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STIPULATED PROTECTIVE ORDER 1
 Lead Case No. 19-01189-11
 Adv. Pro. Case No. 20-80005-WLH

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

IN RE:

ASTRIA HEALTH, *et al.*

Debtors.

Washington State Nurses Association,
Plaintiff,

v.

SHC Medical Center–Yakima,
Astria Health,

Defendants

Lead Case No. 19-01189-11

Adv. Pro. Case No. 20-80005 – WLH

**STIPULATED
PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the Bankruptcy Court for the Eastern District of Washington (the “Court”) to enter the following Stipulated Protective Order (the “SPO”). The SPO does not confer blanket protection on all disclosures or responses to discovery that do not include confidential, proprietary, or private information, and the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. Absent agreement or order to the contrary, parties are required to file confidential information under seal in

STIPULATED PROTECTIVE ORDER 2

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1 accordance with the procedure in Section 4.3.

2 2. “CONFIDENTIAL” MATERIAL

3 “Confidential” material shall include the following documents and tangible
4 things produced or otherwise exchanged: documents containing personally
5 identifying information of employees or individuals other than those represented
6 by the Washington State Nurses Association (WSNA); documents containing
7 patient information; and documents containing trade secrets, proprietary
8 information and related business strategy, as well as sales and refinancing
9 information, that would harm the Defendants, any other Debtor their estates in
10 these jointly-administered chapter 11 bankruptcy cases or any non-Debtor affiliate
11 if made public or disclosed publicly or to persons not authorized by this SPO.

12 3. SCOPE

13 The protections conferred by this agreement cover not only confidential
14 material (as defined above), but also (1) any information copied or extracted from
15 confidential material; (2) all copies, excerpts, summaries, or compilations of
16 confidential material; and (3) any testimony, conversations, or presentations by
17 parties or their counsel that might reveal confidential material.

18 However, the protections conferred by this agreement do not cover
19 information that is in the public domain or becomes part of the public domain
20

1 through trial or through another Court authorized disclosure.

2 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

3 4.1 Basic Principles. A receiving party may use confidential material that
4 is disclosed or produced by another party or by a non-party in connection with this
5 case only for prosecuting, defending, or attempting to settle this Adversary
6 Proceeding Case No. 20-80005 (the "Litigation"). Confidential material may be
7 disclosed only to the categories of persons listed in 4.2 below and under the
8 conditions described in this agreement. Confidential material must be stored and
9 maintained by a receiving party at a location and in a secure manner that ensures
10 that access is limited to the persons authorized under this agreement.

11 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
12 otherwise ordered by the court or permitted in writing by the designating party, a
13 receiving party may disclose any confidential material only to:

14 (a) the receiving party's outside counsel of record in this action as
15 well as employees of that counsel to whom it is reasonably necessary to disclose
16 the information for this litigation;

17 (b) the following list of individuals, which WSNA represents are
18 the individuals to whom it is reasonably necessary to disclose information for this
19 litigation, but only after the individual has signed the "Acknowledgment and
20 Agreement to Be Bound" (Exhibit A) and provided a copy

1 to counsel for Defendants:

- 2 i. Sally Watkins – Executive Director
- 3 ii. Anne Tan Piazza – Senior Director of Strategic Initiatives
- 4 iii. Christine Watts – Senior Labor Advisor
- 5 iv. Gerard Friesz – Director of Labor Strategies
- 6 v. Jayson Dick – Nurse Representative
- 7 vi. Evette Runyon – Local Unit Officer, Secretary
- 8 vii. Lisa Bulleck – Represented RN, Bargaining Team
- 9 viii. Laurie Robinson – Represented RN, Bargaining Team
- 10 ix. Mark Young – Local Unit Officer, Membership Officer
- 11 x. Julia Barcott – Chairperson, Cabinet on Economic and
General Welfare
- 12 xi. Dave Campbell – Special Counsel
- 13 xii. Lane Toensmeier - Attorney/Chief Negotiator

14 (c) Astria Health’s and/or SHC Medical Center-Yakima’s officers,
15 directors, legal and financial professionals and upper level employees to whom
16 disclosure is reasonably necessary for this litigation;

17 (c) experts and consultants to whom disclosure is reasonably
18 necessary for this litigation and who have signed the “Acknowledgment and
19 Agreement to Be Bound” (Exhibit A);

20 (d) the Court, court personnel, and court reporters and their staff;

(e) copy or imaging services retained by counsel to assist in the
duplication of confidential material, provided that counsel for the party retaining
the copy or imaging service instructs the service not to disclose any confidential

1 material to third parties and to immediately return all originals and copies of any
2 confidential material;

3 (f) during their depositions, witnesses in the action to whom
4 disclosure is reasonably necessary and who have signed the “Acknowledgment and
5 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the designating
6 party or ordered by the Court. Pages of transcribed deposition testimony or exhibits
7 to depositions that reveal confidential material must be separately bound by the
8 court reporter and may not be disclosed to anyone except as permitted under this
9 agreement;

10 (g) the author or recipient of a document containing the
11 information or a custodian or other person who otherwise possessed or knew the
12 information.

