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*Attorneys for the Chapter 11 Debtors and Debtors  
In Possession*

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

In re:

ASTRIA HEALTH, *et al.*,

Debtors and  
Debtors in  
Possession.<sup>1</sup>

Chapter 11  
Lead Case No. 19-01189-11  
Jointly Administered

**NOTICE OF MOTION AND DEBTORS'  
MOTION FOR ORDER AUTHORIZING  
DISPOSAL OF PHYSICAL PATIENT  
RECORDS; DECLARATION OF  
MICHAEL LANE IN SUPPORT  
THEREOF**

<sup>1</sup> 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), SHS Holdco, LLC (19-01196-11), SHC Medical Center - Toppenish (19-01190-11), SHC Medical Center - Yakima (19-01192-11), Sunnyside Community Hospital Association (19-01191-11), Sunnyside Community Hospital Home Medical Supply, LLC (19-01197-11), Sunnyside Home Health (19-01198-11), Sunnyside Professional Services, LLC (19-01199-11), Yakima Home Care Holdings, LLC (19-01201-11), and Yakima HMA Home Health, LLC (19-01200-11).

**MOTION TO DESTROY  
PATIENT RECORDS**

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1           **PLEASE TAKE NOTICE** that Astria Health, a Washington nonprofit public  
2 benefit corporation (“Astria”), and the above-referenced affiliated debtors and  
3 debtors in possession (the “Debtors”) under chapter 11 of title 11 of the United States  
4 Code, §§ 101 *et seq.* (the “Bankruptcy Code”),<sup>2</sup> in these chapter 11 cases (the  
5 “Chapter 11 Cases”), by and through the undersigned counsel of record, respectfully  
6 request the entry of an order authorizing the Debtors to destroy all physical patient  
7 records (collectively, the “Patient Records”) that relate to patients who received  
8 medical care at Astria Regional Medical Center (the “ARMC”) that were not claimed  
9 by patients following notice of ARMC’s closure or transferred to new healthcare  
10 providers. The Patient Records are physically located in an office building owned  
11 by Astria Health which is located at 209 S. 12th Ave. in Yakima, Washington (the  
12 “12th Avenue Office”) and in offsite storage: Meyers, Meyers, & Meyers, LLC  
13 (“Meyers”) warehouse in Yakima, Washington and storage with Access Corp.  
14 (“Access”) in Spokane, Washington. Notably, the Patient Records sought to be

15 \_\_\_\_\_  
16 <sup>2</sup> All references to “§” herein are to sections of the Bankruptcy Code. All references  
17 to “Bankruptcy Rules” are to provisions of the Federal Rules of Bankruptcy  
18 Procedure. All references to “LBR” are to provisions of the Local Bankruptcy Rules  
19 of the United States Bankruptcy Court for the Eastern District of Washington (the  
20 “Bankruptcy Court”).

21           **MOTION TO DESTROY  
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1 destroyed do not include medical records of patients which received medical care at  
2 Toppenish or Sunnyside Hospitals or any existing electronic copies of medical  
3 records of patients of ARMC. The proposed destruction of the Patient Records is in  
4 accordance with § 351 and Bankruptcy Rule 6011 and in furtherance of the closure  
5 plan (the “Closure Plan”) previously approved under the *Order Granting Debtors’*  
6 *Emergency Motion to Authorize Closure of Medical Center* [Docket No. 874].

7 **PLEASE TAKE FURTHER NOTICE** that the Debtors file this Motion,  
8 pursuant to 11 U.S.C. §§ 351 and Rule 6011 of the Federal Rules of Bankruptcy  
9 Procedure.

10 **PLEASE TAKE FURTHER NOTICE** that the Motion is based on this  
11 Notice of Motion and Motion, the *Declaration of John M. Gallagher in Support of*  
12 *Emergency First-Day Motions* [Docket No. 21] (the “First-Day Declaration”) and the  
13 attached Declaration of Michael Lane in support of the Motion (the “Lane  
14 Declaration”).

15 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy  
16 Rules 2002-1 and 6006-1(a), if you object to the entry of an Order approving the  
17 Motion, please do so by filing a written objection with the Court and serve a copy  
18 upon the undersigned within twenty-one (21) days of the date of this Notice. Should  
19 you fail to timely and properly object to the Motion, the Court may enter an Order  
20 approving the Motion without a hearing and without further notice to you.

