

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

SC HEALTHCARE HOLDING, LLC *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10443 (THM)

Joint Administration Requested

DEBTORS' MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) PAY
PREPETITION WAGES, SALARIES, OTHER COMPENSATION, AND
REIMBURSABLE EXPENSES AND (B) CONTINUE EMPLOYEE BENEFITS
PROGRAMS AND (II) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (each, a "Debtor" and collectively, the "Debtors") seek entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Interim Order"), and a final order, substantially in the form attached hereto as **Exhibit B** (the "Proposed Final Order"): (i) authorizing the Debtors to (a) pay prepetition wages, salaries, other compensation, and reimbursable expenses and (b) continue employee benefits programs in the ordinary course of business, including payment of certain prepetition obligations related thereto, each subject to the caps and limitations set forth herein, and (ii) granting related relief. In support of this motion (this "Motion"), the Debtors reply upon and incorporate by reference the *Declaration of David R. Campbell in Support of Chapter 11 Petitions and First*

¹ The last four digits of SC Healthcare Holding, LLC's tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors' proposed claims and noticing agent at www.kccllc.net/Petersen.



Day Pleadings (the “First Day Declaration”),² filed contemporaneously herewith. In further support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. The Debtors confirm their consent, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a), 363, 507(a), 541, 1107(a), and 1108 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Bankruptcy Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”).

BACKGROUND

4. On the date hereof (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors comprise one of the largest nursing

² Capitalized terms used but not otherwise defined in this Motion have the meanings ascribed to them in the First Day Declaration.

home operators in the United States and work in partnership with physicians, skilled nurses, and other health care providers in order to provide various healthcare and rehabilitation services for elderly citizens in Illinois, Missouri, and Iowa. Among other services, the Debtors provide assisted and supportive living, skilled nursing care, respite care, memory care, hospice, local medical transportation, radiology, and pharmacy services. A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to these Chapter 11 Cases is set forth in the First Day Declaration.

5. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. To date, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) has not appointed an official committee in the Chapter 11 Cases and no request has been made for the appointment of a trustee or an examiner.

THE DEBTORS’ WORKFORCE

I. Employees

6. The Debtors employ approximately 3,918 individuals on a full-time or part-time basis (collectively, the “Employees”). Approximately 3,678 Employees are paid on an hourly basis and approximately 240 Employees receive a salary. The Employees are employed at the Debtors’ long-term care facilities located in Illinois, Missouri, and Iowa (each a “Facility,” and, collectively, the “Facilities”).

7. The Debtors’ ability to provide quality long-term care to their residents depends on the continued service and morale of the Employees. The Employees perform a wide variety of functions critical to the Debtors’ operations and the administration of these Chapter 11 Cases. Their skills, knowledge, and understanding of the Debtors’ operations and infrastructure are

essential to preserving operational stability and the health and safety of residents. The Employees include highly-trained personnel who are not easily replaced. Without the continued, uninterrupted services of the Employees, the care, health, and safety of the residents at the Debtors' Facilities will be in jeopardy and the Debtors' ability to maintain and administer their estates will be materially impaired.

8. The vast majority of the Employees rely exclusively on their compensation and benefits to pay their daily living expenses and support their families. Thus, the Employees will be exposed to significant financial constraints if the Debtors are not permitted to continue paying their compensation and providing benefits. Consequently, the relief requested herein is necessary and appropriate.

9. The Debtors also regularly utilize the services of temporary workers and third-party clinical practitioners (collectively, the "Third-Party Professionals") who provide a variety of services that are critical to business operations. The Debtors have historically sourced such Third-Party Professionals from professional-services providers (the "Third-Party Professional Agencies"). As of the Petition Date, there are approximately 218 Third-Party Professionals providing services to the Debtors. The Debtors make payments to the Third-Party Professional Agencies for services performed in sourcing and compensating Third-Party Professionals (the "Third-Party Professional Agency Fees"). Generally, the Debtors make payments to the Third-Party Professional Agencies on a weekly, bi-monthly, or monthly basis, and the Third-Party Professional Agencies subsequently pay the Third-Party Professionals for services rendered.

10. The Third-Party Professional Agencies are invaluable in identifying and engaging qualified Third-Party Professionals. The authority to continue paying the Third-Party Professional Agency Fees is critical to minimize disruption of the Debtors' continued business operations.

11. Additionally, the Debtors utilize the services of approximately 68 Medical Directors across their various Facilities (the “Medical Directors”). The Medical Directors perform functions critical to resident care and mandated by certain regulations including but not limited to, implementing resident care policies and coordinating medical care in the Facilities. In most instances, the Medical Director serving each specific Facility is the only individuals in the geographic area that can perform the functions required at those Facilities. Moreover, were such Facilities left without the ability to engage and employ a Medical Director, the Facilities would likely be in violation of certain state regulations and subject to penalties, fines and, ultimately, closure should they be unable to replace a Medical Director.

12. Medical Directors are compensated in one of three different ways: (a) as 1099 independent contractors; (b) they have formed a legal entity and that entity is paid as a vendor by the Debtors; or (c) they are employed by a local hospital which has an agreement with the Debtors to provide the Medical Director the a specific Facility to perform the necessary functions and then the Debtors are billed for that service (collectively, the “Medical Director Obligations”).³

13. The Medical Directors are distinctly familiar with the Debtors’ array of clinical services, processes and systems and possesses specialized knowledge, skills and experience that cannot be easily replaced.