13 4.3 Filing Confidential Material. Before filing confidential material or
14 discussing or referencing such material in court filings, the filing party shall confer
15 with the designating party to determine whether the designating party will remove
16 the confidential designation, whether the document can be redacted, or whether a
17 motion to seal or stipulation and proposed order is warranted. During the meet and
18 confer process, the designating party must identify the basis for sealing the specific
19 confidential information at issue, and the filing party shall include this basis in its
20 motion to seal, along with any objection to sealing the

1 information at issue. Local Bankruptcy Rule 9018-1 sets forth the procedures that
2 must be followed and the standards that will be applied when a party seeks
3 permission from the court to file material under seal. A party who seeks to
4 maintain the confidentiality of its information must demonstrate the basis in law
5 for sealing, even if it is not the party filing the motion to seal. Failure to satisfy
6 this requirement will result in the motion to seal being denied, in accordance with
7 the strong presumption of public access to the Court's files.

8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for Protection.

10 Each party or non-party that designates information or items for protection under
11 this agreement must take care to limit any such designation to specific material that
12 qualifies under the appropriate standards. The designating party must designate for
13 protection only those parts of material, documents, items, or oral or written
14 communications that qualify, so that other portions of the material, documents,
15 items, or communications for which protection is not warranted are not swept
16 unjustifiably within the ambit of this agreement.

17 Indiscriminate designations are prohibited. Designations that are shown to
18 be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
19 unnecessarily encumber or delay the case development process or to impose
20 unnecessary expenses and burdens on other parties) may

1 expose the designating party to sanctions.

2 If it comes to a designating party's attention that information or items that it
3 designated for protection do not qualify for protection, the designating party must
4 promptly notify all other parties that it is withdrawing the mistaken designation.

5 5.2 Manner and Timing of Designations. Except as otherwise provided in
6 this agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as
7 otherwise stipulated or ordered, disclosure or discovery material that qualifies for
8 protection under this agreement must be clearly so designated before or when the
9 material is disclosed or produced.

10 (a) Information in documentary form: (*e.g.*, paper or electronic
11 documents and deposition exhibits, but excluding transcripts of depositions or
12 other pretrial or trial proceedings), the designating party must affix the word
13 "CONFIDENTIAL" to the initial page that contains confidential material. If only a
14 portion or portions of the material on a page qualifies for protection, the producing
15 party also must clearly identify the protected portion(s) (*e.g.*, by making
16 appropriate markings in the margins).

17 (b) Testimony given in deposition or in other pretrial proceedings:
18 the parties and any participating non-parties must identify on the record, during the
19 deposition or other pretrial proceeding, all protected testimony, without prejudice
20 to their right to so designate other testimony after

1 reviewing the transcript. Any party or non-party may, within fifteen business days
2 after receiving the transcript of the deposition or other pretrial proceeding,
3 designate portions of the transcript, or exhibits thereto, as confidential. If a party
4 or non-party desires to protect confidential information at trial, the issue should be
5 addressed during the pre-trial conference.

6 (c) Other tangible items: the producing party must affix in a
7 prominent place on the exterior of the container or containers in which the
8 information or item is stored the word "CONFIDENTIAL." If only a portion or
9 portions of the information or item warrant protection, the producing party, to the
10 extent practicable, shall identify the protected portion(s).

11 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
12 failure to designate qualified information or items does not, standing alone, waive
13 the designating party's right to secure protection under this agreement for such
14 material. Upon timely correction of a designation, the receiving party must make
15 reasonable efforts to ensure that the material is treated in accordance with the
16 provisions of this agreement.

17 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

18 6.1 Timing of Challenges. Any party or non-party may challenge a
19 designation of confidentiality at any time. Unless a prompt challenge to a
20 designating party's confidentiality designation is

1 necessary to avoid foreseeable, substantial unfairness, unnecessary economic
2 burdens, or a significant disruption or delay of the litigation, a party does not waive
3 its right to challenge a confidentiality designation by electing not to mount a
4 challenge promptly after the original designation is disclosed.