21 **MOTION TO DESTROY  
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**PLEASE TAKE FURTHER NOTICE** that if any timely objections to the Motion are filed, the Court may schedule a date and time for a hearing on the Motion.

Dated: January 12, 2021

/s/ Sam R. Maizel

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BUSH KORNFELD LLP

SAMUEL R. MAIZEL (Admitted *Pro Hac Vice*)

**SAM J. ALBERTS (WSBA #22255)**

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## MOTION TO DESTROY PATIENT RECORDS

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## INTRODUCTION

The Motion seeks authorization to commence the destruction of certain Patient Records in furtherance of the Court-approved Closure Plan and in accordance with § 351 and Bankruptcy Rule 6011. As demonstrated herein and as testified to by Michael Lane, the Debtors' Chief Restructuring Officer, in the attached declaration (the "Lane Decl."), ARMC was closed in January 2020. In October 2020, the Court approved the sale of ARMC. The ARMC Debtor does not have the any revenues from operations or other assets to pay the costs of storing the Patient Records for patients which received medical care at now-closed ARMC, in accordance with applicable state and federal law going forward. Moreover, the reorganizing Debtors, including Sunnyside and Toppenish Hospitals which do not seek authority to destroy their patients' records, are currently and will be operating post-emergence from bankruptcy under a restricted budget. Finally, the Debtors have already distributed the medical records appropriately. The medical records of the patients transferred to other medical providers when ARMC closed were also transferred to the new providers. Prior to the closure of ARMC, the Debtors distributed a notice to all patients that were not being transferred by ARMC to another provider, that ARMC was closing and advised patients of the opportunity to retrieve their medical records from the hospital. Many patients responded to this notice and obtained their medical records from ARMC. Patients who still want their records and have not yet obtained

### MOTION TO DESTROY PATIENT RECORDS

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1 them will be notified of their rights pursuant to the procedures required by § 351 and  
2 they will have one full year to obtain their medical records, should they so desire.

3 Granting the requested relief will trigger the 365 day notice period necessary  
4 to destroy the Patient Records under § 351. By starting the notice period now, the  
5 Debtors will minimize their costs by requiring storage of the physical Patient Records  
6 offsite for a shorter period of time. Permitting the requested relief also has the added  
7 benefit of saving expenses that could be used to operate the Debtors' remaining  
8 Hospitals and otherwise increase value to the estates (which inure to benefit of  
9 creditors).

## 10 I.

### 11 JURISDICTION AND VENUE

12 This Court has jurisdiction over this Motion under 28 U.S.C. § 157(b)(2)(A)  
13 and (O). Venue of these proceedings and this Motion is proper pursuant to 28 U.S.C.  
14 § 1409. The statutory predicate for this Motion is § 351 and Bankruptcy Rule 6011.

## 15 II.

### 16 BACKGROUND

#### 17 A. General Background

18 1. The Debtors filed voluntary petitions for relief under chapter 11 of the  
19 Bankruptcy Code on May 6, 2019 (the "Petition Date"). These Chapter 11 Cases are  
20 currently being jointly administered before the Court [Docket No. 10]. Since the

1 Petition Date, the Debtors have been operating their businesses as debtors in  
2 possession pursuant to §§1107 and 1108.

3 2. Debtor Astria, a Washington nonprofit corporation, is the direct or  
4 indirect corporate member of entities that make it the largest non-profit healthcare  
5 system based in Eastern Washington. The Astria Health system is headquartered in  
6 the heart of Yakima Valley, Washington, with facilities in Yakima, Sunnyside, and  
7 Toppenish, Washington.

8 3. At the Petition Date, Astria system included three hospitals: ARMC, a  
9 214-bed hospital in Yakima, Washington; Astria Sunnyside Hospital, a 38-bed  
10 critical access hospital in Sunnyside, Washington ("Sunnyside"); and Astria  
11 Toppenish Hospital, a 63-bed hospital in Toppenish, Washington ("Toppenish," and  
12 referred to collectively with Sunnyside and ARMC as the "Hospitals").

13 4. The United States Trustee appointed the Official Committee of  
14 Unsecured Creditors in these Chapter 11 Cases on May 24, 2019 [Docket No. 135].  
15 No trustee or examiner has been appointed.