EMPLOYEE COMPENSATION AND BENEFITS

14. To minimize the personal hardship the Debtors’ workforce would suffer if employee related obligations are not paid when due or as expected, the Debtors seek authority to pay and honor certain prepetition claims relating to, among other things, wages, salaries, and other

³ As noted herein, Medical Directors are not employees of the Debtors, but rather third parties. Because their role is as crucial to the daily operations of the Debtors as the employees—their presence being required at each Facility in accordance with applicable law and regulation—the Debtors seek relief to satisfy the Medical Director Obligations in this Motion.

compensation, payroll services, federal and state withholding taxes and other amounts withheld (including garnishments, Employees' share or insurance premiums and taxes), reimbursable expenses, health and welfare benefits, and certain supplemental benefits the Debtors have historically provided to the Employees, as applicable, in the ordinary course of business (collectively, the "Employee Compensation and Benefits"), including all costs incidental to the Employee Compensation and Benefits. The timely payment of workforce-related obligations is necessary for the Debtors to maintain ordinary course operations, continue providing quality patient care, and avoid personal financial hardship to their Employees.

15. Subject to the Court's approval of the relief requested herein, the Debtors intend to continue their prepetition Employee Compensation and Benefits programs in the ordinary course of business. Out of an abundance of caution, the Debtors request the right to modify, change, and discontinue any of their Employee Compensation and Benefits and to implement new programs, policies, and benefits, in the ordinary course of business during these Chapter 11 Cases and without the need for further Court approval, subject to applicable law.

16. The Debtors estimate that the amounts owing as of the Petition Date and the amounts that will come due prior to a final hearing on this Motion on account of the Employee Compensation and Benefits are approximately the following:

Relief Sought	Approximate Amount Due as of the Petition Date	Approximate Amount Due Within Interim Period
Compensation, Withholding and Related Obligations		
Unpaid Wages	-	\$5,375,596.93
Medical Director Obligations	\$503,770.28	\$65,737.69
Withholding Obligations	-	\$2,047,780.21
Reimbursable Expenses	\$51,749.02	-
Third-Party Professional Agency Fees	\$4,396,823.01	\$750,855.57
HR System Fees	\$54,154.36	\$22,581.29
Non-Insider Incentive and Bonus Programs	\$38,325.00	-
Employee Benefits Programs		
Health Benefit Programs	\$377,519.20	\$173,378.76
Life Insurance	-	\$7,676.09
Workers Compensation Program	-	\$136,559.08
401(k) Plan	\$15,970.80	\$18,789.18
COBRA Benefits	\$1,534.32	\$1,234.05
Paid Time Off Benefits	\$127,653.83	\$150,180.99
Total	\$5,567,499.84	\$8,750,369.85

17. The Debtors believe amounts owed to any individual Employee on account of the Employee Compensation and Benefits are less than \$15,150, the priority expense cap set forth by sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. To the extent that any employee is owed an amount in excess of \$15,150, any amount owed that exceeds the priority expense cap will be treated as an unsecured claim or subject to a further motion filed with the Court.

II. Compensation and Withholding Obligations.

A. Unpaid Wages.

18. The Debtors pay their Employees' wages, salaries, and other compensation on a bi-monthly basis (collectively, the "Employee Compensation"). The Debtors pay their wage and salary obligations (the "Wages") on either a salaried or hourly basis. Wages are paid on a bi-monthly basis, on the tenth and the twenty-fifth calendar day of each month. In the twelve months prior to the Petition Date, the Debtors incurred an average of approximately \$10,667,852.89 in Wages obligations on a monthly basis.

19. As of the Petition Date, the Debtors do not believe that they owe any amounts related to unpaid Wages on account of all accrued wages, salaries, overtime, and other compensation (excluding reimbursable expenses, paid time-off, and amounts related to the 401(k) plan) earned before the Petition Date (collectively, the “Unpaid Wages”).

20. The Debtors generally pay the Medical Director Obligations on a monthly basis. In the twelve months prior to the Petition Date, the Debtors incurred a monthly average of approximately \$93,911.82 in Medical Director Obligations. As of the Petition Date, the Debtors estimate that they owe approximately \$503,770.28 in unpaid Medical Director Obligations (the “Unpaid Medical Director Obligations”).

21. Any loss of Wages or the inability to pay the Medical Director Obligations could cause the Employees and the Medical Directors to experience substantial financial hardship and could result in Employee and Medical Director departures. The Debtors’ ordinary course operations and uninterrupted provision of quality long-term care depend on the continued service of the Employees and the Medical Directors. As discussed above, state regulations require that Facilities continue to have Medical Directors onsite. By this Motion, the Debtors seek authority to pay any Unpaid Wages and Unpaid Medical Director Obligations in the ordinary course of business and consistent with past practice, and to continue paying Wages and Medical Director Obligations on a postpetition basis in the ordinary course of business.

B. Withholding Obligations.

22. During each applicable pay period, the Debtors routinely deduct certain amounts from Employees’ paychecks for, among other things, garnishments, child support, and other pre-tax deductions payable pursuant to certain of the Health and Welfare Programs (as defined below) (collectively, the “Deductions”). Certain of the Deductions are forwarded to various

third-party recipients. The Debtors deduct approximately \$49,382.29 in the aggregate from Employees' paychecks on account of the Deductions per Employees' applicable biweekly or monthly pay period.

23. Pursuant to federal and state law, the Debtors also are required to withhold certain amounts from Employee's gross pay related to, among other things, federal, state, and local income taxes as well as Social Security and Medicare taxes (collectively, the "Employee Payroll Taxes") for remittance to the appropriate federal, state, and local taxing authorities. The Debtors must then match the Employee Payroll Taxes from their own funds and pay, based upon a percentage of gross payroll, additional amounts for state and federal unemployment insurance (the "Employer Payroll Taxes," and together with the Employee Payroll Taxes, the "Payroll Taxes"). The Payroll Taxes generally are processed and forwarded to the appropriate federal, state, or local taxing authority two days prior to Employee payroll checks are disbursed.