5 6.2 Meet and Confer. The parties must make every attempt to resolve any
6 dispute regarding confidential designations without court involvement. Any
7 motion regarding confidential designations or for a protective order must include a
8 certification, in the motion or in a declaration or affidavit, that the movant has
9 engaged in a good faith meet and confer conference with other affected parties in
10 an effort to resolve the dispute without court action. The certification must list the
11 date, manner, and, to the best of the party's knowledge, the participants to the
12 conference. A good faith effort to confer requires a face-to-face meeting, a
13 telephone conference or agreed upon communication by email.

14 6.3 Judicial Intervention. If the parties cannot resolve a challenge without
15 court intervention, the designating party may file and serve a motion to retain
16 confidentiality under LBR 9018-1. The burden of persuasion in any such motion
17 shall be on the designating party. Frivolous challenges, and those made for an
18 improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
19 other parties) may expose the challenging party to sanctions. All parties shall
20 continue to maintain the material in question as

confidential until the court rules on the challenge.

7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
IN OTHER LITIGATION

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party must:

(a) promptly notify the designating party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c)

1 inform the person or persons to whom unauthorized disclosures were made of all
2 the terms of this agreement, and (d) request that such person or persons execute the
3 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
4 A.

5 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
6 PROTECTED MATERIAL

7 When a producing party gives notice to receiving parties that certain
8 inadvertently produced material is subject to a claim of privilege or other
9 protection, the obligations of the receiving parties are those set forth in Federal
10 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
11 whatever procedure may be established in an e-discovery order or agreement that
12 provides for production without prior privilege review. The parties agree to the
13 entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

14 10. NON TERMINATION AND RETURN OF DOCUMENTS

15 Within 60 days after the termination of this action, including all appeals,
16 each receiving party must return all confidential material to the producing party,
17 including all copies, extracts and summaries thereof. Alternatively, upon the
18 authorization of the producing party, the receiving party may destroy the
19 confidential information.
20

1 Notwithstanding this provision, outside legal counsel are entitled to retain
2 one archival copy of all documents filed with the court, trial, deposition, and
3 hearing transcripts, correspondence, deposition and trial exhibits, expert reports,
4 attorney work product, and consultant and expert work product, even if such
5 materials contain confidential material.

6 The confidentiality obligations imposed by this agreement shall remain in
7 effect until a designating party agrees otherwise in writing or a court orders
8 otherwise.

9
10 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

11
12 DATED: April 1, 2020

/s/ DARIN M. DALMAT

Darin M. Dalmat, WSBA No. 51384
Attorneys for Plaintiff

13
14 DATED: April 1, 2020

/s/ SAM J. ALBERTS

15 Sam J. Alberts, WSBA No. 22255
16 Attorneys for Defendant

17 PURSUANT TO STIPULATION, IT IS SO ORDERED

18 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the
19 production of any documents in this proceeding shall not, for the purposes of this
20 proceeding or any other federal or state proceeding, constitute a waiver by the

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1 producing party of any privilege applicable to those documents, including the
2 attorney-client privilege, attorney work-product protection, or any other privilege
3 or protection recognized by law.
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STIPULATED PROTECTIVE ORDER 14

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare
5 under penalty of perjury that I have read in its entirety and understand the
6 Stipulated Protective Order that was issued by the United States Bankruptcy Court
7 for the Eastern District of Washington on [date] in the case of Washington State
8 Nurses Association v. SHC Medical Center – Yakima, Astria Health, Adv. Pro.
9 Case No. 20-80005-WLH. I agree to comply with and to be bound by all the terms
10 of this Stipulated Protective Order and I understand and acknowledge that failure
11 to so comply could expose me to sanctions and punishment in the nature of
12 contempt. I solemnly promise that I will not disclose in any manner any
13 information or item that is subject to this Stipulated Protective Order to any person
14 or entity except in strict compliance with the provisions of this Order.

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1 I further agree to submit to the jurisdiction of the United States Bankruptcy
2 Court for the Eastern District of Washington for the purpose of enforcing the terms
3 of this Stipulated Protective Order, even if such enforcement proceedings occur
4 after termination of this action.

5 Date: _____

6 City and State where sworn and signed: _____

7 Printed name: _____

8 Signature: _____

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10 ///End of Order///
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STIPULATED PROTECTIVE ORDER 16

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