Louis, MO 63141-7390. The last four digits of the Debtors' federal tax identification numbers are: (i) Midwest Christian Villages, Inc. [5009], (ii) Hickory Point Christian Village, Inc. [7659], (iii) Lewis Memorial Christian Village [3104], (iv) Senior Care Pharmacy Services, LLC [1176], (v) New Horizons PACE MO, LLC [4745], (vi) Risen Son Christian Village [9738], (vii) Spring River Christian Village, Inc. [1462], (viii) Christian Homes, Inc. [1562], (ix) Crown Point Christian Village, Inc. [4614], (x) Hoosier Christian Village, Inc. [3749], (xi) Johnson Christian Village Care Center, LLC [8262], (xii) River Birch Christian Village, LLC [7232], (xiii) Washington Village Estates, LLC [9088], (xiv) Christian Horizons Living, LLC [4871], (xv) Wabash Christian Therapy and Medical Clinic, LLC [2894], (xvi) Wabash Christian Village Apartments, LLC [8352], (xvii) Wabash Estates, LLC [8743], (xviii) Safe Haven Hospice, LLC [6886], (xix) Heartland Christian Village, LLC [0196], (xx) Midwest Senior Ministries, Inc. [3401] and (xxi) Shawnee Christian Nursing Center, LLC [0068].



beneficiaries of residents, sole proprietor suppliers/vendors, and employees. In support of this Motion to Seal Personal Information, the Debtors respectfully represent as follows:

BACKGROUND

1. On July 16, 2024 (the “**Petition Date**”), the Debtors filed voluntary petitions for relief pursuant to chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri (the “**Court**”).

2. The Debtors continue in the operation and management of their business as debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

3. No trustee, examiner or official committee has been appointed in these chapter 11 cases.

4. Simultaneously with the filing of this Motion to Seal Personal Information, the Debtors filed the *Declaration of Kathleen (Kate) Bertram in Support of the Debtors’ Chapter 11 Petition and First Day Motions* (the “**First Day Declaration**”). As described in more detail in the First Day Declaration, the Debtors operate a mix of independent, assisted, and supportive living skilled nursing campuses in 10 locations across the Midwest, serving over 1,000 residents.

5. The Debtors filed Chapter 11 cases to pursue one or more going concern sales and/or going concern affiliates for each of their facilities.

JURISDICTION AND VENUE

6. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

7. The statutory predicates for the relief sought herein are §§ 105(a), 107(b) and (c) of the Bankruptcy Code, Bankruptcy Rule 9018, and Rules 9037-1 and 9037-2 of the Local Bankruptcy Rules.

RELIEF REQUESTED

8. The Debtors intend to file on the docket of these chapter 11 cases (a) a consolidated creditor matrix (the “**Creditor Matrix**”) and (b) their Schedules and Statements, as well as a consolidated list of the 30 largest unsecured creditors in these chapter 11 cases on Official Form B104, in compliance with Local Bankruptcy Rule 1002(C). By this Motion to Seal Personal Information, and pursuant to §§ 105(a) and 107(b) and (c) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Bankruptcy Rules 9037-1 and 9037-2, the Debtors seek entry of an order (i) authorizing the Debtors to file under seal certain confidential and/or personal identification information of residents, beneficiaries of residents, sole proprietor suppliers/vendors, and employees which would appear on the Creditor Matrix and the Schedules and Statements, as well as any other documents which may from time to time be necessary to file in these chapter 11 cases and (ii) granting related relief.

BASIS FOR RELIEF

9. The Debtors are seeking leave to file the confidential personal information of residents, beneficiaries of residents, sole proprietor supplies/vendors, and employees under seal.² The information to be filed under seal includes identifying information of patients and residents, beneficiaries of residents, sole proprietor supplies/vendors, and employees including, but not limited to, names and home addresses of all such parties (“**Personal Information**”).