24. In the twelve months before the Petition Date, the Debtors incurred an average of approximately \$3,046,140.24 per month on account of the Payroll Taxes and the Deductions (together, the "Withholding and Deduction Obligation") per applicable pay period. As of the Petition Date, the Debtors do not believe that they owe any amounts related to Withholding and Deduction Obligations.

25. Any amounts held by the Debtors on account of the Withholding and Deduction Obligations are held in trust by the Debtors and are not property of the Debtors' estates. The Debtors do not believe that they need authorization to remit such payments to the appropriate third parties. Out of abundance of caution, however, the Debtors request authorization to remit all outstanding prepetition amounts deducted on account of Withholding and Deduction Obligations

and to continue to deduct and remit on account of the Withholding and Deduction Obligations on a postpetition basis in the ordinary course of business consistent with their prepetition practices.

C. Reimbursable Expenses.

26. In the ordinary course of business, the Debtors pay or reimburse their Employees and directors for certain reasonable, documented, approved and customary expenses incurred in connection with performing their job functions (collectively, the “Reimbursable Expenses”). The Debtors seek authority to continue the Reimbursable Expense programs and to pay amounts relating to Reimbursable Expenses, including unpaid amounts owed to Employees, including those amounts owed on account of Employee Personal Cards.

27. ***Employee Personal Cards.*** Certain Employees may elect to use their personal credit cards (the “Employee Personal Cards”) to incur Reimbursable Expenses and thereafter seek reimbursement for such expenses from the Debtors. Employees who use their personal credit cards or cash for Reimbursable Expenses incurred in the ordinary course of business are entitled to reimbursement after certain approvals are received, in accordance with internal policies and procedures. The Debtors believe that as of the Petition Date, reimbursements amounting to up to approximately \$51,749.02 remain outstanding on account of Personal Credit Cards. The Debtors’ inability to reimburse Employees on behalf of use of the Employee Personal Cards would impose a hardship on such individuals where the obligations were incurred for the Debtors’ benefit.

D. Third-Party Professional Agency Fees.

28. As discussed above, the Debtors regularly utilize the services Third-Party Professionals sourced through Third-Party Professional Agencies. In the twelve months before the Petition Date, the Debtors incurred an average of approximately \$1,072,650.81 per month on account of the Third-Party Professional Agency Fees. As of the Petition Date, the Debtors estimate

that they owe approximately \$4,396,823.01 in the aggregate on account of accrued but unpaid Third-Party Professional Agency Fees. The Debtors request authority to pay any accrued but unpaid Third-Party Professional Agency Fees and to continue honoring and paying Third-Party Professional Agency Fees on a postpetition basis in the ordinary course of business.

E. Payroll Processing and Related Obligations.

29. The Debtors use certain human resources information systems to manage human resource-related functions, including payroll processing, timekeeping, attendance tracking, and leave management (collectively, the “HR Systems”). For example, the Debtors partner with ADP, Inc. for payroll-tax processing and related services. The Debtors also utilize Smartlinx Solutions LLC to process payroll. The Debtors pay approximately \$11,807.60 per month in subscription and licensing fees related to payroll software and the like (the “HR System Fees”). As of the Petition Date, the Debtors estimate that they owe approximately \$54,154.36 in accrued but unpaid HR System Fees.

30. The Debtors’ relationships with the providers of the HR Systems allow the Debtors to realize substantial cost savings with respect to the administration of the Compensation and Benefits Programs by not having to employ additional human resources professionals. The Debtors therefore seek authority to pay any accrued but unpaid prepetition HR System Fees and to continue paying for use of the HR Systems on a postpetition basis in the ordinary course of business.

F. Incentive and Bonus Programs.

31. The Debtors maintain a number of incentive and bonus programs to motivate, reward, and retain certain of their non-insider Employees (such plans, collectively, the “Incentive and Bonus Programs”). The Incentive and Bonus Programs offer eligible Employees added

incentive to meet predefined metrics applicable to their roles and the opportunity to earn bonus payments for outstanding performance. Specifically, the Incentive and Bonus Programs consist of various incentive programs related to recruitment efforts, financial metrics, and business development. On certain limited occasions where necessary, the Debtors have also offered sign-on and retention bonuses to Employees. The Incentive and Bonus Programs are generally discretionary, and, in many cases, the Debtors pay *de minimis* amounts to eligible Employees under certain of these programs. The Bonus Programs drive Employee performance, align Employees' interests with those of the Debtors generally, and promote the overall efficiency and safety of the Debtors' operations.

32. As of the Petition Date, the Debtors estimate that they owe approximately \$38,325.00 on account of the Incentive and Bonus Programs. The Debtors seek authority to pay all prepetition amounts owed on account of the Incentive and Bonus Programs and to continue the Incentive and Bonus Programs and pay related amounts on a postpetition basis in the ordinary course of business. The Debtors do not seek authority to pay any obligations arising from the Incentive and Bonus Programs to any Employees that are insiders (as such term is defined in section 101(31) of the Bankruptcy Code).

III. Employee Benefit Programs.

A. Health and Welfare Programs.

33. The Debtors offer a comprehensive health and welfare benefits package to their Employees (collectively, the "Health and Welfare Programs"), including: (a) medical insurance; (b) prescription coverage; (c) dental insurance; (d) vision insurance; (e) life insurance (including executive life coverage); (f) workers' compensation; (g) a 401(k) plan; and (h) paid time off

benefits. Certain Health and Welfare Programs are available only to benefit-eligible Employees while others are available to all Employees.

