

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

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In re:	:	Chapter 11
	:	Case No. 18-05665
	:	
<b>CURAE HEALTH, INC., et al.,<sup>1</sup></b>	:	Judge Walker
	:	
	:	(Jointly Administered)
Debtors.	:	

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**OBJECTION OF BIO-MEDICAL APPLICATIONS OF MISSISSIPPI, INC. D/B/A  
CLARKSDALE MS INPATIENT SERVICES TO THE ASSUMPTION AND  
ASSIGNMENT OF ITS EXECUTORY CONTRACTS WITH THE DEBTORS**

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Bio-Medical Applications of Mississippi, Inc. d/b/a Clarksdale MS Inpatient Services (“BMA”), an affiliate/subsidiary of National Medical Care, Inc. (“NMC”, together with BMA, the “Fresenius Affiliates”), which is an affiliate of Fresenius Medical Care Holdings, Inc. d/b/a Fresenius Medical Care North America, hereby objects to the:

- *Debtors’ Motion for an Order (I) Authorizing the Sale of Northwest Mississippi Regional Medical Center Free and Clear of All Liens, Claims, Encumbrances and Other Interests, (II) Approving the Clarksdale APA, (III) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [D.I. 962]; and
- *Notice of (I) Debtors’ Intent to Assume and Assign Certain Executory Contracts, Unexpired Leases of Personal Property and Unexpired Leases of Nonresidential Real Property; and (II) Cure Amounts Related to the Foregoing* [D.I. 970] (the “Notice”),

by which the Debtors seek to, among others, potentially assume and assign a contract with the Fresenius Affiliates as part of their proposed sale (the “Sale”) of Northwest Mississippi Regional Medical Center and the related assets to CHS/Community Health Systems, Inc. (“CHS”), as follows:

1. Upon information and belief, CHS is an affiliate of CHSPSC, LLC. CHSPSC, LLC

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<sup>1</sup> The Debtors in these chapter 11 cases, along with last four digits of each Debtor’s federal tax identification number, are Curae Health, Inc. (5638); Amory Regional Medical Center, Inc. (2640); Batesville Regional Medical Center, Inc. (7929); and Clarksdale Regional Medical Center, Inc. (4755); Amory Regional Physicians, LLC (5044); Batesville Regional Physicians, LLC (4952); Clarksdale Regional Physicians, LLC (5311).  
{00291864.1 / 0206-123 }

and certain of its subsidiaries and affiliates engaged NMC as their exclusive provider of dialysis and apheresis services, as well as the equipment, supplies and staff necessary and required to perform the services (collectively, the “Services”) under a *Master In-Hospital Dialysis and Apheresis Services Agreement* dated April 1, 2015 (the “Master Agreement”). Simultaneously therewith, Clarksdale HMA, LLC, an affiliate of CHSPSC, LLC, which was doing business at the time as Northwest Mississippi Regional Medical Center (“CHMA”), became a participating hospital under and bound by the terms and provisions of the Master Agreement by *Letter of Participation* effective April 1, 2015 executed by CHMA and BMA (as amended from time to time, the “Participation Agreement” and with the Master Agreement, the “Agreement”).

2. Upon information and belief, the Debtor Clarksdale Regional Medical Center Inc. is CHMA’s successor in interest in, among other things, the Agreement.

3. The Notice lists the Agreement as an executory contract that the Debtors may potentially assume and assign as part of the Sale to CHS with a cure claim of \$56,384.56 when the amount of \$68,393.61 remains due and owing to BMA for the Services rendered to the Debtors as of the date they commenced their bankruptcy cases (the “Petition Date”), as follows:

<b>Invoice Number</b>	<b>Invoice Date</b>	<b>Service Dates</b>	<b>Amount</b>
88190727	4/30/2018	4/1-30/2018	14,216.36
88192585	5/31/2018	5/1-31/2018	13,932.24
88194402	6/30/2018	6/1-30/2018	13,822.95
88196900	7/31/2018	7/1-31/2018	14,413.01
88198119	9/7/2018	8/1-23/2018	12,009.05
			<u>68,393.61</u>

4. Therefore, the Fresenius Affiliates object to the cure amount listed by the Debtors in the Notice and assert a cure claim in the aggregating amount of (i) \$68,393.61 for sums due and owing and remaining unpaid under the Agreement prior to the Petition Date plus (ii) all sums due, owing and remaining unpaid for Services rendered on and after the Petition Date through the date of the closing of the Sale (the “Cure Claim”).

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5. The Fresenius Affiliates submit that the Debtors may not assume and assign the Agreement without paying the Cure Claims in full and providing to the Fresenius Affiliates adequate assurance of future performance under the Agreement.

WHEREFORE, this Court should enter an Order denying the Debtors' request to assume and assign the Agreement unless and until (a) the Cure Claim is paid in full, (b) CHS provides to the Fresenius Affiliates adequate assurance of future performance under the Agreement, and (c) the Fresenius Affiliates receive such other and further relief as the Court deems just and proper.

Dated: May 7, 2019

**FROST BROWN TODD LLC**

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and National Medical Care, Inc.*

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via ECF Notice to all parties consenting to electronic notice via the court's CM/ECF Noticing System in these chapter 11 cases and via electronic mail or regular U.S. Mail, as indicated below, upon the following parties on this 7<sup>th</sup> day of May, 2019:

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