16 5. Additional information about the Debtors' businesses and affairs,  
17 capital structure, prepetition indebtedness and, the events leading up to the Petition  
18 Date, can be found in the *Declaration of John M. Gallagher in Support of Emergency*  
19 *First-Day Motions* [Docket No. 21] (the "First Day Declaration"), which is  
20 incorporated herein by reference.

1           6.     On January 3, 2020, the Debtors filed a motion to close ARMC along  
2 with the proposed Closure Plan [Docket No. 867]. The Closure Plan provides, among  
3 other things, that within one day after entry of the Closure Order, “patients[’] medical  
4 records should be copied (hard copy if possible) or an electronic version should be  
5 prepared and submitted to accepting patient, to hospitals in the greater Yakima  
6 Valley, with appropriate level of care or a hospital of their choice with appropriate  
7 level of care.” The Closure Plan further provides for “[t]he safeguard, storage,  
8 transfer, and disposal of medical records. . . . Written notification of how to locate  
9 patient records will also be sent to all physicians currently on the active staff of  
10 [ARMC], along with a protocol for transferring such records. Finally, the Debtors  
11 will follow the procedures established under § 351 for disposal of patient records.”

12           7.     On January 16, 2020, the Court entered an order granting the motion  
13 and authorizing the closure of ARMC as well as the proposed Closure Plan (the  
14 “Closure Order”) [Docket No. 874].

15           8.     On October 7, 2020, the Debtors filed a motion to approve the sale of  
16 ARMC and the related medical office building for \$20 million (the “ARMC Sale”).  
17 [Docket No. 1891]. The Court approved the ARMC Sale on October 26, 2020.  
18 [Docket No. 1950]. The ARMC Sale did not include the purchase of patient records.  
19 *See* Order Approving Sale [Docket No. 1950].  
20  
21



1           9.     On November 25, 2020, the Debtors and the Lapis Parties,<sup>3</sup> as co-Plan  
2 Proponents, filed the *Modified Second Amended Joint Chapter 11 Plan of*  
3 *Reorganization of Astria Health and its Debtor Affiliates* (the “Plan”) [Docket No.  
4 2196]. Under the Plan, general unsecured creditors, whose claims total over \$100  
5 million, are estimated to receive less than 25% of the allowed amount of their claims.  
6 Also, the Plan requires that, after emergence from bankruptcy, the reorganizing  
7 Debtors (the “Reorganizing Debtors”) operate within agreed-upon cash restrictions  
8 pursuant the arrangement reached with their secured creditor (the Lapis Parties) or  
9 their exit lender (Multicare Health System (“Multicare”).

10           10.    On December 23, 2020, the Court entered an *Order Confirming*  
11 *Modified Second Amended Joint Chapter 11 Plan of Reorganization of Astria Health*  
12 *and its Debtor Affiliates* [Docket No. 2217].

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16           <sup>3</sup> The “Lapis Parties” are Lapis Advisers, LP as lender under the Debtors’ debtor in  
17 possession facility in the Chapter 11 Cases, agent under the Debtors’ prepetition  
18 credit agreement, and as investment advisor and investment manager for certain  
19 funds which are beneficial holders of those certain Washington Health Care Facilities  
20 Authority Revenue Bonds.

1           **B.     Facts Relevant to the Motion**

2           11. Historically prepetition and during this case, ARMC created and  
3 maintained patient records in the ordinary course of their business. Lane Decl., ¶ 3.  
4 Under applicable Washington state law, the Debtors are required to maintain patient  
5 records for a period of ten years following discharge of each patient and, for minor  
6 patients, a period of no less than three years following attainment of the age of  
7 eighteen years or ten years following such medical discharge, whichever is longer.  
8 See WASH. REV. CODE § 70.41.190. Further, under the Health Insurance  
9 Portability And Accountability Act Of 1996 (“HIPAA”), Pub. L. 104-191, August  
10 21, 1996, 110 Stat. 1936, when a patient or a patient representative requests their  
11 patient records, those records are required to be produced within 30 days of receiving  
12 the request and, generally, medical records must be retained for at least six years. 45  
13 C.F.R. 164.316(b)(2). Beginning in 2012, copies of all patient records maintained  
14 by ARMC were also scanned into the Debtors’ records system electronically. Lane  
15 Decl., ¶ 3.