34. The Health and Welfare Programs are customary for similarly sized companies in the Debtors' industry, and Employees have come to rely on the Health and Welfare Programs. Without the Health and Welfare Programs, Employees would be forced to either forego health benefit coverage completely or obtain potentially expensive out-of-pocket coverage, adversely affecting Employee morale and retention. Failure to continue the Health and Welfare Programs could cause Employees to experience severe hardship and make it difficult for the Debtors to retain Employees. The Debtors request authority to pay and remit any outstanding prepetition amounts due under the Health and Welfare Programs and to continue the Health and Welfare Programs in the ordinary course of business on a postpetition basis and consistent with past practices.

1. Health Benefit Programs.

35. The Debtors offer their Employees the opportunity participate in a number of health benefit programs, including medical, dental, and vision plans (collectively, the "Health Benefit Programs"). In the twelve months before the Petition Date, the Debtors incurred an average of approximately \$205,729.28 per month on account of the Health Benefit Programs. Failure to continue paying amounts owed pursuant to the Health Benefit Programs (the "Health Benefit Program Obligations") could cause Employees to experience severe hardship and create challenges with respect to retention of the Debtors' workforce. The Debtors believe that they are authorized to continue the Health Benefit Programs in the ordinary course of business. Out of an abundance of caution, however, the Debtors seek authority to continue the Health Benefit Programs in the ordinary course of business on a postpetition basis (including by paying any prepetition amounts that may be outstanding) and consistent with past practices.

36. ***Medical Plans.*** The Debtors offer eligible Employees basic medical insurance through Blue Cross & Blue Shield of Illinois (the “BCBS Plan”) and through Optimed (the “Optimed Plan,” together with the BCBS Plan, the “Medical Plans”). The Medical Plans provide for two distinct medical plan options. Approximately 315 Employees are enrolled in the Medical Plans. Monthly health care contributions paid under the Medical Plans vary depending on the type of plan and whether the participant has dependents covered by the applicable plan. Participants pay monthly contributions which are deducted from their paychecks. The Debtors pay approximately \$196,102.59 per month on account of the Medical Plans, with a net cost of \$86,507.89. As of the Petition Date, the Debtors estimate that they owe approximately \$222,005.30 on account of the Medical Plans.

37. ***Dental and Vision Plan.*** The Debtors also offer dental and vision insurance to benefit-eligible Employees through Guardian (the “Dental and Vision Plan”). The Dental and Vision Plan is offered as a package and benefit-eligible Employees can elect for both Dental and Vision insurance together or waive both. Approximately 470 Employees are enrolled in the Dental and Vision Plan. Participants pay monthly contributions which are deducted from their paychecks. In the twelve months before the Petition Date, the Debtors incurred an average of approximately \$24,343.58 per month on account of the Dental and Vision Plan. As of the Petition Date the Debtors estimate that they owe approximately \$155,513.90 on account of the Dental and Vision Plan, including claim reimbursement payments and administrative fees.

2. Life Insurance.

38. The Debtors offer eligible Employees life insurance through Guardian (the “Life Insurance Plan”). The Life Insurance Plan provides coverage for up to \$100,000.00. Employees are able to supplement the basic life insurance buy buying additional life insurance for themselves

or their dependents through Principal (the “Voluntary Life”). Approximately 200 Employees are enrolled in the Life Insurance Plan. The Debtors pay approximately \$6,119.23 per month on account of the Life Insurance Plan. As of the Petition Date, the Debtors do not believe that they owe any amounts related to the Life Insurance Plan.

3. Workers Compensation Program.

39. The Debtors maintain workers’ compensation programs and workers compensation insurance for their Employees at the statutorily required level for each jurisdiction in which the Debtors have Employees (collectively, the “Workers’ Compensation Program”). The Debtors maintain insurance coverage for the Workers’ Compensation Program through West Bend Insurance Company.

40. In the twelve months before the Petition Date, the Debtors paid approximately \$1,248,295.96 in fees and premiums to maintain the Workers’ Compensation Program (the “Workers’ Compensation Coverage Fees”). As of the Petition Date, the Debtors do not believe that they owe any amounts related to accrued but unpaid Workers’ Compensation Coverage Fees.

41. The Debtors must continue the claim assessment, determination, adjudication, and payment pursuant to the Workers’ Compensation Program, without regard to whether such liabilities are outstanding before the Petition Date, to ensure that the Debtors comply with applicable workers’ compensation laws and requirements during the pendency of these Chapter 11 Cases.

42. Certain of the Debtors’ Workers’ Compensation Programs may change postpetition in the ordinary course due to changes in applicable laws and regulations and the Debtors’ ability to meet requirements thereunder. By this Motion, the Debtors request authority to continue the

Workers' Compensation Programs postpetition, including making any changes to current policies and practices that may become necessary.

43. The Debtors request to continue their Workers' Compensation Program in the ordinary course. The authorization to satisfy any unpaid premiums relating to such programs is addressed in the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered Into Prepetition and Satisfy Prepetition Obligations Related Thereto, (B) Renew, Amend, Supplement, Extend, or Purchase Insurance Policies, (C) Honor the Terms of the Premium Finance Agreement and Pay Premium Thereunder, (D) Enter into New Premium Finance Agreements in the Ordinary course of Business, and (E) Maintain the Surety Bonds, (II) Authorizing Banks to Honor and Process Check and Electronic Transfer Requests Related Thereto, and (III) Granting Related Relief* which is filed contemporaneously with this Motion.

4. 401(k) Plan.

