

Charles M. Walker
U.S. Bankruptcy Judge

Dated: 1/22/2019



**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

AGREED ORDER RESOLVING UNITEDHEALTHCARE OBJECTION

Before this Court is the objection filed by UnitedHealthcare Insurance Company (“**UnitedHealthcare**”) [Docket No. 583] (the “**UnitedHealthcare Objection**”) with respect to 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* [Docket No. 513]. Based upon the signatures of counsel below and the representations of counsel for Debtors, Progressive Medical Management of Batesville, LLC (“**Purchaser**”), and UnitedHealthcare that the parties have entered into a stipulation resolving the UnitedHealthcare Objection (the “**Stipulation**”), which is annexed hereto, and the Court finding good cause therefor;

IT IS ORDERED that the UnitedHealthcare Objection is resolved as set forth in the Stipulation between UnitedHealthcare, Debtors, and Purchaser.

IT IS FURTHER ORDERED that this Court shall retain exclusive jurisdiction to resolve any dispute arising from or related to this Order and the Stipulation.

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).

**This Order Was Signed And Entered Electronically
As Indicated At The Top Of The First Page**

CONSENTED TO AND APPROVED FOR ENTRY BY:

POLSINELLI PC

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Counsel to the Debtors and Debtors in Possession

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Stipulation

STIPULATION REGARDING CURE AMOUNT

This Stipulation (the “**Stipulation**”) is entered into as of the 10th day of January, 2019, by and between Curae Health, Inc. (“**Curae**”), Batesville Regional Medical Center, Inc. (“**Batesville**”), and other affiliated debtors in the jointly administered cases of *In re Curae Health, Inc., et al.*, M.D. Tenn. Bankr. Case No. 18-05665 (together with Curae and Batesville, collectively, the “**Debtors**”), UnitedHealthcare Insurance Company, on behalf of itself, and its affiliates, subsidiaries, and parents (collectively, the “**Contract Counterparty**”), and Progressive Medical Management of Batesville, LLC (the “**Purchaser**”). The Debtors, the Contract Counterparty, and the Purchaser are referred to collectively herein as the “**Parties**”.

RECITALS

WHEREAS, Contract Counterparty entered into a Facility Participation Agreement with Tri Lakes Medical Center, the predecessor in interest to Batesville dated on or about April 1, 2015 (the “**FPA**”), for services provided at the Panola Hospital (defined below).

WHEREAS, Contract Counterparty entered into a Medical Group Contract with Batesville Regional Physicians, LLC (“**BRP**”) dated on or about August 9, 2017 (the “**Group Contract**” and together with the FPA, the “**Agreements**”), for services rendered by BRP’s physicians.

WHEREAS, on August 24, 2018 (the “**Petition Date**”), the Debtors filed voluntary petitions under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) in the above-referenced, jointly-administered bankruptcy cases (collectively, the “**Chapter 11 Cases**”) pending in the United States Bankruptcy Court for the Middle District of Tennessee (the “**Bankruptcy Court**”).

WHEREAS, on November 6, 2018, the Debtors filed *Debtors’ Motion for Entry of 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 Interests, (III) Approving Stalking Horse Purchaser, Break-up Fee, and Overbid Protections, (IV) Establishing Certain Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, (V) Scheduling an Auction, (VI) Scheduling a Hearing and Objections Deadlines With Respect to the Sale of Panola Medical Center, (VII) Approving the Form and Manner of Notice Thereof, and (VIII) Granting Related Relief* (Docket No. 401) (the “**Sale Procedures Motion**”), seeking to, *inter alia*, sell all, or substantially all, of their assets (the “**Sale**”) related to Panola Medical Center (the “**Panola Hospital**”).

WHEREAS, on November 30, 2018, the Bankruptcy Court entered an order on the Sale Procedures Motion (the “**Sale Procedures Order**”) [Docket No. 507], approving, *inter alia*, the procedures for the assumption and assignment of executory contracts unexpired leases related to

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the sale of Panola Medical Center and the form Assumption and Assignment Notice and setting a sale hearing for January 11, 2019 (the “**Sale Hearing**”).

WHEREAS, in accordance with the Sale Procedures Order, on November 30, 2018, the Debtors filed and served 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* (the “**Assumption and Assignment Notice**”) [Docket No. 513]. The Assumption and Assignment Notice set an objection deadline of ten (10) days after the date of the Assumption and Assignment Notice, resulting in an objection deadline of December 10, 2018, which was extended by consent to the Contract Counterparty to December 18, 2018 (the “**Objection Deadline**”).

WHEREAS, Contract Counterparty was listed in the Assumption and Assignment Notice as a party to an executory contract or unexpired lease with Debtor with a proposed cure amount of \$0 (the “**Proposed Cure Amount**”).

WHEREAS, Contract Counterparty filed an objection with the Bankruptcy Court (the “**Objection**”) [Docket No. 583], disputing the Proposed Cure Amount.

WHEREAS, the Assumption and Assignment Notice provides that, in the event the Parties wish to consensually resolve an objection to the Assumption and Assignment Notice, the Parties must enter into a written stipulation, which stipulation is not required to be filed with or approved by the Bankruptcy Court and shall not be assigned to the Purchaser, to resolve any objection to assumption and assignment of an executory contract or unexpired lease.

WHEREAS, the Parties now desire to settle the Objection as provided in this Stipulation.