16           12. Since entry of the Closure Order, all of ARMC’s patients were  
17 discharged or transferred to other medical providers. Lane Decl., ¶ 4. The medical  
18 records of the patients transferred to other medical providers were also transferred to  
19 the new providers. *Id.* Prior to the closure of ARMC, the Debtors distributed a notice  
20 to all patients that were not being transferred by ARMC to another provider, that

1 ARMC was closing and advised patients of the opportunity to retrieve their medical  
2 records from the hospital. *Id.* Many patients responded to this notice and obtained  
3 their medical records from ARMC. *Id.* A copy of this form of notice is attached  
4 hereto as **Exhibit A**.

5 13. The remaining Patient Records for those ARMC patients not  
6 transferred to new providers remained in or were transferred to offsite storage owned  
7 by Meyers in Yakima, Washington. Lane Decl., ¶ 5. Certain other Patient Records  
8 are also physically stored at the 12th Avenue Office and in offsite storage owned by  
9 Access in Spokane, Washington. *Id.* The Debtors' cost to rent the space to store the  
10 physical Patient Records offsite with Myers is approximately \$8,000 per month and  
11 with Access is approximately \$8,600 per month. *Id.* There are more than 6,000  
12 boxes of physical Patient Records currently being stored offsite with Meyers, more  
13 than 4,500 boxes of Patient Records currently being stored at the 12th Avenue Office  
14 and more than 20,000 boxes of Patient Records being stored offsite with Access. *Id.*

15 14. Under the Plan, the ARMC Debtor's assets are being liquidated for the  
16 benefit of creditors. Consequently, ARMC has been closed, does not have any  
17 operating assets sufficient to pay for the storage of the Patient Records. *See* Lane  
18 Decl., ¶ 7.

19 15. The remaining Debtors are reorganizing their assets to pay creditors  
20 pursuant to the Plan, including general unsecured creditors who are expected to

1 receive significantly less than full recovery. Moreover, post-emergence from  
2 bankruptcy, the Reorganizing Debtors must operate within agreed-upon cash  
3 restrictions pursuant the arrangement reached with the Lapis Parties and Multicare.  
4 Due to these facts, the Debtors and the Reorganizing Debtors do not and will not  
5 have excess funds and, should be otherwise relieved of the financial burden, of  
6 maintaining the Patient Records. *See* Lane Decl., ¶ 9.

### 7 III.

### 8 ARGUMENT

9 Normally under applicable state and federal law, a healthcare facility is  
10 required to maintain the Patient Records for a period of seven to ten years. *See*  
11 WASH. REV. CODE § 70.41.190; 45 C.F.R. 164.316(b)(2). However, ARMC is  
12 closed and the remaining Debtor entities (*e.g.*, Sunnyside and Toppenish) are  
13 reorganizing and have limited resources. The Patient Records relate to the closed  
14 ARMC, all known ARMC patients were given an opportunity to claim their Patient  
15 Records prior to the closure of ARMC, and many Patient Records were copied and  
16 will remain in electronic form. These collective facts establish that the Debtors  
17 should be permitted to dispose of these physical Patient Records in accordance with  
18 § 351 and Rule 6016. As one court aptly explained, “[d]uties that arise when a health  
19 care business is ceasing operations, such as proper destruction or retention of patient  
20 records . . . are covered under § 351 . . . of the Bankruptcy Code . . . and allow the

1 Trustee to carry out such functions.” *In re Banes*, 355 B.R. 532, 536 (Bankr.  
2 M.D.N.C. 2006).

3 Section 351 provides that “[i]f a healthcare business commences a case under  
4 chapter . . . 11, and the trustee does not have a sufficient amount of funds to pay for  
5 the storage of the patient records in the manner required under applicable Federal or  
6 State law,” then, subject to certain specified requirements, the trustee may “destroy  
7 those records” by “shredding or burning the records” if they are written or by  
8 “otherwise destroying those records so that those records cannot be retrieved” if they  
9 are “magnetic, optical, or other electronic records.” 11 U.S.C. §§ 351, 351(3);  
10 accord *In re LLSS Mgmt. Co., Inc.*, No. 07-02678-5-ATS, 2008 WL 395184, \*2  
11 (Bankr. E.D.N.C. Feb. 11, 2008); *Banes*, 355 B.R. at 536; *In re 7-Hills Radiology,*  
12 *LLC*, 350 B.R. 902, 903 n.2 (Bankr. D. Nev. 2006) (noting that “health care  
13 business[es] are restricted in the way in which they may dispose of patient records”  
14 under § 351).

