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In its capacity as Agent and MidCap Lender

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF WASHINGTON

IN RE:

ASTRIA HEALTH, et al.

Debtors and Debtors in Possession.¹

Chapter 11

Lead Case No. 19-01189-11

(Jointly Administered)

¹ The Debtors, along with their case numbers, are as follows: Astria Health (19-01189-11), Glacier Canyon, LLC (19-01193-11), Kitchen and Bath Furnishings, LLC (19-01194-11), Oxbow Summit, LLC (19-01195-11), SHC Holdco, LLC (19-01196-11), SHC Medical Center-Toppenish (19-01190-11), SHC Medical Center-Yakima (19-01192-11), Sunnyside Community Hospital Association

LIMITED OBJECTION OF MIDCAP FUNDING
 IV TRUST - PAGE - 1
 4825-1851-9958.2 {S1849892; 1.1 }



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Atto

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1 LIMITED OBJECTION OF
2 MIDCAP FUNDING IV TRUST TO
3 EMERGENCY MOTION OF
4 DEBTORS FOR INTERIM AND
5 FINAL ORDERS (I)
6 AUTHORIZING THE DEBTORS
7 TO OBTAIN POSTPETITION
8 FINANCING; (II) GRANTING
9 SECURITY INTERESTS AND
10 SUPERPRIORITY
11 ADMINISTRATIVE EXPENSE
12 STATUS; (III) GRANTING
13 ADEQUATE PROTECTION TO
14 CERTAIN PREPETITION
15 SECURED CREDIT PARTIES; (IV)
16 MODIFYING THE AUTOMATIC
17 STAY; (V) AUTHORIZING THE
18 DEBTORS TO ENTER INTO
19 AGREEMENTS WITH JMB
20 CAPITAL PARTNERS LENDING,
21 LLC; (VI) AUTHORIZING USE OF
22 CASH COLLATERAL; (VII)
23 SCHEDULING A FINAL HEARING
24 AND (VIII) GRANTING RELATED
25 RELIEF

19 MidCap Funding IV Trust, as successor-by-assignment to MidCap
20 Financial Trust, in its capacity as agent (“Agent”) for the MidCap Lenders
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24 (19-01191-11), Sunnyside Community Hospital Home Medical Supply, LLC
25 (19-01197-11), Sunnyside Home Health (19-01198-11), Sunnyside Professional
26 Services, LLC (19-01199-11), Yakima Home Care Holdings, LLC (19-01201-
27 11), and Yakima HMA Home Health, LLC (19-01200-11).
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(defined below), hereby files this limited objection and reservation of rights with respect to the *Emergency Motion of Debtors (I) Authorizing the Debtors to Obtain Postpetition Financing; (II) Granting Security Interests and Superpriority Administrative Expenses Status; (III) Granting Adequate Protection To Certain Prepetition Secured Credit Parties; (IV) Modifying the Automatic Stay; (V) Authorizing the Debtors to Enter into Agreements with JMB Capital Partners Lending, LLC; (VI) Authorizing Use of Cash Collateral; (VII) Scheduling a Final Hearing and (VIII) Granting Related Relief* [Dkt. 15] (the “**DIP Financing Motion**”)². In support hereof, MidCap states as follows:

1. On May 6, 2019 (the “**Petition Date**”), the Debtors filed their voluntary petitions under chapter 11 of the United States Bankruptcy Code thereby commencing these Chapter 11 cases.

2. As of the Petition Date, Debtors SHC Holdco, LLC, SHC Medical Center – Yakima , SHC Medical Center – Toppenish , Yakima Home Care Holdings, LLC, and Yakima HMA Home Health, LLC were co-borrowers (collectively, the “**MidCap Borrowers**”) under that certain Credit and Security Agreement dated September 18, 2017 (the “**MidCap Credit Agreement**”) and

² Unless otherwise defined, capitalized terms in this Objection will have the same meaning as ascribed to them in the DIP Financing Motion.

