

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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In re )  
 ) Chapter 11, No. 14-30961-HJB  
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HAMPDEN COUNTY PHYSICIAN )  
ASSOCIATES, LLC )  
 )  
Debtor )  

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**EMERGENCY MOTION TO CONSOLIDATE HEARING DATES**

To the HONORABLE HENRY J. BOROFF, Bankruptcy Judge:

Now comes HAMPDEN COUNTY PHYSICIAN ASSOCIATES, LLC ("Debtor"), the Debtor in the above-captioned matter, and it does hereby move this Court, on an emergency basis, for the entry of an Order fixing and consolidating the hearing dates on this Court's *Order to Show Cause* regarding the conversion of this bankruptcy case to Chapter 7 ("Order to Show Cause") (Docket No. 91), TD Bank, N.A.'s *Motion for Relief from Stay* ("Motion for Relief from Stay") (Docket No. 92), the Debtor's *Motion to Reject Office Leases and Equipment Leases* ("Motion to Reject Leases") (Docket No. 16); and CPS's *Motion to Compel Rejection of Executory Contract* ("Motion to Compel Rejection of Contract") (Docket No. 94); and further, the Debtor requests that the same date be fixed for hearing on a Motion that the Debtor will file later today seeking authority to reject real estate leases in Westfield and Feeding Hills, Massachusetts. In support of this Motion, the Debtor represents as follows:

## BACKGROUND

1. On October 2, 2014 ("Petition Date"), the Debtor filed a Voluntary Petition under the provisions of Chapter 11 of the United States Bankruptcy Code ("Bankruptcy Code") with the United States Bankruptcy Court for the District of Massachusetts ("Court").

2. Pursuant to the provisions of §§ 1107 and 1108 of the Bankruptcy Code, the Debtor has continued to operate its business and manage its business affairs as a Debtor-in-Possession. No Trustee or Examiner has been requested or appointed.

3. The Debtor is a multi-specialist physician group engaged in the practice of medicine in Western Massachusetts. It has employed approximately sixty-eight (68) healthcare providers and has served approximately 50,000 patients. The business enterprise has employed a total of approximately 270 individuals and operates fourteen (14) offices primarily located throughout Hampden County, Massachusetts. In addition, the Debtor and its staff serve patients at local hospitals, skilled-nursing facilities, and long-term care facilities. The Debtor has operated its own laboratory, sleep disorder center, and urgent care center.

4. The revenue that the Debtor projected for the month of October 2014 has proved to be substantially less than anticipated. During the month of October 2014, the Debtor has incurred substantial administrative claims, primarily in the form of rent, use and occupancy expense, and utility bills, that it does not have the ability to pay.

5. The Debtor anticipates that on the next payroll date, October 30, 2014, it will have sufficient funds to pay all payroll expense that will have accrued through October 31, 2014 and all, or a portion of, employee vacation pay that has accrued through October 31, 2014.

6. The Debtor does not believe that it will have revenues sufficient to assure that future payrolls and other operating expenses will be paid timely.

7. On October 24, 2014, five allergists employed by the Debtor, including its highest paid doctor and four other highly compensated doctors, advised the Debtor that they would no longer be employed by the Debtor and that they had formed a new practice not affiliated with the Debtor.

8. The doctors that remain employed by the Debtor care for patients that are elderly, chronically ill and on public assistance. The remaining doctors accept patients that can only pay for their services through the MassHealth / Medicaid programs.

9. For these reasons, the Debtor believes that it has no alternative other than to cease business operations upon the close of business on October 31, 2014. Further, at the hearing on the Order to Show Cause, the Debtor intends to request the conversion of its bankruptcy case to a case under Chapter 7 of the Bankruptcy Code.

#### **THE EFFECT OF CLOSING AND CONVERTING TO CHAPTER 7**

10. The termination of the Debtor's business operations

and the conversion to Chapter 7 may result in immediate, irreparable, and critical harm to the patients serviced by the Debtor.

11. Although the individual physicians employed by the Debtor understand their responsibilities to their patients, the effect of the closing of business operations and the usual effects of the conversion to Chapter 7 are likely to interfere with patient care.

12. The problems anticipated by the Debtor include:

(a) The securing of the premises by a Chapter 7 Trustee or by Landlords having leases that terminated prepetition would result in the inability of doctors to obtain access to physical and electronic records upon which patient data is stored.

