

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

In re:)	
)	Chapter 11
Curae Health, Inc., <i>et al.</i> ¹)	Case No. 18-05665
)	
1721 Midpark Road, Suite B200)	Judge Walker
Knoxville, TN 37921)	
Debtors.)	Jointly Administered

MOTION OF DEBTORS FOR ENTRY OF THE AGREED ORDER REGARDING THE SETTLEMENT WITH CHS/COMMUNITY HEALTH SYSTEMS, INC. OF ANY AND ALL ESTATE CLAIMS OR CAUSES OF ACTION

The above-captioned debtors and debtors in possession (the “**Debtors**”) hereby move (the “**Motion**”) for entry of a consent order (the “**Consent Order**”) substantially in the form filed contemporaneously herewith. In further support of the Motion, the Debtors, by and through their undersigned counsel, respectfully represent:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion under 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.

2. The predicates for the relief requested herein are Bankruptcy Code section 105 and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure.

PROCEDURAL BACKGROUND

3. On August 24, 2018 (the “**Petition Date**”), each of the Debtors filed a voluntary petition in this Court commencing a case for relief under chapter 11 of the Bankruptcy Code (the

¹ The Debtors in these chapter 11 cases, along with the 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).

“**Chapter 11 Cases**”). The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the Declaration of Stephen N. Clapp, Chief Executive Officer of Curae Health, Inc., in Support of Chapter 11 Petitions and First Day Pleadings (Docket No. 49) (the “**First Day Declaration**”) and fully incorporated herein by reference.

4. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been requested in the Chapter 11 Cases. On September 6, 2018, the official committee of unsecured creditors (the “**Committee**”) was appointed.

FACTUAL BACKGROUND

5. On March 7, 2019, the United States Bankruptcy Court for the Middle District of Tennessee (the “**Court**”) entered an order [Docket No. 841] authorizing the Debtors to solicit votes to accept or reject the *Joint Chapter 11 Plan of Liquidation* [Docket No. 834] (including all exhibits thereto and as amended, modified, or supplemented from time to time, the “**Joint Plan**”) and setting a hearing on confirmation of the Joint Plan (the “**Confirmation Hearing**”).

6. On April 17, 2019, CHS/Community Health Systems, Inc. (together with its affiliates “**CHS**”) filed an objection to confirmation of the Joint Plan [Docket No. 953] (the “**CHS Objection**”).

7. Prior to the Confirmation Hearing, the Debtors, the Committee, and CHS (collectively, the “**Parties**”) entered into good faith, arm’s-length negotiations to resolve, among other things, the CHS Objection and certain claims of the Debtors and their estates against CHS.

8. On May 8, 2019, Debtors filed an amended proposed confirmation order [Docket No. 1054], setting forth the resolution of the Parties (the “**Settlement**”).

9. On May 9, 2019, the Confirmation Hearing was held and counsel to the Parties announced the terms of the Settlement on the record. At the Confirmation Hearing, the Court confirmed the Joint Plan, including the terms of the Settlement.

10. On May 13, 2019, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the Joint Chapter 11 Plan of Liquidation of Curae Health, Inc., et al.* [Docket No. 1074] (the “**Confirmation Order**”). The Confirmation Order is fully incorporated herein by reference.

11. In an abundance of caution, and at the request of CHS, the Parties wish to have the terms of the Settlement affirmed and approved by the Court as set out in the Consent Order in the form submitted herewith.

RELIEF REQUESTED AND BASIS FOR RELIEF

12. The Parties seek entry of the Consent Order, confirming, affirming, and approving the Settlement as set out in the Consent Order under Rule 9019 of the Federal Rules of Bankruptcy Procedure.

13. As stated on the record at the Confirmation Hearing, the Debtors in their business judgment believe that the Settlement is in the best interests of these estates and all creditors, especially in light of the cost, uncertainty, and delay of litigation. *See In re Media Cent., Inc.*, 190 B.R. 316, 321 (E.D. Tenn. 1994). The Settlement was negotiated at arms’ length by sophisticated parties. *See Motorola Inc. v. Official Comm. Of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 462 (2d Cir. 2007) (noting that approval of settlements includes weighing the support of other parties-in-interest and the “competency and experience of counsel” supporting the settlement). The Settlement results in, *inter alia*, a payment of \$3,500,000 to the Debtors’ estates (“Settlement Payment”). The proposed resolution eliminates attendant risks and

costs associated with litigating the claims against CHS to trial or final hearing. Accordingly, Debtors submit that entry of the Consent Order confirming, affirming, and approving the Settlement on the terms set forth in the Consent Order is in the best interests of the Debtors' estates and all creditors.

14. Further, notwithstanding certain objections made by ServisFirst Bank ("ServisFirst") at the Confirmation Hearing, ServisFirst supports the amount of the Settlement Payment and the release to be granted to CHS as set forth in the Consent Order and ServisFirst is a party to the proposed Consent Order submitted herewith.

NOTICE

15. Notice of this Motion is being served via First Class U.S. Mail, electronic mail, and/or CM/ECF to: (a) the U.S. Trustee; (b) counsel to ServisFirst; (c) counsel to CHS; (d) counsel to MidCap; (e) the Office of the United States Attorney for the Middle District of Tennessee; (f) the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services; (g) the Tennessee State Department of Health Division of Licensure and Regulation of Health Care Facilities; (h) the Attorney General of the State of Tennessee; (i) the Tennessee Department of Revenue; (j) the Tennessee Secretary of State; (k) the Mississippi State Department of Health; (l) the Attorney General of the State of Mississippi; (m) the United States Attorney's Office for the Northern District of Mississippi; (n) the Mississippi Department of Revenue; (o) the Internal Revenue Service; (p) counsel to the official committee of unsecured creditors; (q) the ombudsman and her counsel; and (r) any party who has requested notice pursuant to Bankruptcy Rule 2002.

Dated: May 20, 2019
Nashville, Tennessee

POLSINELLI PC
/s/ Michael Malone

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