

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

<b>IN RE:</b>	)	
	)	<b>Case No. 3:18-bk-05665</b>
<b>CURAE HEALTH, INC., et al.,</b>	)	<b>Chapter 11</b>
	)	<b>Judge Walker</b>
<b>Debtors.</b>	)	
	)	<b>Jointly Administered</b>

**OBJECTION OF CARDINAL HEALTH 110, LLC TO CURE AMOUNTS SET FORTH  
IN THE 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 [DOC. NO. 513]**

Cardinal Health 110, LLC (“CH 110”), by and through its undersigned attorneys, hereby makes this limited objection to the cure amounts set forth in the Debtors’ *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* [Doc. No. 513], and in support thereof, states as follows:

1. On August 24, 2018 (the “Petition Date”), Debtor Curae Health, Inc. (the “Debtor”) filed a petition for relief under Chapter 11 of Title 11 of the United States Code (hereinafter the “Bankruptcy Code”).

2. CH 110 and the Debtor are parties to a certain Group Commitment Agreement (the “GCA”), pursuant to which CH 110 was appointed the prime distributor for the Debtor and each healthcare provider entity that was owned, managed or operated by the Debtor as set forth in the GCA, specifically Gilmore Medical Center and Panola Medical Center, with respect to pharmaceutical and over-the-counter products.

3. On November 30, 2018, the Court entered an *Order (I) Authorizing and Approving Bidding Procedures for the Sale of Panola Medical Center, (II) Authorizing the Sale*

*of Panola Medical Center Free and Clear of All Liens, Claims, Encumbrances and Other Interest, (III) Approving Stalking Horse Purchaser, Break-up Fee, and Overbid Protection, (IV) Establishing Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, (V) Scheduling an Auction; (VI) Scheduling a Hearing and Objection Deadlines with Respect to the Sale of Panola Medical Center, (VII) Approving the Form and Manner of Notice Thereof, and (VIII) Granting Related Relief [Doc. No. 507].*

4. On November 30, 2018, the Debtor filed a *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* [Doc. No. 513] (the "Notice").

5. Exhibit 1 attached to the Notice, which sets forth a list of leases and contracts that **may** be assumed and assigned by the Debtor, includes a reference to the GCA, but provides a cure amount of \$0.00.

6. Pursuant to an agreement between the Debtor and CH 110, the time in which CH 110 has to file its objection to the Notice has been extended to December 14, 2018.

7. Pursuant to the *Notice of Stalking Horse Purchaser's Intent to Assume Executory Contracts and Unexpired Leases* [Doc. No. 549], the GCA is listed as an executory contract **to be** assumed and assigned to the Purchaser, Progressive Medical Management, but again, provides for a cure amount of \$0.00.

8. As of the Petition Date, according to CH 110's books and records, there was, and remains, due and owing by the Debtor to CH 110, under the terms of the GCA, the sum of \$578,346.52. In addition, CH 110's books and records further reflect that, post-petition, the Debtors owe CH 110 an additional \$66,102.57 under the terms of the GCA, which amount is

now past due. Accordingly, the total sum of \$644,449.09 is currently owed by the Debtor to CH 110 pursuant to the terms of the GCA (the “CH 110 Cure Amount”).

### **OBJECTION**

9. Pursuant to Section 365(b)(1)(A) of the Bankruptcy Code:

If there has been a default in an executory contract or unexpired lease of the debtor, the [debtor-in-possession] may not assume such contract or lease unless, at the time of assumption of such contract or lease, the [debtor-in-possession] . . . cures . . . such default . . .

11 U.S.C. § 365(b)(1)(A).

10. As noted above, Debtors owe CH 110 the CH 110 Cure Amount of \$644,449.09. This amount must be paid as a condition precedent to Debtors’ assumption of the GCA and assignment of same to the Stalking Horse or any other purchaser, pursuant to Section 365(b)(1)(A) of the Bankruptcy Code.

11. CH 110 hereby reserves its rights under Section 365(b) of the Bankruptcy Code, including, but not limited to, the right to require payment of all amounts accrued prior to and/or after the Petition Date under the GCA to the extent the agreement is assumed and assigned, as of the date of such assumption and assignment. CH 110 further reserves the right to modify or supplement this objection and to present such evidence as it deems appropriate in connection with any hearing to consider this objection.

### **CONCLUSION**

WHEREFORE, CH 110 respectfully requests that this Court enter an Order:

- (a) Requiring Debtor or the ultimate purchaser, as applicable under the Asset Purchase Agreement, to pay to CH 110 the CH 110 Cure Amount as a condition precedent to Debtor’s assumption of the GCA and assignment of same to the purchaser; and
- (b) Granting CH 110 such other or further relief as the Court deems appropriate.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing has been served via electronic notice/ECF on all parties registered to receive electronic notice in this case, as well via United States Mail, first class, postage prepaid to the following persons:

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