(b) The securing of the premises, or the inability to pay telephone operators, answering services, telephone bills or cell phone bills would radically curtail the ability of doctors to promptly and effectively communicate with their patients.

(c) The closing of the business is likely to result in doctors losing access to critical laboratory and diagnostic reports that are commonly delivered by mail, telefax, electronically and, sometimes, in hand. Disruption in the communication of such reports could have life threatening implications for the Debtor's patients.

(d) The Debtor has been informed by its primary medical malpractice insurance carrier that insurance coverage will terminate upon the closing of business operations. Upon information and belief, the carrier has also informed the individual physicians employed by the Debtor that their medical

malpractice insurance will continue until December 15, 2014, unless terminated sooner.

13. In summary, the cessation of operations and the conversion to Chapter 7 could result in a multitude of anticipated and unanticipated problems have the potential to cause immediate and grievous harm to the Debtor's patients.

#### **REASONS FOR EMERGENCY CONSOLIDATION OF HEARINGS**

14. The Debtor believes that there is an option available to alleviate the looming crisis in patient care and to simultaneously benefit the Bankruptcy Estate.

15. Specifically, the Debtor is informed that two separate local hospitals are prepared to take over, in a complementary way, substantially all of the Debtor's remaining business operation.

16. The Debtor believes that the willingness of these hospitals to undertake this responsibility is contingent upon their ability to enter into leases with certain Landlords with whom the Debtor has, or has had, real estate leases; their ability to purchase certain personal property owned by the Debtor; and their ability to enter into appropriate agreements for access to medical records.

17. The Debtor believes that the consolidation of hearings on the Order to Show Cause, the Motion for Relief from Stay, the Motion to Reject Leases, the Motion to Compel Rejection of Contract, and the Motion that the Debtor will file later today seeking to reject leases in Westfield and Feeding Hills,

Massachusetts is the only effective way in which an orderly transition of patient care is possible and is the only way in which the delay and disruption caused by the closing of the Debtor's business will be minimized.

18. The consolidation of the hearings will also provide the Court with an opportunity to determine whether the approval of these Motions will benefit the Estate and, at the same time, avert the potential harm that could come to approximately 50,000 patients that may suffer from the closing of the Debtor's business.

**RELIEF REQUESTED**

19. For the foregoing reasons, the Debtor respectfully requests that hearings on the Order to Show Cause, the Motion for Relief from Stay, the Motion to Reject Leases, the Motion to Compel Rejection of Contract, and the Motion that the Debtor will file later today seeking to reject leases in Westfield and Feeding Hills Massachusetts be consolidated to one time and date.

20. In order to minimize the passage of time between the closing of operations and the several hearings, the Debtor requests that these hearings be scheduled on October 31, 2014 or November 3, 2014 and at a time and place convenient to the Court.

21. The Debtor requests that Notice of the consolidated hearings be limited to the following parties: (i) Peter Shrair, Esq., Cooley Shrair, P.C., counsel to TD Bank, N.A.; (ii) Edward Green, Esq., Foley & Lardner, LLP, counsel to Sisters of Providence Health System, Inc.; (iii) applicable taxing

authorities; (iv) the largest twenty (20) unsecured creditors; (v) the Office of the United States Trustee; (vi) the Creditors Committee; (vii) the lessors whose leases are the subject of Motions seeking rejection; (viii) Mark G. DeGiacomo, Esq., Murtha Cullina, counsel to Connecticut Physician Services, LLC; and (ix) and any party that has entered an electronic appearance in this case.

WHEREFORE, the Debtor respectfully requests the entry of an Order granting the relief requested in the Motion, and providing for such other and further relief as the Court deems just and proper.

HAMPDEN COUNTY PHYSICIAN  
ASSOCIATES, LLC

Dated: October 28, 2014

By: /s/ Joseph B. Collins  
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**CERTIFICATE OF SERVICE**

I, JOSEPH B. COLLINS, of the law firm of HENDEL & COLLINS, P.C., 101 State Street, Springfield, Massachusetts do hereby certify that I caused a copy of the attached Motion to be served upon each of the parties listed on the attached Exhibit "A" via first class mail, postage pre-paid, and/or the Court's CM/ECF system on the 28th day of October, 2014.

Dated: October 28, 2014

/s/ Joseph B. Collins  
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Exhibit "A"

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