15 Here, the Debtors and Reorganizing Debtors should not be required to  
16 endanger future patient care by using limited financial resources to pay for the storage  
17 of the Patient Records of defunct facilities (ARMC) in the manner that may be  
18 required under applicable federal and state law. There are currently a total of  
19 approximately 30,500 boxes of physical Patient Records stored at the 12th Avenue  
20 Office and offsite with Meyers and Access. The cost to store approximately 26,000

1 boxes of the Patient Records offsite with Meyers and Access is \$16,600 a month or  
2 \$199,200 a year. Thus, it will cost the Debtors, at a minimum, a total of over \$1.394  
3 million to continue to store the Patient Records for an additional seven to ten years,  
4 as required under state and federal law. Lane Decl. ¶ 6.

5         Paying to store the Patient Records related to the closed ARMC is an especially  
6 unnecessary expense for the Debtors, which are in the process of reorganizing their  
7 assets to pay creditors. To deny the Motion will reduce funds that could otherwise  
8 be used for operating Hospital operations and potential creditor recoveries. The  
9 Patient Records are also not needed to process claims against the Debtors, to pursue  
10 avoidance actions, or for other wind down purposes. Thus, the continued  
11 maintenance of Patient Records is not in the best interests of the Debtors' estates and  
12 creditors. Accordingly, the Debtors should be permitted to destroy the Patient  
13 Records under § 351.

14         The Debtors seek authority to destroy the Patient Records at this time so that  
15 the requisite 365 day notice period to destroy the records under § 351 begins to run  
16 and the Debtors are able to minimize the costs associated with storing the Patient  
17 Records at an offsite facility. Granting the requested relief will minimize the time  
18 the Patient Records would need to be stored offsite prior to their destruction.

19         Moreover, the requested relief is not prejudicial to active patients because they  
20 were transferred to new medical providers and have continued access to their medical  
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**MOTION TO DESTROY  
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1 records by requesting access from their current providers. Lane Decl., ¶ 11. Many  
2 prior patients also already retrieved their medical records following receipt of the  
3 ARMC closure notice. Lane Decl., ¶ 4. The interests of other prior patients are  
4 similarly protected by the procedures and protections provided by § 351 which  
5 provide for notice of destruction of medical records and the patients' opportunity to  
6 obtain such records prior to their destruction. Therefore, the Debtors should be  
7 authorized by the Court to destroy the Patient Records in the manner set forth under  
8 § 351 and Bankruptcy Rule 6011.

9 If the relief requested is granted, the Debtors will comply with all requirements  
10 under § 351 and Bankruptcy Rule 6011, in regard to the disposition of Patient  
11 Records.<sup>4</sup>

12  
13 <sup>4</sup> The Debtors will continue to abide by Washington law and destroy any Patient  
14 Records for adult patients which were discharged more than ten years ago without  
15 any further notice. *See* WASH. REV. CODE § 70.41.190 (requiring Washington  
16 hospitals to maintain patient records for ten years after the discharge of each patient).  
17 Also, the Debtors will continue to abide by Washington law and destroy Patient  
18 Records for minors without further notice if the minor patient has turned 18 years  
19 old, or ten years have passed following the discharge of the minor, whichever is  
20 longer. *See* WASH. REV. CODE § 70.41.190 (requiring Washington hospitals to

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1 Section 351(1)(A) provides that if “the trustee does not have a sufficient  
2 amount of funds to pay for the storage of patient records in the manner required by  
3 applicable Federal or State law,” before the trustee or debtor is authorized to destroy  
4 a debtor’s patient records, it must first publish notice in one or more appropriate  
5 newspapers, and that if the patient’s records are not claimed by the patient or an  
6 insurance provider within 365 days after the date of the notification, then the trustee  
7 will destroy the patient’s records. In compliance with § 351(1)(A), if this Motion is  
8 granted, the Debtors will publish the 365 day notice of the proposed disposal of  
9 Patient Records in newspapers of general circulation, to include the Yakima Herald-  
10 Republic and U.S.A. Today (the “Published Notice”).

11 Section 351(1)(B) also provides that, during the first 180 days of the 365 day  
12 period following the published notices, the debtor must properly attempt to notify  
13 each patient and insurance carrier, concerning the patient records by mailing to the  
14 most recent known address of: (1) the patient, or a family member or contact person  
15 for that patient, and (2) the appropriate insurance carrier an appropriate notice  
16 regarding the claiming or disposing of the patient records. Bankruptcy Rule 6011

17  
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19  
20 maintain the records of minor patients for a period of no less than three years  
21 following attainment of the age of eighteen years, or ten years following such  
discharge, whichever is longer).