1 related loan documents (all as amended, modified, or supplemented to date,
2 collectively with the MidCap Credit Agreement, the “**MidCap Loan**
3 **Documents**”), pursuant to which MidCap and other lenders party thereto (the
4 “**MidCap Lenders**”) provided the MidCap Borrowers with a revolving loan
5 facility in the maximum principal amount of \$15 million. As of the Petition
6 Date, the MidCap Borrowers were indebted to the MidCap Lenders in the
7 approximate principal amount of \$10.7 million, plus accrued interest, fees, and
8 expenses.
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12 3. The advances made pursuant to the MidCap Loan Documents are
13 secured by properly perfected, first priority liens and security interests (the
14 “**MidCap Senior A/R Liens**”) on the assets of the MidCap Borrowers set forth
15 in Schedule 9.1 to the MidCap Credit Agreement, including, without limitation,
16 the MidCap Borrowers’ accounts receivable and proceeds (such assets, the
17 “**MidCap A/R Collateral**”).
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21 4. Debtors have filed their DIP Financing Motion seeking, *inter alia*,
22 authority to use Cash Collateral, including the MidCap Cash Collateral (defined
23 below) and authority to obtain senior secured post-petition financing (“**DIP**
24 **Facility**”) from JMB Capital Partners Lending, LLC (the “**DIP Lender**”) in an
25 aggregate principal amount of up to \$36 million, of which \$28 million (the
26 “**Interim Advance**”) will be made available to the Debtors upon entry of this
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1 Court's Interim Order granting the DIP Financing Motion. To secure the DIP
2 Facility, Debtors further propose to grant DIP Lender first priority security
3 interests and liens on their assets, which will include the MidCap A/R Collateral
4 and proceeds ("**MidCap Cash Collateral**").
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7 5. If the DIP Financing Motion is granted and the DIP Financing is
8 authorized, including the Interim Advance, Debtors intend to use part of the
9 Interim Advance to pay in full all outstanding obligations due and payable to the
10 MidCap Lenders under the MidCap Loan Documents (including obligations that
11 accrue post-petition), which Debtors have defined in the DIP Financing Motion
12 as the Outstanding Prepetition MidCap Obligations. Debtors anticipate that upon
13 payment of the Outstanding Prepetition MidCap Obligations, the MidCap Loan
14 Documents and the MidCap Senior A/R Liens will be terminated. Accordingly,
15 the Debtors propose no adequate protection to the MidCap Lenders for their
16 MidCap Senior A/R Liens in the MidCap A/R Collateral, including the MidCap
17 Cash Collateral.
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22 6. MidCap Lenders have no objection to the MidCap Borrowers using
23 the DIP Financing, including the Interim Advance, to pay the Outstanding
24 Prepetition MidCap Obligations in full, and believe it is in the best interests of
25 the Debtors and their estates for them to do so. Moreover, to the extent the
26 payoff of the Outstanding Prepetition MidCap Obligations is final and
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1 indefeasible, MidCap has no objection to (a) the MidCap Loan Documents and
2 MidCap Senior A/R Liens being terminated, (b) the remaining relief being
3 requested in the DIP Financing Motion, including the priming liens being
4 granted to the DIP Lender, or (c) the fact no adequate protection is being
5 provided to MidCap Lenders.
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8 7. However, the Debtors are not proposing that the payment of the
9 Outstanding Prepetition MidCap Obligations will be final and indefeasible. The
10 proposed Interim Order provides that, “[n]othing in the Interim Order or the
11 payment of the ... Outstanding Prepetition MidCap Obligations shall be
12 construed as a waiver or release of any claims the estates may hold against the
13 [MidCap Lenders].” Thus, even though the Outstanding Prepetition MidCap
14 Obligations will be paid in full, the payment may not be final and indefeasible,
15 as Debtors are preserving claims they may³ hold against the MidCap Lenders.
16 By preserving such claims, it is conceivable MidCap will be dragged back into
17 these cases if Debtors, or possibly the Official Committee of Unsecured
18 Creditors, assuming one is formed, subsequently asserts a claim against the
19 MidCap Lenders.
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27 ³ MidCap is not aware of any claims that the Debtors may have against the
28 MidCap Lenders, nor do Debtors identify any claims.



1 8. MidCap is not aware of any claims that could be asserted against it,
2 nor have Debtors identified any that could be asserted and, in fact, have
3 acknowledged in the DIP Financing Motion and sworn in the supporting
4 *Declaration of Michael Lane* [Dkt. 16] that the Outstanding Prepetition MidCap
5 Obligations are due and owing under the MidCap Loan Documents and are
6 secured by the MidCap Senior A/R Liens, which are first priority liens on the
7 MidCap A/R Collateral. However, with any reservation of claims, the
8 possibility exists that a claim could be asserted and, regardless of its merits,
9 MidCap would, at the very least, have to defend the claim and incur legal and
10 fees and expenses that it would be entitled to recover under the MidCap Loan
11 Documents from Debtors and the MidCap A/R Collateral. However, if a claim
12 is asserted it will occur after: (a) MidCap has terminated the MidCap Loan
13 Documents and the MidCap Senior A/R Liens, (b) the Debtors have used
14 MidCap Cash Collateral, and (c) Debtors have granted priming liens to DIP
15 Lender on MidCap A/R Collateral, all without providing any adequate
16 protection to MidCap for the benefit of the MidCap Lenders.

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24 9. Therefore, MidCap objects to the DIP Financing Motion and
25 Interim Order as currently presented. Either the payment of the Outstanding
26 Prepetition MidCap Obligations should be final and indefeasible once it is
27 received by MidCap, without any reservation of claims against MidCap, or the
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1 DIP Financing Motion should be denied, at least with respect to the granting of
2 the priming liens to the DIP Lender and the use of MidCap Cash Collateral,
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4 unless Debtors can provide adequate protection of the MidCap Senior A/R Liens
5 in the MidCap A/R Collateral and the MidCap Cash Collateral. In addition,
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7 under no circumstances should MidCap be required to terminate the MidCap
8 Loan Documents or MidCap Senior A/R Liens until such time as payment of the
9 Outstanding Prepetition MidCap Obligations is deemed final and indefeasible.
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11 10. MidCap and the Debtors are currently discussing resolution of the
12 issues raised by MidCap with respect to the DIP Financing Motion, which, if
13 the parties are able to reach agreement, will be included in the Interim Order.
14 However, given that no agreement has been reached at this time, MidCap files
15 this limited objection to the DIP Financing Motion and hereby reserves its rights
16 to be heard at the hearing on same. Without limiting the foregoing, MidCap
17 reserves the right to object to any adequate protection proposed by Debtors as
18 being wholly inadequate.
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22 WHEREFORE, MidCap, in its capacity as Agent and on behalf of
23 MidCap Lenders, objects to the relief requested in the DIP Financing Motion as
24 set forth above and reserves its right to raise any additional objections at the
25 hearing on same.
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1 Dated: May 7, 2019

2 Respectfully submitted,

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4 **WITHERSPOON KELLEY**

5 By: s/ Shelley N. Ripley

6 Shelley N. Ripley, WSBA 28901

7 AND

8 **WALLER LANSDEN DORTCH**
9 **& DAVIS, LLP**

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12 ***Attorneys for MidCap Funding IV Trust, in its***
13 ***capacity as Agent and MidCap Lender***
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