44. The Debtors provide eligible Employees with the ability to participate in a 401(k) program (the "401(k) Plan"). The 401(k) Plan generally provides for pre-tax salary deductions of compensation up to limits set by the Internal Revenue Code and an Employee's 401(k) contributions are deducted automatically from each paycheck. The Debtors offer matching for the Employee's 401(k) Plan contributions. The 401(k) Plan is administered by Capital Group. As of the Petition Date, 622 Employees participate in the 401(k) Plan. In the twelve months before the Petition Date, the Debtors paid an average of \$28,849.49 per month in 401(k) Plan matching costs and in fees to Capital Group for services related to the administration of the 401(k) Plan (the "401(k) Fees"). As of the Petition Date, the Debtors estimate that they owe approximately \$15,970.80 in accrued and unpaid 401(k) Fees. Many Employees' retirement savings consist

primarily of their 401(k) Plan. A disruption in or discontinuation of the 401(k) Plan could violate the terms of an Employee's employment. If the Debtors did not offer the 401(k) Plan and match Employee contributions, the Debtors would be less competitive in attracting a strong workforce. Continuing the 401(k) Plan and the matching contributions are essential to maintaining Employee morale and recruiting and retaining Employees. The Debtors therefore seek authority to pay any prepetition 401(k) Fees and to continue the 401(k) Plan and pay any related amounts (including matching costs) in the ordinary course of business on a postpetition basis consistent with past practices.

45. While the Debtors aver that Employee contributions to the 401(k) Plan are not property of the estate and no need exists for Court approval to make these payments, out of an abundance of caution, the Debtors seek authority to continue to the 401(k) Plan with respect to Employee contributions in the ordinary course of business consistent with past practice.

5. COBRA Benefits.

46. Pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), former Employees (the "COBRA Participants") may continue insurance coverage following the termination of their employment with the Debtors (the "COBRA Benefits"). More specifically, COBRA Participants are entitled by law to continue to receive COBRA Benefits for up to eighteen months, and in some instances up to thirty-six months, following termination of employment. Approximately 37 former Employees receive COBRA Benefits. To assist in the administration of the COBRA Benefits, the Debtors use the services of Assure Software. Assure Software collects premiums costs from the COBRA Participants and remits a check to the Debtors on a monthly basis. The Debtors then remit these funds to the applicable healthcare services provider. The Debtors pay approximately \$1,762.93 per month to administer the COBRA

Benefits. As of the Petition Date, the Debtors estimate that they have accrued approximately \$1,534.32 on account of the COBRA Benefits.

47. Out of an abundance of caution, by this Motion, the Debtors request authorization to (a) remit all outstanding prepetition amounts incurred on account of the COBRA Benefits, (b) continue to offer the COBRA Benefits, including to those Employees who may be terminated after the Petition Date, and honor all obligations related thereto on a postpetition basis in the ordinary course of business consistent with their prepetition practices, and (c) continue to pay fees related to the COBRA Benefits on a postpetition basis in the ordinary course of business consistent with their prepetition practices.

B. Paid Time Off.

48. The Debtors offer certain PTO benefits to certain eligible Employees, the specific terms of which vary across the Debtors' business segments. The accrual of PTO Benefits is determined by the duration of an Employee's employment with the Debtors. The PTO Benefits also include paid time off for bereavement leave and jury duty. As of the Petition Date, the Debtors owe approximately \$127,653.83 in obligations on account of PTO Benefits. The continuation of the PTO Benefits is essential to maintain Employee morale during these Chapter 11 Cases. Employees depend on the PTO Benefits, and the Debtors anticipate that Employees will continue to make use of the PTO Benefits. The PTO Benefits do not create any material cash flow requirements beyond the Debtors' normal payroll obligations except where an eligible Employee's employment is terminated. Illinois law requires an employer to pay earned but unused PTO at an Employee's termination. Therefore, the Debtors seek authority to pay any prepetition amounts owed in connection with the PTO Benefits and to continue to honor obligations under the PTO

Benefits in the ordinary course of business on a postpetition basis consistent with past practices, irrespective of any statutory cap.

BASIS FOR RELIEF

IV. Sufficient Cause Exists to Authorize the Debtors to Honor the Employee Compensation Benefits.

A. Payment of the Employee Compensation and Benefits is Proper Pursuant to Section 363(b) of the Bankruptcy Code.

49. Section 363 of the Bankruptcy Code provides, in relevant part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Under section 363(b), courts require only that the debtor “show that a sound business purpose justifies such actions.” *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (requiring that the debtor show a “sound business purpose” to justify its actions under section 363 of the Bankruptcy Code) (internal citations omitted); *see also In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (requiring a “good business reason” for a sale under section 363 of the Bankruptcy Code); *In re Adelphia Commc’ns Corp.*, No. 02-41729 (REG), 2003 WL 22316543, at *30 (Bankr. S.D.N.Y. Mar. 4, 2003) (requiring a “good business reason” for disposition of assets outside of the ordinary course in bankruptcy); *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2d Cir. 1983) (same). Moreover, “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

50. Further, section 105(a) of the Bankruptcy Code, which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The Court may use its power under section 105(a) to authorize payment of the Employee Compensation and Benefits under the “necessity of payment” rule (also referred to as the “doctrine of necessity”). *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992).

51. The United States Court of Appeals for the Third Circuit recognized the “necessity of payment” doctrine in *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981). The Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. *Id.* (stating a court may authorize payment of prepetition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); *see also In re Motor Coach Indus. Int’l, Inc.*, No. 08-12136, 2009 WL 330993, at *3 (D. Del. Feb. 10, 2009) (denying stay pending appeal on grounds that there is no serious basis to challenge doctrine of necessity in the Third Circuit); *In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (holding that necessity of payment doctrine permits “immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims shall have been paid”); *In re Just for Feet, Inc.*, 242 B.R. 821, 824–26 (Bankr. D. Del. 1999) (noting that the Third Circuit permits debtors to pay prepetition claims that are essential to the continued operation of business).