1 requires that this notice also be given to the Attorney General for the State of  
2 Washington. FED. R. BANKR. P. 6011(b). Accordingly, the Debtors will promptly  
3 notify all patients, insurance carriers, and the Attorney General of the State of  
4 Washington, within 180 days of the Published Notice regarding the claiming and  
5 disposing of the Patient Records, consistent with § 351(1)(B).

6 Section 351 also provides that if the patient records are not claimed within  
7 365 days of the date of the published notices, the debtor shall send by certified mail  
8 a written request to each appropriate federal agency to request permission to deposit  
9 the patient records with that agency. 11 U.S.C. § 351(2). Only after the 365 day  
10 period following the published notices has elapsed and the patient records have not  
11 been claimed by a patient or insurance provider, and a request to deposit the patient  
12 records with the appropriate federal agency has not been granted, may the trustee  
13 destroy the patient records. *See id.* at § 351(3); *see also LLSS Mgmt. Co.*, 2008  
14 WL 395184, at \*2. Thus, the Debtors will destroy the Patient Records in the manner  
15 specified in § 351(3) if the Patient Records have not been retrieved by a patient within  
16 365 days of the Published Notice *and* if DHHS does not agree to the Debtors'  
17 requests to deposit the Patient Records with the federal agency.

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IV.

CONCLUSION

Based upon the foregoing, the Debtors respectfully request that this Court enter an order (i) authorizing the Debtors to dispose of the Patient Records pursuant to § 351 and Rule 6011, and (ii) granting to the Debtors such other relief as the Court deems just and proper under the circumstances.

Dated: January 12, 2021

DENTONS US LLP

By /s/ Samuel R. Maizel

SAMUEL R. MAIZEL (Admitted *Pro Hac Vice*)  
SAM J. ALBERTS (WSBA #22255)

BUSH KORNFELD LLP

JAMES L. DAY (WSBA #20474)

Attorneys for the Chapter 11 Debtors and Debtors  
In Possession

1 **DECLARATION OF MICHAEL LANE**

2 I, Michael Lane, declare that if called on as a witness, I would and could testify  
3 of my own personal knowledge as follows:

4 1. I am the Chief Restructuring Officer (“CRO”) of Astria Health  
5 (“Astria”) and am independently employed.

6 2. The statements herein are based upon my personal knowledge of the  
7 facts and information gathered by me in my capacity as CRO for Astria.

8 3. Historically prepetition and during this case, ARMC<sup>5</sup> created and  
9 maintained patient records in the ordinary course of their business. Beginning in  
10 2012, copies of all patient records maintained by ARMC were also scanned into the  
11 Debtors’ records system electronically.

12 4. Since entry of the Closure Order, all of ARMC’s patients have been  
13 discharged or transferred to other medical providers. The medical records of the  
14 patients transferred by ARMC to other medical provider have also been transferred  
15 to the new providers. Prior to the closure of ARMC, the Debtors distributed a notice  
16 to all patients that were not being transferred by ARMC to another provider, that  
17 ARMC was closing and advised patients of the opportunity to retrieve their medical  
18

19 <sup>5</sup> All capitalized terms not otherwise defined herein shall have the meaning afforded  
20 in the Motion.

21 **MOTION TO DESTROY  
PATIENT RECORDS**

19

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1 records from the hospital. Many patients responded to this notice and obtained their  
2 medical records from ARMC. A copy of this form of notice is attached to the Motion  
3 as Exhibit A.

4 5. The remaining Patient Records for those ARMC patients not transferred  
5 to new providers remained in or were transferred to offsite storage owned by Meyers  
6 in Yakima, Washington. Certain other Patient Records are also physically stored at  
7 the 12th Avenue Office and in offsite storage owned by Access in Spokane,  
8 Washington. The Debtors' cost to rent the space to store the physical Patient Records  
9 offsite with Myers is approximately \$8,000 per month and with Access is  
10 approximately \$8,600 per month. There are more than 6,000 boxes of physical  
11 Patient Records currently being stored offsite with Meyers, more than 4,500 boxes  
12 of Patient Records currently being stored at the 12th Avenue Office and more than  
13 20,000 boxes of Patient Records being stored offsite with Access.