STIPULATION

NOW THEREFORE, for and in consideration of the mutual obligations and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Proposed Cure Amount. The Parties agree that (i) the amount necessary to cure defaults arising before the Petition Date under the FPA is \$8,436.77 (the “**FPA Agreed Cure Amount**”), and (ii) the amount necessary to cure defaults arising before the Petition Date under the Group Contract is \$478.88 (the “**Group Contract Agreed Cure Amount**” and together with the FPA Agreed Cure Amount, the “**Agreed Cure Amounts**”). The Agreements shall be assumed and assigned to the Purchaser effective as of the closing of the Sale (the “**Closing**”), and the Agreed Cure Amounts shall be paid within 60 days of the closing of the sale transaction. The payment of the Agreed Cure Amounts shall cure any and all defaults under the Agreements as of the Petition Date and compensate the Contract Counterparty for its actual pecuniary losses

as required by section 365(b)(1) of the Bankruptcy Code as of the Petition Date. The Parties acknowledge and agree that the Debtors and the Contract Counterparty have continued to transact business under the Agreements since the Petition Date and that additional amounts may become due and owing to the Contract Counterparty subsequent to the Petition Date. The Debtors will pay the Contract Counterparty in the ordinary course of business any obligations for overpayments accruing under the Agreements arising on or after the Petition Date and prior to the Closing; provided, however, that if the overpayments accruing between January 1, 2019 and the Closing exceed \$25,000.00, the Contract Counterparty's remedies for the recovery of such amount in excess of \$25,000.00, will be limited to: (i) set-off or recoupment of such obligations from claims submitted by the Debtors for services rendered on or after the Petition Date, but prior to the Closing, or (ii) filing an application for the allowance of an administrative expense claim under Section 503(b) of the Bankruptcy Code. The Purchaser shall be solely obligated to pay the Contract Counterparty any obligations for overpayments accruing under the Agreements arising on or after the Closing. The Parties further agree that this Stipulation shall resolve the Objection.

2. Assumption and Assignment. The Parties agree to enter into such other instruments or agreements as may be necessary to effectuate or otherwise memorialize the assignment of the Agreements to the Purchaser consistent with the terms of this Stipulation.

3. No Effect on Sale Procedures Order. Nothing in this Stipulation shall be construed to affect the rights and obligations of the Parties under the Sale Procedures Order.

4. Governing Law; Venue. The Parties agree that this Stipulation shall be governed by, and construed in accordance with, the substantive internal laws (as opposed to conflicts of law provisions) and decisions of the State of Tennessee and that any dispute arising from this Stipulation must be heard in the Bankruptcy Court.

5. Integrated Stipulation. This Stipulation is a full and final integration and resolution of all prior discussions, negotiations, arrangements, relationships, agreements, commitments or contracts of any kind (express or implied, written or verbal) between the Parties concerning the Objection, and all such prior and any contemporaneous statements, commitments, writings, stipulations, contracts or instruments are superseded hereby and shall not survive the execution of this Stipulation. This Stipulation may only be amended by a written Stipulation signed by the Parties and no waiver of any right, benefit or interest of a Party hereunder shall be binding unless the said waiver is in writing and signed by the Party charged with such waiver. Each Party hereby acknowledges and represents that, in entering into this Stipulation, the Party has neither received nor relied upon any representations or promises made by the other Party, or the other Party's officers, directors, employees, agents, attorneys, or representatives, other than those representations and promises that are expressly set forth in writing in this Stipulation. The making of any such representations or promises, other than those that are expressly set forth in writing in this Stipulation, is specifically denied by any and all Parties.

6. Counterparts. This Stipulation may be executed in electronic format and in one or

more counterparts and when all Parties have executed a counterpart hereof, the said counterparts shall constitute a single, complete and binding contract and Stipulation between the Parties.

7. Authorization. Each Party represents and warrants that the person signing this Stipulation on that Party's behalf is fully authorized to execute this Stipulation on that Party's behalf and to bind them legally to the covenants and Stipulations set forth herein. Each person signing this Stipulation represents and warrants that he or she is fully authorized to execute this Stipulation by the Party on whose behalf he or she is signing this Stipulation.

8. No Agency. This Stipulation is not intended, and shall not be construed, to create any relationship of employment, partnership, agency, affiliation, combination, or joint venture between the Parties.

9. EACH PARTY REPRESENTS, WARRANTS AND ACKNOWLEDGES THAT:
(i) IT HAS REVIEWED ITS RECORDS, EVALUATED ITS POSITION AND CONDUCTED DUE DILIGENCE WITH REGARD TO ALL RIGHTS, CLAIMS, OR CAUSES OF ACTION WHATSOEVER WITH RESPECT TO THE OTHER PARTY AND/OR THIS STIPULATION;
(ii) IT HAS CONSULTED WITH OR HAS HAD THE OPPORTUNITY TO CONSULT WITH INDEPENDENT LEGAL COUNSEL OF ITS OWN CHOICE CONCERNING THIS STIPULATION AND HAS BEEN ADVISED TO DO SO; AND (iii) IT HAS CAREFULLY READ THE FOREGOING, AND KNOWS AND UNDERSTANDS THE CONTENT AND MEANING OF ALL PROVISIONS IN THIS STIPULATION, IS FULLY AWARE OF THE LEGAL EFFECT OF ALL PROVISIONS, AND HAS ENTERED INTO THIS STIPULATION FREELY BASED ON ITS OWN JUDGMENT.

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IN WITNESS WHEREOF, the Parties have executed this Stipulation to be effective as of the date first set forth above by the through their duly authorized representatives.

UNITEDHEALTHCARE INSURANCE
COMPANY

PROGRESSIVE MEDICAL
MANAGEMENT OF BATESVILLE, LLC

By: Adam Carroll

By: Quentin Whitwell

Name: Adam Carroll

Name: Quentin Whitwell

Title: Associate General Counsel

Title: Managing Member

CURAE HEALTH, INC, ET AL.

Debtors and Debtors in Possession

Stephen Clapp

Stephen Clapp

Chief Executive Officer