52. Payment of Employee Compensation and Benefits is warranted under this authority and the facts of these Chapter 11 Cases. The majority of the Employees rely exclusively on the Employee Compensation and Benefits to satisfy their daily living expenses. Consequently,

Employees will be exposed to significant financial difficulties if the Debtors are not permitted to honor obligations for unpaid Employee Compensation and Benefits. Additionally, continuing ordinary course benefits will help maintain Employee morale and minimize the adverse effect of the commencement of these Chapter 11 Cases on the Debtors' ongoing business operations.

53. Moreover, Employees provide the Debtors with services necessary to conduct the Debtors' business, and the Debtors believe that absent the payment of the Employee Compensation and Benefits owed to the Employees, the Debtors may experience workforce turnover and instability at this critical time in these Chapter 11 Cases. The Debtors believe that without these payments, the workforce may become demoralized and unproductive because of the potential significant financial strain and other hardships these Employees may face. Such individuals may then elect to seek alternative employment opportunities. Additionally, a significant portion of the value of the Debtors' business is tied to their workforce, which cannot be replaced without significant efforts—efforts that may not be successful given the overhang of these Chapter 11 Cases. Enterprise value may be materially impaired to the detriment of all stakeholders in such a scenario. The Debtors therefore believe that payment of the prepetition obligations with respect to the Employee Compensation and Benefits is a necessary and critical element of the Debtors' efforts to preserve value and will give the Debtors the greatest likelihood of retention of their Employees as the Debtors seek to operate their business in these Chapter 11 Cases.

B. Certain Employee Compensation and Benefits are Entitled to Priority Treatment.

54. Section 507(a)(4)(A) of the Bankruptcy Code grants priority status to up to \$15,150 for employee claims for “wages, salaries, or commission, including vacation, severance, and sick leave pay” earned within 180 days before the Petition Date. *See* 11 U.S.C. § 507(a)(4)(A). Similarly, section 507(a)(5) of the Bankruptcy Code grants priority to contributions to employee

benefit plans, up to an aggregate amount of \$15,150 multiplied by the number of employees covered, less any amounts paid to such employees under section 507(a)(4) of the Bankruptcy Code.

55. The Debtors believe that a substantial portion of the Employee Compensation relating to the period prior to the Petition Date constitute priority claims under sections 507(a)(4) and (5) of the Bankruptcy Code. Amounts that are paid on account of priority claims for the majority of the Employee Compensation would not otherwise be available for distribution to unsecured creditors. Therefore, the Debtors' unsecured creditors will not be prejudiced by permitting priority obligations to be satisfied in the ordinary course of business during these Chapter 11 Cases rather than at the conclusion of them. Indeed, the Debtors submit that payment of Employee Compensation at this time enhances value for the benefit of the Debtors and all interested parties by retaining the Employees. The Debtors believe that honoring the Employee Compensation is important to sustain morale for the current Employees and ensure their retention.

C. The Debtors should be Authorized to Pay the Employee Compensation and Benefits Under Sections 1107(a) and 1108 of the Bankruptcy Code.

56. The Debtors, operating their businesses as debtors in possession under sections 1107(a) and 1108 of the Bankruptcy code, are fiduciaries "holding the bankruptcy estate and operating the business for the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ, LLC*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). "Implicit in the duties" of a chapter 11 debtor in possession is the duty "to protect and preserve the estate, including an operating business's going-concern value." *Id.*; see also *Official Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003); *In re Mushroom Transp. Co., Inc.*, 382 F.3d 325, 339 (3d Cir. 2004).

57. Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." *In re CoServ*, 273

B.R. at 497. The *CoServ* court specifically noted that preplan satisfaction of prepetition claims is a valid exercise of a debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate." *Id.* The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim is a valid exercise of a debtor's fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor's going concern value, which is disproportionate to the amount of the claimant's prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id. At 498.

58. Payment of the Employee Obligations as set forth herein meets each element of the *CoServ* court's standard. The Debtors' operations rely on the skill and expertise of their Employees. The Employees possess unique knowledge regarding specific aspects of the Debtors' operations, which would be difficult to replace should such Employees be lost through a failure to pay the Employee Compensation. In addition, any failure by the Debtors to pay the Employee Compensation as set forth herein would negatively impact the morale of the Employees at a critical time for the Debtors and their business when the Employees are most needed. The Employees are also critical to the Debtors' ability to maintain their operations consistent with past practices, which would be impossible without the continued efforts of the Employees. The damage to the value of the Debtors' businesses and, hence, the costs to creditors as a whole, would be immediate and irreparable if the Employee Compensation was not paid. In short, the potential harm and economic disadvantage that would stem from the failure to pay the Employee Compensation as set forth

herein greatly outweighs the amount of any prepetition claims that the Debtors are seeking authorization to pay.

59. After careful consideration in consultation with their advisors, the Debtors have determined in their business judgment that to avoid significant disruption to their business operations there exists no practical or legal alternative to the payment of the Employee Compensation as set forth herein. Therefore, the Debtors can meet their fiduciary duties as debtors in possession under sections 1107(a) and 1108 of the Bankruptcy Code only by payment of the Employee Compensation as set forth herein.