14 6. The cost to store approximately 26,000 boxes of the Patient Records  
15 offsite with Meyers and Access is \$16,600 a month or \$199,200 a year. Thus, it will  
16 cost the Debtors, at a minimum, a total of over \$1.394 million to continue to store the  
17 Patient Records for an additional seven to ten years, as required under state and  
18 federal law.

1           7.     Under the Plan, the ARMC Debtor's assets are being liquidated for the  
2 benefit of creditors. Consequently, ARMC, which has been closed, does not have  
3 any operating assets sufficient to pay for the storage of the Patient Records.

4           8.     The remaining Debtors are reorganizing their assets to pay creditors  
5 pursuant to the Plan, including general unsecured creditors who are expected to  
6 receive significantly less than full recovery. Moreover, post-emergence from  
7 bankruptcy, the Reorganizing Debtors must operate within agreed-upon cash  
8 restrictions pursuant the arrangement reached with the Lapis Parties and Multicare  
9 Health System. Due to these facts, I believe that the Debtors and the Reorganizing  
10 Debtors do not and will not have excess funds and, should be otherwise relieved of  
11 the financial burden, of maintaining the Patient Records.

12           9.     Accordingly, the Debtors seek authority to destroy the Patient Records  
13 at this time so that the requisite 365 day notice period to destroy the records under §  
14 351 begins to run and the Debtors are able to minimize the costs associated with  
15 relocating and storing the Patient Records at an offsite facility. Granting the  
16 requested relief will minimize the time the Patient Records would need to be stored  
17 offsite prior to their destruction.

18           10.    Moreover, the requested relief is not prejudicial to active patients  
19 because they were transferred to new medical providers and have continued access  
20 to their medical records by requesting access from their current providers.

1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct.

3  
4 Dated: January 12, 2021

ASTRIA HEALTH

5 By:   
6 Michael Lane  
7 Chief Restructuring Officer  
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**MOTION TO DESTROY  
PATIENT RECORDS**

22

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# **EXHIBIT A**



January 9, 2020

Dear Valued Astria Regional Medical Center Patient,

I am writing to assure you that you and your healthcare needs remain Astria Health's highest priority.

Although Astria Regional Medical Center (ARMC) received authorization on January 9, 2020 from the United States Bankruptcy Court for the Eastern District of Washington to begin the process of closing ARMC, I want you to know that we will ensure all Astria Regional Medical Center hospital patients are transitioned smoothly to other Astria Health Hospitals or other facilities as appropriate.

If you have immediate questions, please feel free to contact us directly at ([patients@astria.health](mailto:patients@astria.health)) or by calling 509.454.6101.

In addition, your Astria Regional Medical Center patient medical records are available by calling 509.576.3749, faxing a request to 509.575.5244, or, over the next 30 days through the Medical Records Department at the hospital located at 110 S. 9<sup>th</sup> Avenue, Yakima.

Astria Health is adapting its healthcare delivery model in the Upper Valley to an ambulatory care model and will continue to provide outpatient care to the Yakima area. As such, patients in the Upper Valley will be able to continue to access care in the Astria Health network through its ambulatory surgical center locations and Astria Health Centers. Both Primary Care and Specialty Care will be available and delivered through the Astria Ambulatory Surgical Center and Astria Health Medical Plaza in Yakima, along with other outpatient ambulatory services including Laboratory Services, Therapy Services, and Advanced Imaging Services. Further, Astria Health will continue to deliver both inpatient hospital care and ambulatory care, outpatient and emergency care to the Yakima Valley at both the Astria Sunnyside Hospital and Astria Toppenish Hospital. The Astria Sunnyside Foundation is also not affected by this decision.

In Yakima, the following Astria Health ambulatory care and outpatient locations are not affected by the decision and will remain open during their regular business hours. Astria Health locations in Yakima include:

- Astria Ambulatory Surgical Center
- Astria Health Centers
- Astria Plastic Surgery Center on Creekside Loop
- Astria Home Health & Hospice
- Astria Hearing & Speech Center

We look forward to continuing to serve both you and your family long into the future.

Sincerely,

Darrin Cook, COO  
Astria Regional Medical Center  
Astria Health

900 W. Chestnut Avenue | Yakima, WA 98902 | 509.837.1300 | [www.astria.health](http://www.astria.health)