² Names, but not personal addresses of officers and directors of the Debtors will be provided in the Schedules and Statement of Financial Affairs and other documents as appropriate, and the protection and filing under seal of their names is not being asked for by the filing of this Motion to Seal Personal Information

10. As described in more detail in the First Day Declaration and above, the Debtors serve more than 1,200 residents in their skilled nursing campuses across the Midwest. Accordingly, the Debtors' operations generally must comply with Privacy Rule of the Health Insurance Portability And Accountability Act of 1996 ("**HIPAA**").

11. The Privacy Rule protects all individually identifiable health information, which includes information such as the names or addresses of current or former patients (many, if not the majority of residents are also patients under the definition of patients under HIPAA). Thus, HIPAA's requirements to protect the privacy and security of protected health information require that the names and addresses of current and former patients/residents not be publicly disclosed.

12. The Debtors are a covered entity under HIPAA and must comply with HIPAA's requirements to protect the privacy of health information. *See* 45 CFR Part 160 and Part 164, Subparts A and E. However, the Privacy Rule permits the use and disclosure of protected health information, without an individual's authorization or permission, as part of a judicial proceeding, if the information is disclosed pursuant to a court order. 45 CFR 164.512(e).

13. In addition to patient information covered under the Privacy Rule, the Debtors also serve individuals who are not covered under the Privacy Rule, but whose names and addresses should, nevertheless, be considered confidential. The beneficiaries of each of the residents, some of whose names could appear in various places in the Creditor Matrix, Schedules, SOFA, and other papers filed in this case is also confidential personal information as are the name and home addresses of and sole proprietors who may supply supplies or services to the Debtors. Finally, the Debtors employ over 960 individuals, each of whose name and home address is personal information and not necessary to disclose to the general public in these cases.

14. The Debtors' industry serves a largely senior population. As such, the Debtors seek to seal not only patient information, but resident information as well, in order to ensure the privacy of the Debtors' residents and to prevent the Debtors' residents from becoming subject to harassment, including financial scams, to which the senior population is, unfortunately, uniquely vulnerable.

15. Finally, certain Personal Information is also commercially sensitive, as competitive senior living facilities may try to contact current residents.

16. As the Debtors necessarily must file confidential Personal Information, good cause exists to grant Debtors leave to file the confidential Personal Information under seal pursuant to §§ 105(a), 107(b) and (c) of the Bankruptcy Code and Bankruptcy Rule 9018.

17. Sections 107(b) and (c) authorize the Court to issue orders that will protect entities from potential harm caused by disclosure of confidential information. Specifically, § 107(c) provides:

(c)(1) The bankruptcy court, for cause; may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

(B) Other information contained in a paper described in subparagraph (A).

18. The Debtors seek to protect residents', and other individuals' identities to prevent "undue risk of identity theft or other unlawful injury," and to protect their privacy.

19. Without the relief requested herein, the Debtors may be in violation of applicable data privacy law, thereby exposing them to severe monetary penalties that could threaten the Debtors' operations during these chapter 11 cases.

20. By this Motion to Seal Personal Information, the Debtors respectfully request that the Court enter an Order authorizing them to file the confidential Personal Information under seal in accordance with Bankruptcy Rule 9018, and directing that such filing remain confidential and under seal, and that no such document shall be made available to anyone, other than as set forth in the Order approving this Motion to Seal Personal Information. Further, the Debtors request of the Court that the clerk treat such documents held under seal as a confidential document.

NO PREVIOUS REQUEST

21. No previous application for the relief sought herein has been made to this or any other Court.

NOTICE

22. This Motion to Seal Personal Information and notice of this Motion to Seal Personal Information will be served respectively on Master Service List No. 1 (dated July 16, 2024) and Master Notice List No. 1 (dated July 16, 2024). Notice of this Motion to Seal Personal Information and any order entered hereon will be served in accordance with Local Rule 9013-3(A)(1). The Debtors submit that, under the circumstances, no other or further notice is required.

Debtors request entry of an order granting the relief requested herein, together with such other and further relief as the Court deems just and proper.

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Dated: July 16, 2024
St. Louis, Missouri

Respectfully submitted,

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/s/ Stephen O'Brien

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