D. Payment of Certain Employee Compensation and Benefits is Required by Law.

60. As set forth herein, the Debtors also seek authority to pay Withholding Obligations to the appropriate third-party entities. These amounts generally represent Employee earnings that taxing authorities, Employees, and judicial authorities have designated for deduction from Employees' paychecks. Indeed, certain Withholding Obligations are not property of the Debtors' estates because the Debtors have withheld such amounts from Employees' paychecks on the Employees' behalf. *See* 11 U.S.C. § 541(b). Further, federal and state laws require the Debtors to withhold certain tax payments from Employees' paychecks and to pay such amounts to the appropriate taxing authority. *See* 26 U.S.C. §§ 6672 and 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95-97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *In re DuCharmes & Co.*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because the Withholding Obligations are not property of the

Debtors' estates, the Debtors request authority to transmit the Withholding Obligations to the proper parties in the ordinary course.

61. Similarly, state laws require the Debtors to maintain the Workers' Compensation Program. If the Debtors fail to maintain the Workers' Compensation Program, state laws may prohibit the Debtors from operating in those states. Payment of all workers' compensation amounts is therefore crucial to the Debtors' continued operations and the success of the Debtors' ongoing chapter 11 process.

E. Processing of Checks and Electronic Fund Transfers Should be Authorized.

62. The Debtors have sufficient funds to pay the amounts described in this Motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the relief requested herein. Accordingly, the Debtors do not believe that checks or wire transfer requests, other than those relating to authorized payments, will be honored inadvertently. Therefore, the Debtors respectfully request that the Court authorize and direct all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

F. The Court Should Authorize the Banks to Honor and Process the Debtors' Payments on Account of the Employee Compensation and Benefits.

63. The Debtors also request the Court to authorize their cash management banks (the "Banks"), when requested by the Debtors, in their discretion, to honor and process checks or electronic fund transfers drawn on the Debtors' bank accounts to pay prepetition obligations described herein, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make

such payments. The Debtors further request that all of the Banks be authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved pursuant to this Motion.

SATISFACTION OF BANKRUPTCY RULE 6003(b)

64. Pursuant to Bankruptcy Rule 6003(b), any motion seeking to use property of the estate pursuant to section 363 of the Bankruptcy Code or to satisfy prepetition claims within twenty-one (21) days of the Petition Date requires the Debtors to demonstrate that such relief "is necessary to avoid immediate and irreparable harm." For the reasons discussed above, authorizing the Debtors to pay the Employee Compensation and Benefits and granting the other relief requested herein is integral to the Debtors' ability to transition their operations into these Chapter 11 Cases. Failure to receive such authorization and other relief during the first 21 days of these Chapter 11 Cases would severely disrupt the Debtors' ability to administer their estates at this critical juncture. For the reasons discussed herein, the relief requested is necessary in order for the Debtors to preserve and maximize the value of the Debtors' estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

65. For this reason and those set forth above, the Debtors respectfully submit that Bankruptcy Rule 6003(b) has been satisfied, and the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

66. The Debtors seek a waiver of any stay of the effectiveness of an order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease

of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As set forth above and in the First Day Declaration, the relief requested herein is essential to prevent immediate and irreparable damage to the Debtors’ operations, going-concern value and their efforts to pursue a resolution to these Chapter 11 Cases. To implement the foregoing successfully, the Debtors request that the Proposed Orders each include a finding that the Debtors have established cause to exclude such relief from the fourteen day stay period under Bankruptcy Rule 6004(h).

67. For this reason and those set forth above, the Debtors submit that ample cause exists to justify a waiver of the fourteen day stay imposed by Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

68. Nothing contained herein or any actions taken pursuant to such relief requested is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors’ estates; (g) a waiver or limitation of the Debtors’, or any other party in interest’s, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that

may be satisfied pursuant to the relief requested in this Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

NOTICE

69. Notice of this Motion has been given to the following parties or, in lieu thereof, to their counsel, if known: (a) the U.S. Trustee; (b) the holders of the forty (40) largest unsecured claims against the Debtors (on a consolidated basis); (c) the office of the attorney general for each of the states in which the Debtors operate; (d) United States Attorney's Office for the District of Delaware; (e) the Internal Revenue Service; (f) the United States Department of Justice; (g) the Prepetition Lenders; (h) the DIP Lender; (i) the Banks; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that this Court grant the relief requested herein and such other and further relief as is just and proper.

Dated: March 21, 2024
Wilmington, Delaware

Respectfully submitted,

**YOUNG CONAWAY STARGATT &
TAYLOR, LLP**

/s/ Shella Borovinskaya

Andrew L. Magaziner (No. 5426)
Shella Borovinskaya (No. 6758)
Carol E. Cox (No. 6936)
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: amagaziner@ycst.com
sborovinskaya@ycst.com
ccox@ycst.com

and

WINSTON & STRAWN LLP

Daniel J. McGuire (*pro hac vice* pending)
Gregory M. Gartland (*pro hac vice* pending)
35 W. Wacker Drive
Chicago, IL 60601
Telephone: (713) 651-2600
Facsimile: (312) 558-5700
T: (312) 558-5600
Email: dmcguire@winston.com
Email: ggartland@winston.com

and

Carrie V. Hardman (*pro hac vice* pending)
200 Park Avenue
New York, New York 10166
Telephone: (212) 294-6700
Facsimile: (212) 294-4700
Email: chardman@winston.com

*Proposed Counsel for the Debtors and
Debtors in Possession*

EXHIBIT A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

SC HEALTHCARE HOLDING, LLC *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10443 (THM)

Jointly Administered

Ref. Dkt. No. ____

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS
TO (A) PAY PREPETITION WAGES, SALARIES, OTHER
COMPENSATION, AND REIMBURSABLE EXPENSES AND (B) CONTINUE
EMPLOYEE BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (each, a “Debtor” and collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing the Debtors to (i) pay prepetition wages, salaries, other compensation, and reimbursable expenses and (ii) continue employee benefits programs in the ordinary course of business, including payment of certain prepetition obligations related thereto, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this proceeding and the Motion in this district is permissible pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best

¹ The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors’ proposed claims and noticing agent at www.kccllc.net/Petersen.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and it appearing that the relief requested in the Motion and provided for herein is in the best interests of the Debtors, their estates and their creditors; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The Debtors are authorized to continue and/or modify the Employee Compensation and Benefits on a postpetition basis, in the ordinary course of business, in accordance with the Debtors' prepetition policies and practices, and, in the Debtors' discretion, to pay and honor prepetition amounts related thereto; *provided, however*, that: (a) no payment to any Employee on account of Unpaid Wages shall exceed, in the aggregate, the \$15,150 statutory cap provided for under section 507(a)(4) of the Bankruptcy Code unless such amounts are a result of cash payment for unpaid vacation that is required under applicable state law; and (b) the aggregate amount of payments made on account of prepetition Employee Compensation and Benefits shall not exceed \$8,750,369.85 pending entry of the Final Order.
3. Nothing herein shall be deemed to authorize the payment of any amounts which violate or implicate section 503(c) of the Bankruptcy Code, including any bonus, incentive, retention, or severance payments to any "insider" as defined in section 101(31) of the Bankruptcy

Code, *provided*, that nothing herein shall prejudice the Debtors' ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

4. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors'

designation of any particular check or electronic payment request as approved by this Interim Order.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with the relief granted herein.

7. The final hearing (the “Final Hearing”) on the Motion shall be held on _____, 2024, at __:__.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 5:00 p.m., prevailing Eastern Time, on _____, 2024. Objections must be filed and served on: (i) proposed counsel to the Debtors, (a) Winston & Strawn LLP, 35 W. Wacker Drive, Chicago, IL 60601, Attn: Daniel J. McGuire (dmcguire@winston.com) and Gregory M. Gartland (ggartland@winston.com), and 200 Park Avenue, New York, NY 10166, Attn: Carrie V. Hardman (chardman@winston.com), and (b) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 N. King St., Wilmington, DE 19801, Attn: Shella Borovinskaya (sborovinskaya@ycst.com) and Carol E. Cox (ccox@ycst.com); (ii) the Office of the United States Trustee for the District of Delaware, 844 King St., Suite 2207, Wilmington, DE 19801, Attn: Linda Richenderfer (linda.richenderfer@usdoj.gov) and Jon Lipshie (Jon.Lipshie@usdoj.gov); (iii) counsel to the DIP Lender Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019, Attn: Robert M. Hirsh (robert.hirsh@nortonrosefulbright.com) and Emily Hong (emily.hong@nortonrosefulbright.com); and (iv) counsel to any statutory committee appointed in these Chapter 11 Cases. If no objections are filed to the Motion, the Court may enter a Final Order without further notice or a hearing.

8. Notwithstanding the relief granted in this Interim Order, any payment made or to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with the Approved Budget and in accordance with the DIP Loan Documents (each as defined in the Interim DIP Order) and the Interim DIP Order.

9. Bankruptcy Rule 6003(b) is satisfied because the relief granted hereby is necessary to avoid immediate and irreparable harm to the Debtors' estates.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

12. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

EXHIBIT B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

SC HEALTHCARE HOLDING, LLC *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10443 (THM)

Jointly Administered

Ref. Dkt. Nos. ____ & ____

**FINAL ORDER (I) AUTHORIZING THE DEBTORS
TO (A) PAY PREPETITION WAGES, SALARIES, OTHER
COMPENSATION, AND REIMBURSABLE EXPENSES AND (B) CONTINUE
EMPLOYEE BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (each, a “Debtor” and collectively, the “Debtors”) for entry of a final order (this “Final Order”): (a) authorizing the Debtors to (i) pay prepetition wages, salaries, other compensation, and reimbursable expenses and (ii) continue employee benefits programs in the ordinary course of business, including payment of certain prepetition obligations related thereto, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is permissible pursuant to 28

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² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no further or other notice of the Motion is required under the circumstances; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having previously entered that certain *Interim Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs and (II) Granting Related Relief* [Docket No. []]; and it appearing that the relief requested in the Motion and provided for herein is in the best interests of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth in this Final Order.
2. The Debtors are authorized to continue and/or modify the Employee Compensation and Benefits on a postpetition basis, in the ordinary course of business, in accordance with the Debtors' prepetition policies and practices, and, in the Debtors' discretion, to pay and honor prepetition amounts related thereto; *provided, however*, that: (a) no payment to any Employee on account of Unpaid Wages shall exceed, in the aggregate, the \$15,150 statutory cap provided for under section 507(a)(4) of the Bankruptcy Code unless required by applicable state law; and (b) the aggregate amount of payments made on account of prepetition Employee Compensation and Benefits, inclusive of the amount of payments approved by the Interim Order, shall not exceed \$14,317,869.69 unless further ordered by this Court.

3. Nothing herein shall be deemed to authorize the payment of any amounts which violate or implicate section 503(c) of the Bankruptcy Code, including any bonus, incentive, retention, or severance payments to any “insider” as defined in section 101(31) of the Bankruptcy Code, *provided*, that nothing herein shall prejudice the Debtors’ ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

4. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors’ estates; (g) a waiver or limitation of the Debtors’, or any other party in interest’s, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized

to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with the relief granted herein.

7. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.